

**CITY OF DODGE CITY ORDINANCE NO. 3806**

*AN ORDINANCE TO AMEND CHAPTER 13, ARTICLE 4 OF THE MUNICIPAL CODE FOR THE CITY OF DODGE CITY*

**WHEREAS**, the City Commission of the City of Dodge City has determined that amendments to Chapter 13, Article 4 of the municipal code are necessary for the well-being and proper governance of the city;

**NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DODGE CITY:

**SECTION 1: AMENDMENTS TO CHAPTER 13, ARTICLE 4**

(A) The following sections of Chapter 13, Article 4 of the municipal code for the City of Dodge City are hereby amended as follows:

**1. Section 13-401: PARK AND RECREATION ADVISORY BOARD ABSORBS SHADE TREE COMMISSION**

- Existing Language: **13-401. SHADE TREE COMMISSION; CREATION AND ESTABLISHMENT OF A SHADE TREE COMMISSION.** There is hereby created and established a seven member shade tree commission for the City. These shall be citizens and residents of this city, and shall be appointed by the mayor with the approval of the commission.
- Amended Language: **13-401. PARK AND RECREATION ADVISORY BOARD ABSORBS SHADE TREE COMMISSION.** Henceforth, as of the date of the adoption of this provision, the Park and Recreation Advisory Board shall absorb the Shade Tree Commission, along with all its rights and responsibilities. Elsewhere in this Municipal Code, any reference to the Shane Tree Commission shall refer to the Park and Recreation Advisory Board.

**2. Section 13-403: SAME; COMPENSATION**

- Existing Language: Members of the board shall serve without compensation.
- Amended Language: Members of the Park and Recreation Advisory Board shall conduct the duties of the body previously known as the Shade Tree Commission without additional compensation.

**3. Section 13-404: SAME; DUTIES AND RESPONSIBILITIES**

- Existing Language: It shall be the responsibility of the 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, and in other

public areas. Such plan will be presented annually to the city commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The board when requested by the city commission, shall consider, investigate, make finding, report and recommend upon any special matter of questions coming within the scope of its work.

- **Amended Language:** It shall be the responsibility of the Park and Recreation Advisory 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, and in other public areas. Such plan will be presented annually to the city commission and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The Park and Recreation Advisory Board, when requested by the city commission, shall consider, investigate, make finding, report and recommend upon any special matter of questions coming within the scope of its work.

#### **4. Section 13-405: SAME; OPERATION**

- **Existing Language:** 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 shall be a quorum for the transaction of business.
- **Amended Language:** The Park and Recreation Advisory Board, in conducting the duties previously held by the Shade Tree Commission, 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.

#### **5. Section 13-407: STREET TREES; LIST**

- **Existing Language:** A list of preferred and recommended street tree species, which shall consist of small, medium and large trees, shall be established from time to time by the shade tree commission, and a copy of the current list shall be maintained in the office of the director of parks and recreation and the Ford County Extension Council and copies of the list shall be provided without charge to persons requesting the same.
- **Amended Language:** A list of preferred and recommended street tree species, which shall consist of small, medium and large trees, shall be established from time to time by the

Park and Recreation Advisory Board, and a copy of the current list shall be maintained in the office of the director of parks and recreation and the Ford County Extension Council and copies of the list shall be provided without charge to persons requesting the same.

**6. Section 13-411: NOTICE TO OWNER, OCCUPANT**

- **Existing Language:** Notice to cut any trees, boughs, shrubbery or limbs to conform to the provisions of the article shall be served by the duly appointed public officer upon the owner or occupant of the abutting premises.
- **Amended Language:** The City shall have the right to serve notice to cut any trees, boughs, shrubbery, or limbs to conform to the provisions of the article by the duly appointed public officer upon the owner or occupant of the abutting premises.

