

AN ORDINANCE AMENDING PARKVILLE MUNICIPAL CODE CHAPTER 150 AND SECTION 515.010 AND CREATING SECTION 515.650, SECTION 515.660 AND SECTION 515.670 TO ADDRESS THE MAINTENANCE OF STREET TREES WITHIN PUBLIC RIGHTS-OF-WAY

WHEREAS, on December 4, 1984, the Board of Aldermen adopted Ordinance No. 918 creating a municipal forestry program and establishing a board to oversee the development and administration of a city forestry program; and

WHEREAS, on February 15, 2005, the Board of Aldermen adopted Ordinance No. 2179 repealing the City's Tree Board and regulations, created Chapter 150 of the Parkville Municipal Code, and merged the former Tree Board, Parks Committee and Events Committee-related duties under one board named the Community Land and Recreation Board (CLARB); and

WHEREAS, Chapter 150 provides definitions; terms, duties, responsibilities and operation for CLARB; requirements for species, planting, spacing, maintenance and pruning of street trees; public tree care powers; and enforcement of requirements; and

WHEREAS, the Board of Aldermen has recently received numerous inquiries and questions from residents regarding who — City of Parkville or private property owners — is responsible for the maintenance & upkeep of street trees within public rights-of-way; and

WHEREAS, the Board of Aldermen held two informational work sessions — on September 19, 2023, and October 3, 2023 — to better understand current municipal code regulations and responsibilities within public rights-of-way, and directed City staff to provide clarity for these responsibilities within the municipal code via a text amendment.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PARKVILLE, MISSOURI AS FOLLOWS:

Section 1. Parkville Municipal Code Chapter 150 is hereby amended to read as follows:

Section 150.010. Definitions.

As used in this Chapter, the following terms shall have these prescribed meanings:

PARK TREES

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.

TREE TOPPING

Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Section 150.020. Creation and Establishment of A Community Land and Recreation Board.

There is hereby created and established a Community Land and Recreation Board for the City of Parkville which shall consist of nine (9) members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the Board of Aldermen.

Section 150.030. Term of Office For Members of The Community Land and Recreation Board.

- A. The term of the nine (9) persons to be appointed by the Mayor shall be three (3) years, except that the first (1st) Board shall have three (3) members serve three (3) years, two (2) members serve two (2) years and four (4) members serve one (1) year.
- B. 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. Expiration dates of membership terms shall be in the year set by appointment but on the date of the first (1st) Board of Aldermen meeting in May of that year. Members whose terms have expired may be reappointed but shall not serve unless they have been reappointed.

Section 150.040. Compensation.

Members of the Community Land and Recreation Board shall serve without compensation.

Section 150.050. Duties and Responsibilities.

- A. It shall be the responsibility of the Community Land and Recreation Board to act in an advisory capacity for the Parks and Recreation Department to study, investigate, counsel, develop or update policies annually and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs on park land owned by the City. The Community Land and Recreation Board, when requested by the Board of Aldermen, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work and shall also serve to review citizen requests for tree service regarding park trees.
- B. Further responsibilities of the Community Land and Recreation Board shall include advisory support to the Parks and Recreation Department and make recommendations to the Mayor and Board of Aldermen via the Director of Parks and Recreation. The Community Land and Recreation Board shall review matters of park planning or other issues brought before the Board.
- C. The Parks and Recreation Department shall have direct implementation power over any recommendation and ultimately the Mayor and Board of Aldermen have final authority regarding any recommendations, whether to follow them or enact their own recommendations.
- D. The Community Land and Recreation Board shall also make recommendations regarding public neighborhood beautification project requests.
- E. The Community Land and Recreation Board shall also make recommendations to the Director of Parks and Recreation, or his designee, with regard to event approvals as required by the guidelines for events in Parkville pursuant to 140.345.

Section 150.060. Operation.

The Community Land and Recreation Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 150.070. Public Park Tree Care.

