BILL 2023-9

First Reading

TO: Mayor and City Council

FROM: Shellie J. Blades, City Clerk

DATE: March 20, 2023

RE: Code Update – Tree Ordinance

Issue:
The Council passed Ordinance 6120 in December of 2019 to add a new Article V, Trees, to the City of Cameron Code in Chapter 9, Streets, Sidewalks and Other Public Property. The Ordinance, unfortunately, was poorly written and I did not catch it at the time. The bulk of the changes intended with that Ordinance were listed in a 'Whereas' clause instead of in the actionable portion of the Bill. This Bill/Ordinance will correct that mistake and cause the Code to be updated as originally intended.

Recommendation:
Staff recommends approval of this Ordinance.

Bill 2023-9

AN ORDINANCE ESTABLISHING A NEW ARTICLE V, TREES, IN CHAPTER 9, STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY IN THE CITY OF CAMERON CODE

WHEREAS, the City of Cameron Tree Board/Park Board and the Cameron City Council have determined that it is in the best interest of the health, safety, and general welfare of the citizens to enact a new tree ordinance which provides for the regulation of the planting, protection, maintenance, and removal of trees, shrubs, and other plants within the City of Cameron.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMERON, MISSOURI AS FOLLOWS:

Section 1. A new tree ordinance is hereby enacted as set forth in the attached Exhibit "A" and shall be codified in Chapter 9, Article V, Sections 250 through 300 of the Code of the City of Cameron, Missouri.

Section 2. All Ordinances or parts of ordinances therefore enacted which are in conflict with this Ordinance are hereby repealed.

Section 3. The Mayor is hereby authorized to sign this Ordinance approving it on behalf of the City of Cameron, Missouri.

Section 4. The City Clerk is directed to attest to the Mayor's signature.

Section 6. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Passed and approved on first reading this 20th day of March 2023.

Passed and approved on second/final reading this __ day of _____ 2023.

_____
Mayor Roy Estes

ATTEST:

_____
City Clerk

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EXHIBIT A

CHAPTER 9
STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY

ARTICLE V. TREES

Sec. 9-250. Definitions

Caliper: The diameter of a tree measured six inches above ground level. Typically used as a measure of tree size for hardwood nursery stock. This is the standard measurement for trees 12" diameter and smaller.

Diameter at Breast Height (DBH): The diameter measurement of a tree taken at 4.5' above the soil level. This is the standard measurement for trees 12" diameter and larger.

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 access as a park.

Public Tree: Any Street or Park tree.

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, alleys, or ways within the City.

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

Sec. 9-251. Creation and establishment of a City Tree Board.

The Park Board will serve as the City Tree Board for the City of Cameron. The terms of office and all other aspects shall follow the guidelines outlined for Park Board members.

Sec. 9-252. Duties and responsibilities.

The following items shall be the responsibility of the Tree Board and shall constitute the official comprehensive city tree plan.

(1) Develop recommendations for a comprehensive tree management program within the City.

(2) Develop guidelines for tree care, planting, maintenance, and removal of trees.

(3) Develop the list of species of trees to be used in planting.

(4) Make changes or additions to the Tree Manual and Standards of Practice.

(5) Ensure annual applications are renewed to maintain Tree City USA status, including an annual Arbor Day event and Mayoral proclamation recognizing Arbor Day, and preparing

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documentation that the city is spending the required funds for community forestry activities.

(6) Conduct such special studies or projects as the Public Works Director, the City Manager, or the City Council may request within the scope of their work.

Sec. 9-253. Operation.
The proceedings of the Tree Board shall be conducted in the same manner as all other Park Board business and shall be recorded in the regular Park Board minutes. The Public Works Director, or his or her designee, shall serve as the designated forestry official assigned to carry out the enforcement of this ordinance related to trees on public and private property. The individual is encouraged to be an International Society of Arboriculture Certified Arborist.

Sec. 9-254. Street tree species to be planted.
A list of approved Street Trees shall be on file with the City Clerk's Office and will be reviewed and approved by the Tree Board annually. This list will include trees in each of three size classes (Large, Medium and Small) and the spacing requirements for each.

Sec. 9-255. Spacing.
The spacing of Street Trees will be in accordance with the list of approved Street Trees described in Sec. 9-254 of this Ordinance except with specific written permission of the Public Works Director.