**7. Section 13-412: ABATEMENT BY CITY**

- **Existing Language:** If such owner or occupant shall not within five (5) days thereafter cause such obstructing trees, boughs, shrubbery or limbs to be removed as provided in accordance with the provisions of this article, then the city shall forthwith remove them. This section, however, shall not be construed as waiving the rights of the city to prosecute under the provisions of this article.
- **Amended Language:** If such owner or occupant shall not within five (5) days of receiving notice pursuant to section 13-411 of this code cause such obstructing trees, boughs, shrubbery or limbs to be removed as provided in accordance with the provisions of this article, then the city shall have the right to remove them. This section, however, shall not be construed as waiving the rights of the city to prosecute under the provisions of this article.

**8. Section 13-416: SAME; DISTANCE FROM CURB AND SIDEWALK**

- **Existing Language:** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the "Street Trees; List" size classes and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. Exceptions can be granted by the landscape coordinator, forester or shade tree commission.
- **Amended Language:** The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the "Street Trees; List" size classes and no trees may be

planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet. Exceptions can be granted by the landscape coordinator, forester or Park and Recreation Advisory Board.

**9. Section 13-417: SIGHT TRIANGLE**

- **Existing Language:** No street trees shall be planted within the sight triangle of an intersection as defined in the "Shade Tree Commission; Definitions" section of this article.
- **Amended Language:** No street trees shall be planted within the sight triangle of an intersection as defined in the "Definitions" section of this article.

**10. Section 13-420: TREE TOPPING**

- **Existing Language:** 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 article at the determination of the shade tree commission.
- **Amended Language:** 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 article at the determination of the Park and Recreation Advisory Board.

**11. Section 13-422: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY**

- **Existing Language:** 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 shade tree commission will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 30 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 on the owners property tax notice.

- **Amended Language:** 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 Park and Recreation Advisory Board shall have the right to notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 30 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 on the owner's property tax notice.

**12. Section 13-423: PERMIT TO PLANT, PRUNE OR REMOVE TREES ON EASEMENTS**

- **Existing Language:** It shall be unlawful for a person without a written permit to plant, prune, remove or cut any tree or shrub in any part of the streets, avenues or public grounds. The permit shall state specifically the work to be done under it, and shall be void after ten (10) days from the date thereof. Permit is to be obtained from the City.
- **Amended Language:** It shall be unlawful for a person without a written permit to plant, prune, remove or cut any tree or shrub in any part of the streets, avenues, or public grounds. The permit shall state specifically the work to be done under it and shall be void after ten (10) days from the date thereof. Proper permitting shall be obtained through the city.

**13. Section 13-426: INTERFERENCE WITH PARK AND RECREATION ADVISORY BOARD IN THEIR ROLE AS THE SHADE TREE COMMISSION.**

- **Existing Language: 13-426. INTERFERENCE WITH SHADE TREE COMMISSION.** It shall be unlawful for any person to prevent, delay or interfere with the shade tree commission, except the city commission or their agent, or any of his or her agents, or servants, 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 article.
- **Amended Language: 13-426. INTERFERENCE WITH PARK AND RECREATION ADVISORY BOARD IN THEIR ROLE AS THE SHADE TREE COMMISSION.** It shall be unlawful for any person to prevent, delay or interfere with the Park and Recreation Advisory Board in the administration of their duties as the shade tree commission, except the city commission or their agent, or

any of his or her agents, or servants, 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 article.

#### 14. Section 13-428: SAME; QUALIFICATIONS

- **Existing Language:** Licenses required by this ordinance shall be issued at the parks and recreation office. The applicant shall meet the following requirements:
  - 1) Provide current name, business address and phone number.
  - 2) Filing of certificate of liability insurance.
  - 3) Payment of required license fee.
  - 4) Passing score of at least 70% on city test; or
    - 4a) Proof of new or renewed certification from Kansas Arborist Association or equivalent.
  - 5) No license shall be required for any city employee doing such work in the pursuit of their public service endeavors.
- **Amended Language:** Licenses required by this provision shall be issued at the parks and recreation office. The applicant shall meet the following requirements:
  - 1) Provide current name, business address and phone number.
  - 2) Filing of certificate of liability insurance.
  - 3) Payment of required license fee.
  - 4) Passing score of at least 70% on city test; or
    - 4a) Proof of new or renewed certification from Kansas Arborist Association or equivalent.
  - 5) No license shall be required for any city employee doing such work in the pursuit of their public service endeavors.

