

**AN ORDINANCE ESTABLISHING THE COMMUNITY FORESTRY PLAN TO PROVIDE OVERSIGHT OF THE CITY’S PLANTING, MAINTENANCE, AND REMOVAL OF TREES, SHRUBS AND OTHER PLANTS LOCATED WITHIN CITY RIGHTS-OF-WAY, PARKS AND OTHER PUBLIC LANDS; TO REQUIRE AND FURTHER, TO AUTHORIZE THE CITY PARK BOARD TO ADMINISTER THE COMMUNITY FORESTRY PLAN.**

**LEGISLATIVE FINDINGS**

1. Trees, shrubs, and other plants growing on public and private property within the City provide many benefits to the City’s residents, including reduction of erosion, enhancement of privacy and muffling of noise, protection from adverse effects of weather, and aesthetically pleasing streetscapes, park lands, and private property, all of which enhance the livability of the City.
2. A Community Forestry Plan to be developed and administered by the City Park Board will help assure the continued development and maintenance of the City’s tree, shrub, and plant stock, and will also provide a process for identification and removal of dead and diseased trees, shrubs, and plants to protect against property damage and possible personal injury resulting from dead and diseased trees and plants that are not removed.
3. It is in the best interests of the residents of the City that the urban forestry resources existing on public and private property within the City be protected and enhanced through the adoption and administration of a Community Forestry Plan.

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

**SECTION 1. ENACTMENT OF NEW SECTIONS OF THE BUILDING AND CONSTRUCTION CODE:** The following new sections to be incorporated in the Building and Construction Ordinance [known as BACO 2000] as Article XII thereof, to be entitled “COMMUNITY FORESTRY PLAN,” are hereby enacted:

**Section 1. Purpose and Intent**

It is the purpose of this Article to promote and protect the public health, safety, and general welfare by providing for the development and implementation of a Community Forestry Plan to address the planting, maintenance, and removal of trees, shrubs and other plants in order to promote, maintain, and improve the urban forest resource of the City of Gladstone.

This Article provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

**Section 2. Definitions**

**Street Trees:** “Street trees” are herein defined as trees, shrubs, bushes, and all other woody vegetation on public land and rights-of-way on either side of all streets avenues, or ways within the City.

**Park Trees:** “Park trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.

Tree Topping: “Tree topping” is herein 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 so as to remove the normal canopy and disfigure the tree.

### **Section 3. Duties and Responsibilities**

It shall be the responsibility of the Park Board to study, investigate, counsel and develop and/or update annually, 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 Community Forestry Plan for the City of Gladstone. The Park Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

### **Section 4. Street Tree Species to be Planted**

Only desirable, long-lived trees of good appearance, beauty, adaptability, and generally free from injurious insects or disease shall be planted in public sites. The Park Board shall establish a list of official tree species acceptable for planting, divided into 3 categories of trees based on average height of each tree at maturity; those categories being small, medium and large trees. No species other than those included in this list may be planted as Street Trees without written permission of the Park Board.

### **Section 5. Spacing**

The spacing of Street Trees will be in accordance with the three species size classes as referred to in Section 4 of this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed by a landscape architect and approved on a case by case basis by the Park Board.

### **Section 6. 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 as referred to in Section 4 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.

### **Section 7. 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 intersection curbs or curblines. No Street Tree shall be planted within 10 feet of any fire hydrant.

### **Section 8. Utilities**

No Street trees other than those species listed as Small Trees in the adopted list of street trees may be planted under or within 10 lateral feet of any overhead utility wire.

### **Section 9. Public Tree Care**

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public rights-of-way or boundaries 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 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 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 in accordance with Sections 5 through 7 of this ordinance.

**Section 10. Abutting Property Owners, Duty to Maintain**

Property owners abutting rights-of-way, shall be responsible for maintaining trees, shrubs, and other woody vegetation within such rights-of-way in a manner which promotes safe and healthy plants and which protects the health, safety, and welfare of the public. Said property owners shall not allow such plants to hinder or obstruct the rights-of-way, interfere with traffic on adjacent streets or alleys, or to create a nuisance, and shall prune the branches and remove all dead, diseased or dangerous trees, or broken or decayed limbs. Branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection. Said owners shall maintain a minimum height clearance over sidewalks of ten feet (10'). Minimum height clearance over streets shall be thirteen feet (13'), except for improved thoroughfares and designated truck routes which shall be fourteen feet (14').

**Section 11. 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. 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 Park Board.

**Section 12. Dead or diseased Tree Removal on Private Property**

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 building official will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense, within sixty days after the date of service of notice. 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 and administrative fees on the owners property tax notice.

**Section 13. 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.

**Section 14. Interference with City**

It shall be unlawful for any person to prevent, delay or interfere with the City, 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.

**Section 15. Enforcement by City Building Official**

The City building official designated by the City Manager shall have the duty to investigate complaints or information received concerning conditions that may require the removal of trees, shrubs, or other plants, and to determine whether removal is warranted under the provisions of this Article and the policies established by the Park Board, to order the removal of a tree, shrub or other plant on behalf of the City.

A removal order issued by the building official shall be served upon the owner of the property where the tree, shrub or other plant to be removed is located, or to the owner of the property adjacent to the road right-of-way if the tree, shrub or other plant is to be removed from the right-of-way, together with notification that the removal will take place on a date certain not earlier than seven (7) calendar days after the mailing of the notice and order, and further notifying the recipient of the right to appeal under Section 16 of

this Article. An appeal filed with the Park Board shall delay the removal of the subject tree, shrub or other plant until the Park Board can conduct its hearing and issue its decision.

The building official may shorten the time period for notification and appeal of a removal order if, in the opinion of the building official, the tree, shrub or other plant proposed to be removed poses an immediate threat of harm to any person or property. If a determination is made that such an immediate threat is posed, then the building official shall also cause the subject tree, shrub or other plant to be barricaded and otherwise marked in order to direct members of the public away from the dangerous condition.

**Section 16. Appeals**

Unless otherwise specified in this Chapter, whenever it is claimed that the provisions of this Chapter do not apply or that the true intent and meaning of this Article has been misconstrued or wrongly interpreted, the respondent may appeal from the decision of the building official to the Park Board prior to the date of removal stated in the notice and order of removal issued by the building official. Such appeal shall be made in writing and filed with the City Clerk.

The board shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

(b) To hear and decide all matters referred to it or upon which it is required to pass under the provision of this chapter or other ordinances of the city.

(c) In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures, or the use of land so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done.

**Section 17. Penalty**

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty before the Gladstone Municipal Court, be subject to the misdemeanor penalties set forth in Section 1-9 of the Gladstone Municipal Code.

**SECTION 2. SEVERABILITY.** The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

**PASSED, SIGNED AND MADE EFFECTIVE BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 9th DAY OF DECEMBER, 2002.**

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Bill Cross, Mayor

ATTEST:

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Marilyn Ahnefeld, City Clerk

1st Reading: 12/9/2002

2nd Reading: 12/9/2002