Sec. 9-256. Distance from curb and sidewalk.
The distance trees may be planted from curbs or sidewalks will be in accordance with the list of approved Street Trees described in Sec 9-254 of this Ordinance.

Sec. 9-257. Distance from street corners and fire hydrants.
No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or edge of street. No Street Tree shall be planted closer than eight feet (8') of any fire hydrant except with specific written permission of the Public Works Director.

Sec. 9-258. Distance from Overhead Utilities.
No trees, other than those species listed as Small Trees in Sec. 9-254 of this Ordinance, may be planted under or within ten (10) lateral feet of any overhead utility wire, except with specific written permission of the Public Works Director.

Sec. 9-259. Public tree care.
The City shall have the right to plant, prune, maintain or remove trees, plants and shrubs within the right-of-way lines of all streets, alleys, avenues, lanes, squares, right-of-way and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City 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 any injurious fungus, insect or

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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 Sec. 9-254 of this Ordinance.

Sec. 9-260. Protection, planting, pruning, and felling of public trees.
All work on public trees shall be specified and performed in accordance with current ANSI Standards for tree care operations and ANSI Safety Standards during tree removal, maintenance, and planting operations within the city limits. This includes work performed by utilities for overhead or underground operations that may impact public trees with work that may affect the root system of a public tree such as excavation or grading that alters the soil level within the canopy coverage area of a public tree.

Sec. 9-261. Obstruction.

(1) Pruning to Abate Obstructions. Property owners adjacent to city rights-of-way shall prune trees and shrubs located on their private property, or adjacent public right-of-way in such manner that trees and shrubs will not encroach in the clear space of eight feet (8') above the surface of the sidewalk and ten feet (10’) above the surface of the street, not obstruct the intersection sight triangle, not obstruct the visibility of traffic signals and signs nor obstruct the light from any street light. Removal shall be done by said owners at their own expense.

(2) Removing to Abate Hazards. Property owners adjacent to city rights-of-way shall remove all dead, diseased or dangerous trees caused by their own actions, or broken or decayed limbs which constitute a menace to the safety of the public. Removal shall be done by said owners at their own expense.

(3) Notice to Prune or Remove. Should any person or persons owning real property fail to prune or remove trees as herein above provided, the Code Enforcement Officer shall deem the offending limbs, trees, or shrubs as a public nuisance and order such person or persons, within thirty (30) days after receipt of written notice to prune such trees.

(4) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the City to prune such trees, and the exact cost thereof plus reasonable administrative costs shall be assessed to the owner as provided by law.

(5) The City shall have the right to prune or remove any tree or shrub on public or private property without notice when it interferes with any of the above provisions.

Sec. 9-262. Access to private property for inspection.
The Code Enforcement Officer, or his/her designated representative, shall have all such rights as are allowed by law to enter upon private property for the purpose of determining the presence of serious hazards and obstructions.

Sec. 9-263. Dead or Diseased Tree Removal on Private Property.

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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 constitutes a potential threat to other trees within the City.

(1) Removing to Abate Hazards. Property owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. Removal shall be done by said owners at their own expense.

(2) Notice to Remove. Should any person or persons owning real property fail to remove trees as herein provided, the Code Enforcement Officer shall deem the offending limbs, trees, or shrubs as a public nuisance and order such person or persons, within thirty (30) days after receipt of written notice to remove such trees.

(3) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the City to remove such trees and the exact cost thereof plus reasonable administrative costs shall be assessed to the owner as provided by law in the case of special assessments.

(4) The City shall have the right to remove any tree or shrub on private property when it interferes with any of the above provisions.

Sec. 9-264. Prohibited Acts.
It shall be unlawful and a violation of this Ordinance for any person or contractor to:

(1) Damage, cut, carve, remove, prune, or plant any tree or shrub on public property without a Permit issued by the Public Works Director.

(2) Prune trees by "Topping" - It shall be unlawful for any person, business corporation, contractor, or city department to top any tree, whether on private or City-owned property or public right-of-way, within the corporate limits of the City of Cameron. Contractors who prune trees for hire on public or private property and top trees in the performance of their work shall have their Permit and Business License revoked immediately.

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.

(3) Attach any rope, wire, nails, posters, or other contrivance to any pubic tree unless protective measures approved by the Public Works Director are taken.