#### 15. Section 13-431: ON-SITE INSPECTIONS

- **Existing Language:** The shade tree commission or a duly authorized agent of the city may inspect the work of all commercial, private or contracting arborists performing tree pruning on public property to insure that proper pruning practices are being followed. Inspections shall be random and without notice. Arborists found in violation of proper pruning procedures shall be notified verbally and in writing by the city. Such violations shall be corrected if possible and future pruning shall comply with approved practices.
- **Amended Language:** The Park and Recreation Advisory Board or a duly authorized agent of the city may inspect the work of all commercial, private, or contracting arborists performing tree pruning on public property to ensure that proper pruning practices are being followed. Inspections shall be random and without notice. Arborists found in

violation of proper pruning procedures shall be notified verbally and in writing by the city. Such violations shall be corrected if possible and future pruning shall comply with approved practices.

#### 16. Section 13-432: PENALTY

- **Existing Language:** The public officer may file a complaint in the municipal court against any person or commercial, private or contracting arborist found to be in violation of the provisions of this article, provide that the person or arborist shall first have been sent a notice. The notice shall state:
  - (1) The condition which has caused the violation of this article; and
  - (2) That the person in violation shall have:
    - (a) 5 days from date of deliverance of the notice to alleviate the obstructing violation; or
    - (b) 30 days from date of deliverance of the notice to alleviate the hazardous or harboring condition;
  - and
  - (3) That failure to alleviate the condition or to request a hearing may result in prosecution and/or abatement of the condition by the city with the cost assessed against the property.Upon such complaint in the municipal court, any person or commercial, private or contracting arborists found to be in violation of the provisions of this article shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purpose of this article, a separate offense shall be deemed committed for each tree on which such violation exists.
- **Amended Language:** The city may file a complaint in the municipal court against any person or commercial, private, or contracting arborist found to be in violation of the provisions of this article, provide that the person or arborist shall first have been sent a notice. The notice shall state:
  - (1) The condition which has caused the violation of this article; and
  - (2) That the person in violation shall have:
    - (a) 5 days from date of deliverance of the notice to alleviate the obstructing violation; or
    - (b) 30 days from date of deliverance of the notice to alleviate the hazardous or harboring condition;
  - and
  - (3) That failure to alleviate the condition or to request a hearing may result in prosecution and/or abatement

of the condition by the city with the cost assessed against the property. Upon such complaint in the municipal court, any person or commercial, private or contracting arborists found to be in violation of the provisions of this article shall upon conviction be punished by a fine of not less than \$50 nor more than \$100, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment, for each offense. For the purpose of this article, a separate offense shall be deemed committed for each tree on which such violation exists.

#### **17. Section 13-433: REVIEW; BY GOVERNING BODY**

- **Existing Language:** The governing body shall have the right to review the conduct, acts and decisions of the shade tree commission. Any person may appeal from any ruling or order of the shade tree commission to the governing body who may hear the matter and make final decision. (Ord. No. 3028)
- **Amended Language:** The City Commission shall have the right to review the conduct, acts and decisions of the Park and Recreation Advisory Board in its exercise of shade tree commission duties. Any person may appeal from any ruling or order of the Park and Recreation Advisory Board in its exercise of shade tree commission duties to the City Commission who may hear the matter and make final decision.

(B) The amended provisions shall read as set forth in Section 1(A) above.

#### **SECTION 2: EFFECTIVE DATE**

This ordinance shall take effect from and following its publication in the official paper, as provided by law.

#### **SECTION 3: SEVERABILITY**

If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of the ordinance or the application of its provisions to other persons or circumstances shall not be affected.

#### **SECTION 4: REPEALER**

All prior code provisions and ordinances or parts of code provisions or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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Mayor Michael Burns

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Connie Marquez, City Clerk

**APPROVED AS TO FORM:**

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Paige Gilmore, City Attorney

Date: December 18, 2023