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THE CITY OF GARDEN PLAIN, KANSAS

ORDINANCE NO. 518

**AN ORDINANCE RELATING TO THE
ESTABLISHMENT OF A COMMUNITY
FORESTRY PROGRAM.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDEN PLAIN,
KANSAS:

Section 1. Definitions

Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between the property lines 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 having individual names, and all areas owned by the City or which the public has free access as a park.

Community Forest: "Community Forest" is herein defined as all street and park trees as a total resource.

Section 2. Creation and Establishment of a City Tree Board

There is hereby created and established a City Tree Board for the City of Garden Plain, Kansas, which shall consist of five members, citizens and residents 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 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 only one year, and the term of the two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, a 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, counsel 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 Garden Plain, Kansas.

The Tree Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

Section 6. Operation

The Tree 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.

Section 7. Street Tree Species to be Planted

The City of Garden Plain, Kansas, shall maintain a list of recommended trees for planting in public areas. This list shall be available to residents of the city upon request to aid in the selection of trees for private properties. The list of recommended trees will be those trees as listed in the publication Preferred Trees for South Central Kansas by the Kansas Urban Forestry Council, and may be updated periodically to reflect new developments or species that will affect the population of the community forest.

Section 8. Public Tree Care

It is recommended that trees planted on public property be planted where there is six (6) feet or more between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three (3) feet from a sidewalk or a street. In addition, special permission must be obtained from the Tree Board when planting street trees within ten (10) feet of any point on a line on the ground immediately below any overhead utility wire, or within five (5) lateral feet of any underground water line, sewer line, transmission line, or other utility.

Any tree, shrub or foliage planted on public property, street right-of-way or easement shall be subject to removal, upon recommendation of the Tree Board and final approval by the Governing Body, if it: 1) interferes with public safety in any way, including, but not limited to obstructing vehicular passage and/or travel, obstructing vehicular sight, obstructing pedestrian travel or use of the public property; 2) interferes with utility

construction, maintenance or operation of facilities and/or equipment; and 3) is in violation of other sections of this ordinance or other city ordinances. The city shall not be responsible for replacement or reimbursement for the costs of trees, shrubs or foliage removed.

The City may remove, or cause 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 injurious insect or disease.

The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within right-of-way or bounds of all streets, alleys, lanes, squares, and public grounds and easements, as may be necessary to insure the public safety or to preserve or enhance the beauty of such public grounds. It shall be the abutting property owner's responsibility for the normal tree care on all street trees and to ensure compliance with this and all other city ordinances.

Section 9. Tree Topping

The City Tree Board shall develop and make available to city residents suggested guidelines for the maintenance and care of trees and shall make same available to all residents of the City of Garden Plain, Kansas.

Section 10. Clearances 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 and a clearance of twelve (12) feet must be maintained over streets, avenues or alleys. Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property.

Section 11. Dead or Diseased Tree Removal

The City shall remove or cause to be removed any dead or diseased tree within the City limits. Diseased trees are defined as those trees that may constitute a hazard to life and property, or harbor insects or disease which represent a potential threat to other trees within the City. At the direction of the City Council the Tree Board will notify in writing the Owner of such trees and removal shall be accomplished with sixty (60) days of notification. In the event of failure to remove by the Owner, the City shall have an authority to remove such trees and charge the cost of removal on the property tax notice.

Section 12. 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 13. Interference with the Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the City, or Tree Board or any of their employees or representatives or agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any tree within the community forest, as authorized by this ordinance.

Section 14. Access

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

Section 15. Review by City Council

The Garden Plain Tree Board shall act only in an advisory capacity to the Garden Plain City Council. All acts and decisions made pursuant to this ordinance shall be made by the Garden Plain City Council.

Section 16. 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 five hundred dollars (\$500.00).

Section 17. Repeal

This ordinance repeals all previous ordinances conflicting herewith.

Section 18. Effective Date

This ordinance shall take effect and be in full force after its passage and publication once in the official city paper.

Passed and approved by the Governing Body of the City of Garden Plain, Kansas, this
5th day of January, 2000.

Approved by the Mayor this 5th day of January, 2000.

ATTEST:



Diana DeWitt, City Clerk



Michael Stockemer, Mayor