A. *Purpose.* It is the purpose of this Chapter to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of park trees, shrubs and other plants on public park land within the City of Parkville. It is also to promote a strong urban forest in a healthy condition for the City of Parkville because of the many benefits it provides.

Intent. It is the intent of the City of Parkville Board of Aldermen that the terms of this Chapter shall be construed so as to promote the planting, maintenance, restoration and survival of desirable park trees, shrubs and other plants on public park land within the City. The intent is also the protection of community residents from personal injury and property damage and the protection of the City of Parkville from property damage caused or threatened by the improper planting, maintenance or removal of park trees, shrubs or other plants within the community.

- B. The City shall have the right to plant, prune, maintain and remove park trees, plants and shrubs on public park grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public park grounds.
- C. The Director of Parks and Recreation may remove or cause or order to be removed any park 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 any injurious fungus, insect or other pest.
- D. All pruning of park trees shall be in accordance with the latest version of ANSI A300 Tree, Shrub and other Woody Plant Maintenance standard practices.
- E. A list of desirable park trees shall be developed and maintained by the Community Land and Recreation Board and shall be used as a guide by the Director of Parks and Recreation when planting park trees.

Section 150.080. Tree Topping.

It shall be unlawful as a normal practice for any person, firm or City department to top any park tree or other tree on public park land. Park trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this Section at the determination of the Director of Parks and Recreation.

Section 150.090. Dead or Diseased Tree Removal On Public Property.

The City shall have the right to cause the removal of any dead or diseased trees on City-owned property 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. Upon

written statement from the certified arborist that any dead or diseased trees on City-owned property constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City:

1. The Director of Parks and Recreation shall have the authority to remove any such park trees as needed; and
2. The Director of Public Works shall have the authority to remove any such trees on City-owned property besides park land as needed. This includes areas lying between property lines on either side of all streets, avenues or ways within the City — typically within public rights-of-way.

Section 150.100. Removal of Stumps.

All stumps of park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Section 150.110. Interference With Community Land and Recreation Board and Enforcement of This Chapter.

- A. It shall be unlawful for any person to prevent, delay or interfere with the Community Land and Recreation Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any park trees as authorized in this Chapter.
- B. The Director of Parks and Recreation or his or her duly appointed designee serving as Community Forest Manager is hereby charged with the responsibility for the enforcement of this Chapter and may serve notice to any person, firm or corporation in violation thereof or institute legal proceedings as may be required and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

Section 150.120. Arborist's License and Bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing park trees within the City without first applying for and procuring a license. The license fee shall be forty dollars (\$40.00) annually in advance; provided however, that no license shall be required of any public service company or City employee doing such work in the course of their employment. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars (\$50,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 150.130. Review By Board of Aldermen.

The Board of Aldermen shall have the right to review the conduct, acts and decisions of the Community Land and Recreation Board. Any person may appeal from any ruling or order of the Community Land and Recreation Board to the Board of Aldermen who may hear the matter and make final decision.

Section 150.140. Penalty.

Any person violating any provision of this Chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed five hundred dollars (\$500.00).

Section 2. Parkville Municipal Code Chapter 515, Section 515.010 is hereby amended to include the following definitions:

PRIVATE TREES

Trees, shrubs, bushes and all other woody vegetation, whose trunk is entirely on private property.

STREET TREES

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 — typically within public rights-of-way.

Section 3. Parkville Municipal Code Chapter 515, Section 515.650, Section 515.660 and Section 515.670 are hereby created to read as follows:

Section 515.650 Ownership of Trees.

- A. *Private Trees.* Ownership of a tree is determined by who the owner of the property is where the tree trunk touches the ground. A tree whose trunk is entirely on private property is deemed a private tree.
- B. *Park Trees.* Once a tree is installed on City-owned property (no matter who installs the tree) the tree belongs to the City. When a tree is located on the property line between private property and City-owned property, the tree belongs to the City.
- C. *Street Trees.* Property owners are responsible for street trees located within the rights-of-way that abuts or is adjacent to their property.

