

## **ORDINANCE NO. 2512**

**AN ORDINANCE AMENDING CHAPTER XIII, ARTICLE 3 TREES AND SHRUBS OF THE CODE OF THE CITY OF BURLINGAME, KANSAS, AND CREATING AND ESTABLISHING A TREE BOARD:**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BURLINGAME, KANSAS;**

### **Section 1:**

Chapter XIII, Article 3. Trees and shrubs of the Code of the City of Burlingame, Kansas, is hereby amended by adding the following sections which read as follows:

#### **13-311 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.**

There is hereby created and established a City Tree Board for the city of which shall consist of five members, citizens, and residents of the city (if no volunteers, one may be appointed who lives outside of the City Limits) , who shall be appointed by the Mayor with the approval of the City Council.

#### **13-312 TERM OF OFFICE.**

The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event, a vacancy shall occur during the term of any member, his/her successor shall be appointed for the unexpired portion of the term.

#### **13-313 COMPENSATION.**

Members of the Tree Board shall serve without compensation

#### **13-314 DUTIES AND RESPONSIBILITIES.**

It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan.

#### **13-315 OPERATION.**

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

#### **13-316 TREE SPECIES TO BE PLANTED.**

The City Tree Board shall recommend and maintain a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet), and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species. List of trees not suitable for planting will also be created by the Tree Board.

A permit is required to plant trees on city property or right-of-way. There is no cost to the applicant to obtain an application at city hall. The application shall contain the location and the species to be planted. Either City Staff or agent of the city shall approve the permit before planting.

Any tree planted on city property or easement is subject to corrective action as deemed by a city employee or agent of the city. Actions may consist of removal of the tree in question by either transplanting or cutting down at the cost of the person which planted the tree in question.

### **13-317 SPACING.**

The spacing of street trees will be in accordance with the three species size classes listed in 13-316 of this ordinance, and no trees may be planted closer together than the following: small trees, 20 feet, medium trees, 30 feet, and large trees, 40 feet; except in special plantings designed or approved by a landscape architect working on behalf of the city or designated community forest manager.

### **13-318 DISTANCE FROM CURB AND SIDEWALK.**

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in 13-316 of this ordinance, and no trees may be planted closer to any curb or sidewalk than 2 feet for small trees, 3 feet for medium trees or 4 feet for large trees.

### **13-319 DISTANCE FROM STREET CORNERS AND FIREHYDRANTS.**

No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersection curbs or curb lines. No street tree shall be planted within 15 feet of any fire hydrant.

### **13-320 UTILITIES.**

No street trees other than those species accepted as small trees by the Tree Board may be planted under, or within 10 feet of, any overhead utility wire.

### **13-321 PRUNING STANDARDS**

All tree pruning on public property shall conform to the ANSI A300 standards for tree care operation.

### **13-322 TREE TOPPING**

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. 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 ordinance at the determination of the Tree Board and/or City Council.

### **13-323 REMOVAL OF STUMPS**

All stumps of street and 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.

### **13-324 PROTECTION OF TREES.**

To maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered.

Trees removed by decision of the City or by natural causes shall be replaced somewhere in the forest on a one-for-one basis within one year. The location and species of any replacement tree shall be determined by the Tree board.

Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground within the critical root radius. Critical root radius (CRR) is defined as a circular area nearest the stem that is critical for the stability and vitality of the tree. Critical root radius is determined by the formula of  $CRR = DBH \text{ (diameter at breast height)} \times 1.5$  foot per inch diameter.

### **13-325 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.

### **13-326 ARBORISTS 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 within the city without first applying for and procuring a license. The license fee shall be \$25.00 annually in advance; provided, however, that no license shall be required of any public service company including electric utilities and their agents and contractors or city employees 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 liability insurance in the minimum amount of \$300,000 for bodily injury and \$100,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

### **13-327 REVIEW BY CITY COUNCIL.**

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

### **13-328 PENALTY.**

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$1,000.

PASSED AND APPROVED THIS 19 DAY OF December, 2022.

Michelle Mullinix

Attest:

Patty Atchison