

## ORDINANCE NO. 588-2020

**AN ORDINANCE OF THE CITY OF LAUREL, CEDAR COUNTY, NEBRASKA, PROVIDING FOR A CITY TREE BOARD TO PROVIDE FOR THE CARE, REPLACEMENT, MAINTENANCE AND REMOVAL OR DISPOSITION OF TREES IN PARKS, ALONG STREETS, AND OTHER AREAS.**

**THIS ORDINANCE SHALL BECOME AN ADDITION TO CHAPTER VII OF THE MUNICIPAL CODE OF THE CITY OF LAUREL, CEDAR COUNTY, NEBRASKA AND SHALL BE CITED AS ARTICLE 4 - 402 OF CHAPTER VII.**

Be it ordained by the Mayor and City Council of the City of Laurel, Nebraska (the "City"):

### **Section 1. Definitions**

"Street Trees" are defined as trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines and all streets and avenues within the City.

"Park trees" are defined as trees, shrubs, bushes and all other woody vegetation in public parks of the City.

"Diseased trees" are defined as those trees that may constitute a hazard to life and property by reason of the condition of the trees and/or represent a potential threat to other trees within the City due to the presence of a fatal disease including dutch elm disease and chestnut blight.

### **Section 2. Creation and Establishment of City Tree Board**

There is hereby created and established a City Tree Board (the "Tree Board") for the City of Laurel, Nebraska, which shall consist of five (5) to nine (9) members, citizens and resident of this City, who shall be appointed by the mayor with the approval of the City Council.

### **Section 3. Term of Office**

The term of the five (5) to nine (9) persons to be appointed by the Mayor shall be three (3) years, except that the term of two (2) of the members appointed to the first Board shall be for only one (1) year, and the term of two (2) members of the first Board shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

### **Section 4. Compensation**

Members of the Tree Board shall serve without compensation.

### **Section 5. Duties and Responsibilities**

It shall be the responsibility of the Tree Board to study, investigate, recommend and develop and/or update annually, and administer a written plan for the care, replacement, maintenance and 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 for the City of Laurel, Nebraska.

The Tree Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question relating to trees.

The Tree Board shall assist in seeking outside resources to augment those funds provided by the City.

#### **Section 6. Operation**

A majority of the members shall be a quorum for the transaction of business. The Tree Board shall meet at least quarterly throughout the year. The meetings of the Tree Board shall be open to the public and shall in all respects, including manner of notice, comply with the Nebraska Open Meetings Act. The proceedings of the Tree Board shall be preserved in a journal, and the Tree Board shall keep the journal at the office of the City Clerk, open to public inspection.

#### **Section 7. Street Tree Species to be Planted**

The City shall attempt to maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the city upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the community forest.

#### **Section 8. Responsibility for Maintenance of Street Trees**

The owner, agent, or occupant of any land abutting a street or alley shall keep the trees, shrubs, bushes, and all other woody vegetation located within the section of the street right-of-way or alley so abutting trimmed, pruned, and sprayed in such a manner as will remove any hazard to life or property and preserve or promote the health and vigor of the trees, and shall water and otherwise care for the trees to maintain them in a healthy, vigorous, growing condition; provided, however, the Tree Board may direct spraying of these trees for insect or disease control at City expense when spraying is considered in the public interest.

#### **Section 9. Distance from Curb and Sidewalk**

No Street Tree shall be planted closer than three (3) feet from curbs or curb lines, sidewalks, driveways, or street.

#### **Section 10. Distance from Street Corners and Fire Hydrant**

No Street Tree shall be planted closer than thirty-five (35) feet from any street corner, measured from the point of the nearest intersection of curbs or curb lines. No Street Tree shall be planted closer than ten (10) feet from any fire hydrant.

### **Section 11. Distance from Utilities**

No Street Tree shall be planted closer than ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility which may be identified after calling 811 for a utility locate. Special permission must be obtained from the Tree Board when planting Street Trees within the distances set forth in this Section.

### **Section 12. Public Tree Care**

The City and Tree Board shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way and lines of all streets, alleys, lanes, squares and public grounds as may be necessary to ensure the public safety.

The City and Tree Board 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 seriously affected with any fatal disease.

The abutting property owners shall have the responsibility to perform Street Tree care and maintenance set forth in Section 8, above.

### **Section 13. Permits Required**

No person shall plant a Street Tree or any other tree in the public right-of-way without first obtaining a permit from the City Clerk. All other trees may be planted without a permit. Upon receipt of a completed permit, the permit will be submitted to the Tree Board for approval. There will be no fee for such permit.