(4) Attach any electrical lines or devices to any public tree or shrub except with specific written permission of the Public Works Director.

(5) Except for removal of a tree in its entirety, use of tree spurs or climbing spikes on public trees, except with specific written permission of the Public Works Director.

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(6) Deposit, store, or maintain on public right-of-way any stone, brick, sand, concrete, lumber, tile, pipe, equipment, or other material which reasonably may be expected to impede the free passage of water, air, or fertilizer to the roots of any tree, shrub, or other plant, except as allowed for parking spaces, sidewalks and driveways.

(7) Cause any gaseous, liquid, or solid substance which because of the nature or amount reasonably may be expected to be toxic or otherwise harmful to trees, shrubs, or other plants to be located where such substances reasonably may be expected to affect trees, shrubs, or other plants on City-owned property or public right-of-way.

(8) At no time will any trees, shrubs or bushes recognized as invasive by the Missouri Department of Conservation be allowed to be planted on any public or private property.

Sec. 9-265. Removal of stumps.
All stumps of Street and Park trees shall be removed below the surface of the ground and the ground leveled so that the top of the stump shall not project above the surface of the ground nor create a depression.

Sec. 9-266. Replacement of removed trees.
The City shall replace public trees that are removed as part of publicly funded new infrastructure projects (roads, sidewalks, utilities, etc) or as a result of repairs to current infrastructure and utilities.

(1) If the replacement is the result of infrastructure projects to support a private development or utility, the City shall require the party responsible for the development to pay for tree replacement.

(2) Replacement may occur at the existing site, or at another site deemed appropriate by the City's Public Works Director.

(3) Allowable species and size of replacement trees are established in Sec. 9-254 of this Ordinance.

(4) Replacement will occur at the rate of one, two and one half (2.5) inch caliper tree per five (5) inches of caliper removed. Replacement trees may be of different size as approved by the Public Works Director.

Sec. 9-267. Interference with Tree Board.
It shall be unlawful for any person to prevent, delay or interfere with the 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. 9-268. Permit license and bond.

(1) It shall be unlawful for any person to plant any tree, bush or shrubbery upon any street,

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alley or other city right-of-way or property without a permit.

(2) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or any work involving street trees within the City without first applying for and procuring the necessary permit(s).

(a) No person shall be required to obtain a permit or license from the City for the routine pruning or maintenance of trees or plants upon public rights-of-way, so long as the right-of-way adjoins the person's real property and the property owner performs the work. Routine pruning and maintenance is limited to work performed from the ground with hand-held, non-motorized equipment. Routine pruning is also limited to removing limbs less than three (3) inches in diameter.

(b) No license shall be required of any City employee doing such work in the pursuit of their public service endeavors.

(c) Public service companies and/or work performed by or on behalf of a utility shall obtain a permit and comply with all the requirements of Chapter 10.5, Communications and Rights-of-Way Management.

Sec. 9-269. Duties and liabilities of person cutting trees.

(1) It shall be the duty of anyone who cuts or fells a tree on private property to take all reasonable safeguards with respect to such cutting or felling in order to keep from injuring persons and property as a result of the cutting or felling.

(2) It shall be the duty of each person cutting or felling a tree to clean up the debris, including limbs and all parts of the tree or limbs, immediately after the cutting or felling.

(3) No person shall cut down or fell any tree in the City, whether on public or private property, which tree is of sufficient height, regardless of size in diameter, to be likely to strike, brush against, injure or damage any electric line or other line, obstruct any street, alley or other public place after or when the tree is cut down or felled without first obtaining the necessary permit(s).

(4) The permit required in this Section shall be obtained from the Public Works Director and application shall be made on a form to be supplied by the City.

Sec. 9-270. Review by City Council.

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

Sec. 9-271. Penalty.

Any person who violates any provision of this Ordinance or who fails to comply with any notice issued pursuant to the provisions of this Ordinance, upon being found guilty of violation, shall be

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subject to a fine as specified, or if not specified, then not to exceed Two Hundred Fifty Dollars ($250.00) for each separate offense.

If, as the result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a public tree, shrub, or other plant is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined by the Public Works Director or his or her designee. Any person who shall violate a provision of this Code or fail to comply therewith or with any of the requirements thereof, shall be prosecuted within the limits provided by the State or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

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