

AN ORDINANCE enacting Division 4. 'Planting of Trees and City Tree Board', for the purpose of regulating the planting, maintenance, and removal of trees, shrubs, and other plants upon City property in the City of Joplin, Missouri and creating the City Tree Board.

WHEREAS the City of Joplin supports beautification efforts through community forestry management, and the development of a plan that will provide for the general health of the public while maintaining a stability of the community forest within the City;

WHEREAS Joplin has endured recent ice storms and other related weather events that have depleted our urban forest;

NOW THEREFOR BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI as follows:

Section 1. That a new Division 4 of Article III Trees and Shrubs of Chapter 122 Vegetation of the City of Joplin, Missouri Code of ordinances be and hereby is enacted to read as follows:

"Sec. 122-120. Definitions

- (a.) Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.
- (b.) Park trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- (c.) Utility- friendly trees: "Utility-friendly trees" are defined as plants that do not reach height of 30' or greater in full maturity.
- (d.) Hazard Trees: "Hazard trees" are defined as trees with severe structural defects or splits in roots, stem or branches that may cause the tree or tree parts to fail, where such failure may cause property damage or personal injury.
- (e.) Hazardous Limbs: "Hazardous limbs" are defined as limbs with severe structural defects or splits, where such failure may cause property damage or personal injury.
- (f.) Public Community Forest: "Public Community Forest" is defined as all street and park trees, and other trees owned by the City as a total resource.
- (g.) Private Community Forest: "Private Community Forest" is defined as all trees within municipal boundaries but not owned by the City.

- (h.) Tree-topping: "Tree-topping" is defined as an inappropriate technique to reduce tree size that cuts through a stem more than two (2) years old at an indiscriminate location.
- (i.) Community Forest Manager: The "community forest manager" is defined as the official (public employee) representative of the Tree Board and as such is responsible for administration of the community forestry program. The Community Forest Manager will be the Parks and Recreation Director or his/her designee, subject to approval of the City Manager.

Sec. 122-121. Purpose and Intent

- (a) Purpose: It is the purpose of this ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the City of Joplin, Missouri. It is also to manage Joplin's community forest in a strong, healthy condition for today and the future of Joplin, Missouri.
- (b) Intent: It is the intent of the Joplin City Council that the terms of this ordinance shall be construed so as to promote the planting, maintenance, restoration and survival of desirable trees, shrubs and other plants within the City. The protection of community residents from personal injury and property damage and the protection of the City of Joplin from property damage caused or threatened by the improper planting, maintenance or removal of trees, shrubs or other plants located within the community.

Sec. 122-122. Creation and Establishment of a City Tree Board

There is hereby created and established a City Tree Board for the City of Joplin, Missouri, which shall consist of five members, who shall be qualified voters of the City and who shall be appointed by the Council. The Parks and Recreation Director or his/her designee, shall be an ex-officio member of the City Tree Board.

Sec. 122-123. Term of office

The term of the five persons to be appointed by the Council shall be three years except that the term of two of the members appointed to the first board shall be for only two years, the term of two members of the first board shall be for three years and the term of the final person shall be one year. The length of the terms of the initial board shall be determined by the drawing of lots at the first meeting. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. Members of the Board shall serve without compensation.

Sec. 122-124. Duties and Responsibilities

The Tree Board shall:

- (a) Choose its own officers, make its own rules and regulations, keep minutes of its meetings, and act by a vote of a majority of its five members at meetings at which a quorum shall be present. A majority of the board shall constitute a quorum.
- (b) It shall be the responsibility of the Tree Board to study, investigate, advise, report, and recommend, on at least an annual basis, to the Parks and Recreation Director or his/her designee, and the City Manager any action plan or program determined to be necessary or advisable for the care, selection, preservation, trimming, planning, replanting, removal, or disposition of street trees. It shall also be the purpose of the commission to assist in securing the cooperation and education of the residents of Joplin in a coordinated and planned program of tree protection, maintenance, and planting on public and private property.

The Tree Board, when requested by the Community Forest Manager, or the City Manager, shall consider, investigate, research, report, and makes recommendations on any special tree-related matter or question coming within the scope of its work.

Sec. 122-125. Street Tree Species to be planted

The City of Joplin shall maintain an extensive list of recommended trees for planting in public areas as noted in the City's Zoning Regulations, listed as Plant Sizes and Acceptable Street & Parking Lot Species", and identified as Table 1 in Article 18 (Supplementary Regulations), of Appendix 29-A (Zoning) of the Joplin Code of Ordinances.". The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the City upon request to aid the selection of trees for private and public properties. The list of recommended trees shall be reviewed periodically by the Community Forest Manager and Tree Board to reflect new developments or species that will affect the population of the community forest, and make recommendations to the Zoning and Planning Commission.

Sec. 122-126. Distances and Clearances for Planting

For reasons of public safety, a minimum clearance shall be maintained over walkways, streets and alleys as provided by Section 122-052. Also for reasons of public safety, overhanging hazardous or dead limbs need to be removed from living trees. Trees shall be pruned and maintained as provided in section 122-051 through 122-054 of the Joplin City Code or as provided by any other regulations of the City. In no event shall any Street Tree or Utility-Friendly Tree be planted to improve any street corner, Sight Distance requirements per Section 114.-3 and Article 2 of the Zoning Ordinances. No Street Tree or Utility-Friendly Tree shall be planted closer than 10 feet of any fire hydrant.

Sec. 122-127. Utilities

No Street Trees or Utility-Friendly Trees, other than those species listed as small trees in the City's official list of acceptable trees, may be planted under or within ten (10) feet from any overhead utility wire or over or within ten (10) lateral feet from any underground water line, sewer line, transmission line or other utility on public property.

Sec. 122-128. Public Tree Care

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City shall use as a guide the American National Standards Institute A300 Standards for Tree Care Operations or subsequent revisions to implement this ordinance.

The City Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with an injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 122-125 through 122-127 of this ordinance.

Sec. 122-129. Tree Topping.

It shall be unlawful as a normal practice for any person, firm or City department to top any tree in the public community forest. Trees severely damaged by storms or other causes where other pruning practices are impractical may be exempted from this section at the determination of the Parks and Recreation Director or his/her designee, Public Works Director or his/her designee or the Tree Board.

Sec. 122-130. Pruning, Corner Clearance.

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of nine feet (9') above the surface of the sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

Sec. 122-131. Dead or Diseased Tree Removal on Private Property.

In addition to any other right of removal contained herein in this Article III, the City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The Community Forest Manager with the concurrence of the Tree Board shall notify the Director of Public Works or his/her designee of such trees. Removal shall be done by said owners at their own expense within ten days after the date of service of notice, as provided in Sec. 122-54. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Sec. 122-132. Interference with City Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

Sec. 122-133. License and Bond

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees, without first applying for and procuring a license. The license fee shall be paid, as provided in Section 30-121; provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of \$10,000 bond and public liability insurance in the minimum amounts of \$300,000 for bodily injury and property damage indemnifying the City of any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Sec. 122-134. Review by City Council

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City of Joplin Municipal Court who shall hear the matter and whose decision shall be final.

Sec. 122-135. Violation

The Community Forest Manager will be responsible to enforce the stated measures in this ordinance. Any person pleading guilty or having been found guilty of a violation of any provision of this Division 4 shall be punished as provided by Section 1-5 of the City of Joplin Code of ordinances.”

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 15th day of December, 2008.

Gary L. Shaw, Mayor

ATTEST: Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM: Brian W. Head, City Attorney