Section 515.660 Maintenance of Street Trees—Generally.

- A. *Maintenance Responsibilities.* Property owners are responsible for the care of trees on their own property, as well as for street trees within public rights-of-way adjacent to or abutting their property, which typically are located in the parkway.
 - 1. *Exclusions.* This excludes any street trees planted by the City, which are to be maintained by the City.
 - 2. *City Rights.* 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, rights-of-way, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
 - 3. *Main Street Corridor.* Recognizing the unique character and tree canopy of street trees within the right-of-way along the Main Street corridor from 2nd Street to 7th Street, the City may provide additional maintenance services (e.g., pruning) to street trees within this area compared to other neighborhoods; additionally, the City may pursue federal, state and local

discretionary grant programs or other sources of funding for said maintenance.

4. *Clear Sight Distances.* Street trees shall be pruned so they do not obstruct the view of proper lines of sight at all intersections.
 - a. The distance of the unobstructed view shall be based upon the design speed of the intersection street, as specified in Table 404-4: Clear Sight Distance.
 - b. Street trees are allowed within the sight triangle provided that they do not have any foliage, limbs or other obstructions between 2 ft. and 8 ft., and are no closer than 20 ft. to the intersecting right-of-way line.
5. *Street Clearance.* Street trees shall be pruned to maintain a clear space of at least 14 ft. above the surface of a street.
6. *Sidewalk Clearance.* Street trees shall be pruned to maintain a clear space of at least 8 ft. above the surface of a sidewalk.
7. *Tree Topping.* The topping of any street tree (i.e., removing the top of the central stem/leader and upper main branches within the tree's crown) shall be prohibited, unless otherwise granted permission from the Director of Public Works — typically for instances where street trees have been severely damaged by inclement weather, or are under utility wires or under other obstructions where pruning practices are impractical.
8. *Pruning Standards.* All pruning of street trees shall be in accordance with the latest version of the American National Standards Institute (ANSI) A300 standards for the care and maintenance of trees, shrubs and other woody plants.

Section 515.670 Planting and Removal of Street Trees.

- A. *Planting and Removal.* Adjacent property owners may plant or remove street trees within public rights-of-way, provided City permission is granted via approval of a right-of-way permit.
 1. *Tree Species.* The Title IV – Development Code, *Appendix B. Great Trees for the Kansas City Region* shall be used by staff to determine appropriate street trees to be planted.
 2. *City Removal.* The Director of Public Works may remove, cause or order to be removed any street trees or parts thereof which are in an unsafe condition and constitute a hazard to life and property; which by reason of their nature are injurious to public utilities, facilities or public improvements; are affected with any injurious fungus, insect, pest or disease which constitutes a potential threat to other trees within the City.
 3. *Removal of Stumps.* All stumps of street trees shall be removed below the surface of the ground, so that the top of the stump does not project above the surface of the ground.

4. *Removal Penalty.* Unauthorized removal of a street tree without approval of a right-of-way permit shall be \$100 per caliper inch. If City staff cannot determine the diameter of the street tree removed, then the Director of Public Works shall make their best judgment in determining the diameter of the tree prior to removal.

B. *Planting Specifications.* Street trees shall adhere to the following specifications when planted, unless otherwise granted written permission from the Director of Public Works.

1. *Curb and Sidewalks.* No street tree shall be planted within 3 feet of any curb or sidewalk.
2. *Fireplugs.* No street tree shall be planted within 10 feet of any fireplug / fire hydrant.
3. *Overhead Utilities.* No street tree shall be planted under or within 10 ft. of any overhead utility wire or facility.
4. *Underground Utilities.* No street tree shall be planted within 5 ft. of any underground utility line or facility.

Section 4. This ordinance shall be in effect immediately upon its passage and approval.

PASSED and APPROVED this 5th day of December 2023.

ATTESTED:

Melissa McChesney
City Clerk Melissa McChesney



Dean Katerndahl
Mayor Dean Katerndahl