### **Section 14. Remove of Public Tree**

No person shall remove any public tree or Street Tree without permission of the Tree Board.

### **Section 15. 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, rounding off or pollarding is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees Severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning services are impractical may be exempted from this section at the determination of the Tree Board.

### **Section 16. Clearance Over Streets and Walkways**

Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of eight (8) feet must be maintained over walkways. A clearance of fifteen (15) feet

must be maintained over streets and alleys. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property.

#### **Section 17. Dead or Diseased Tree Removal**

The City and Tree Board may remove or cause to be removed any dead or Diseased Tree within the public right-of-way. Prior to removal the Tree Board shall notify, in writing, by certified mail, the owner of the tree by sending notice describing the condition of the tree and notice of removal to the owner of record as established by the records of the county taxing authority. Removal shall be the responsibility of the owner where the dead or Diseased Tree is located and removal shall be accomplished within Sixty (60) days of notification. The Tree Board may, with the approval of the City, cause such dead or Diseased Tree to be removed at City expense in the event the owner fails to do the same within the Sixty (60) day period. In the event the removal is paid for by the City, a statement of the cost of removal shall be recorded with the City Clerk giving a proper description of the lands where on the dead or Diseased Tree or trees were removed and the City Clerk shall certify to the County Treasurer the costs which shall then be added to the county tax lists as an assessment and charged against the owner and real estate, which charge shall be a lien upon the real estate and be collected the same as all other taxes regularly levied.

The City and Tree Board may remove or cause to be removed any dead or Diseased Tree located on private property within the City limits. Prior to removal the Tree Board shall notify, in writing, by certified mail, the owner of the tree by sending notice describing the condition of the tree and notice of removal to the owner of record as established by the records of the county taxing authority. Removal shall be accomplished within Sixty (60) days of notification. Upon failure of the owner to comply with the notice, the City Clerk shall give notice, in writing, to the owner fixing a date for a hearing before the City Council on the complaint previously entered, that the owner or his or her agent is maintaining a public nuisance by failing to remove the trees. The notice shall fix a time not earlier than the next regular meeting of the City Council and in any event not less than five (5) days after the date of the notice, when the owner or agent may appear before the City Council and a hearing shall be had upon the matter. If at the hearing it shall appear that the trees named in the notice are in a condition contrary to this subchapter, the City Council shall declare the tree or trees a public nuisance and make an immediate order for the removal of the trees. If the owner or agent shall neglect or fail to comply with the order within thirty (30) days after receipt of the written notice, the City Council shall cause the same to be done. The cost shall be paid from the general fund and a statement of the costs shall be recorded with the City Clerk giving a proper description of the lands where on the dead or Diseased Tree or trees is located and the City Clerk shall certify to the County Treasurer the costs which shall then be added to the county tax lists as an assessment and charged against the owner and real estate, which charge shall be a lien upon the real estate and be collected the same as all other taxes regularly levied.

#### **Section 18. Nuisance Trees**

The City does hereby declare the permitting, allowing, or maintaining of any damaged, dangerous, dead, or Diseased Tree, including diseased branches or limbs, to be and constitute a nuisance.

**Section 19. Interference with the Tree Board**

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its representatives or agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any public or Street Trees.

**Section 20. Access**

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representative in the legal performance of any section of this ordinance.

**Section 21. Arborist Certification and Insurance**

Persons or firms engaged in the business or occupation of pruning, treating or removing any Street Tree, Park Tree or other privately owned tree must carry evidence of liability insurance and workmen's compensation insurance and must be an Arborist certified in the State of Nebraska. No such evidence of insurance or certification shall be required by any public employee doing such work in the pursuit of their public service endeavors.

**Section 22. Penal Provision**

Any person or entity violating any of the provisions of this ordinance shall be subject to the penalties provided in Chapter VII, Article 501.

**Section 23. Ordinance #443 – 2001 Tree Board Ordinance**

Ordinance 443 and all previous ordinance or parts of ordinances of the City of Laurel, Nebraska, that are in conflict with the provisions herein contained are hereby **repealed**.

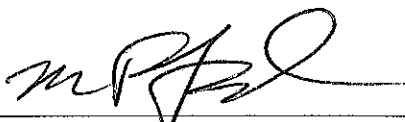
**Section 24. When Operative**

This Ordinance shall be in full force and take effect from and after its passage, approval, and publication according to law.

**Section 25. Publication Form**

This ordinance shall be published in pamphlet form.

**PASSED AND APPROVED** this 10th day of August, 2020.

  
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Mark Patefield, Mayor

ATTEST:

  
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Victoria Carlson, City Clerk

