

ORDINANCE NO. 1536

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, AMENDING THE DAVID CITY MUNICIPAL CODE RELATING TO MEMBERSHIP AND POWERS OF THE TREE BOARD; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of David City, Nebraska, a municipal corporation and city of the second class ("**City**"), owns and maintains certain street trees, park trees and shrubs within the City in accordance with the Official Comprehensive City Tree Plan as Section 2-501(B) of the City's Municipal Code (the "**Code**") defines; and

WHEREAS, Section 2-501 establishes the City's Tree Board ("**Board**") that, among other things, assists the City Council with decisions relating to the maintenance, planting and removal of all street and park trees and shrubs; and

WHEREAS, the City desires and finds it to be in the best interest of the City, its residents, and the Board to revise the Code as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DAVID CITY, NEBRASKA, as follows:

(1) Amendment to Section 2-501(C). The City hereby amends Section 2-501(C) by repealing it in its entirety and replacing it with the following:

C. The Tree Board, when the City Council requests or of its own accord, shall research and make recommendations on any special matter within the scope of its duties. Nothing in this Article grants the Board authority to make decisions on behalf of the City Council. The Board shall keep a record of its proceedings in the form of minutes to be recorded and published in a substantially similar manner to that described in Section 1-310 of the Code. The Board shall meet quarterly (every three months). The City Clerk shall prepare and distribute a meeting calendar and shall provide the prior meeting's minutes to the Tree Board members at least twenty-four (24) hours before the commencement of the meeting. The Tree Board shall not meet earlier than 4:00 P.M. Central Time, unless unusual circumstances require.

(2) Amendment to Sections 6-104 and 6-106. The City hereby amends Sections 6-104 and 6-106 by repealing both in their entirety and replacing both with the following:

SECTION 6-104: OBSTRUCTIONS; OVERHANGING BRANCHES

A. It shall be unlawful for any person, persons, firm or corporation to obstruct by fences, gates, buildings, structures or to allow a tree, shrub, or the roots thereof to obstruct an abutting public right-of-way so as to interfere with the public or the City's use, operation, construction, or maintenance of the same, including without limitation interfering with any utility wires, cables, pipeline(s), streets, alleys or sidewalks. The owners of the private property abutting any public right-of-way shall maintain all growth in accordance with this Article 6 at all times.

B. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 8 feet above the surface of said walk and at least 14 feet above the surface of said street. The limbs or branches of any tree or trees extending over streets or sidewalks contrary to the provision herein so as to interfere with the lighting of the street from streetlights or with the convenience of the public using said street or sidewalk is considered an obstruction.

C. The Board may issue any landowner failing to comply with Section 6-104(B) a written notice of violation. The Board or the City Council may order any landowner to cut or remove obstructions described in Section 6-104(C). If after thirty (30) days of the mailing of such notice or order said landowner fails to remedy such violation, the Board or the City may cause the removal of such encroachments and pay the costs of the same out of the City Street Fund. The City shall assess the cost, including reasonable administrative costs, of the notice and removal of the encroachment against the abutting property. The City shall levy and collect the cost in the same manner as a special assessment in addition to the general revenue taxes. It shall accrue interest from the date of the assessment. Upon payment of the assessment, the City shall credit the payment to the street fund.

D. If the property owner does not reside in Butler County, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published. (Nebraska Revised Statutes Sections 17-555 and 17-557.01)

(3) Amendment to Section 3-130(B). The City hereby amends Section 3-130(B) by repealing it in its entirety and replacing it with the following:

B. The City shall provide a written notice to abate and remove such nuisances and notice of the right to a hearing and the manner in which it may be requested to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty (30) days after the City mails such notice, if the owner or occupant of the property fails to request a hearing, the City may cause such work to be done. The City shall transmit a copy of the invoice for said work to the owner or occupant. If the owner fails to reimburse the City within thirty (30) days of receipt of the invoice, the City may levy and assess all or any portion of the costs and expenses of the work upon the property so benefited in the same manner as other special taxes for improvements.

(4) Amendment to Section 2-508(B), (C), and (D). The City hereby amends Section 2-508(B), (C), and (D) by repealing them in their entirety and replacing them with the following:

B. The City shall provide a written notice to each owner or owner's occupant, if any, by personal service or certified mail to abate and remove any tree or part thereof that is in an unsafe condition or that, in the City's sole and absolute discretion, pose a threat of damage to sewers, electric power lines, gas lines, water lines, or other public Improvements or that contains any injurious fungus, insect, or other pest to. Such notice shall describe the right and procedure of the owner or occupant to request a hearing before the City Council. Within thirty (30) days after the City's mailing of such notice, if the owner or occupant of the property fails to request a hearing, the City may cause such work to be done. The City shall transmit a copy of the invoice for said work to the owner or occupant. If the owner fails to reimburse the City within thirty (30) days of receipt of the invoice, the City may levy and assess all or any portion of the costs and expenses of the work upon the property so benefited in the same manner as other special taxes for improvements.

C. 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 this article. The adjacent or abutting property owners shall have the responsibility to perform appropriate tree care on their street trees.

(5) Amendment to Section(s) 2-511(B) and 2-511(H). The City hereby amends Section(s) 2-511(B) and 2-511(H) of the Code by repealing them in their entirety and replacing them with the following:

B. The property owner will be required to submit two written estimates with the tree removal application. The City may, in its sole discretion, choose to share the cost of such removal. After such estimates or bids have been reviewed, the street superintendent will notify the bid winner and property owner. If a tree is a hazard or a public safety concern which needs to be removed immediately, the requirement of two estimates can be waived with the approval of the mayor or council president.

H. The following provision applies to any removal order under Section 2-508, 3-130, or 6-104. Once the property owner or its agent completes the entire tree removal process, including stump removal, the property owner or its agent must plant a new tree in the same location and in accordance with the species requirements in Section 2-503. The property owner is responsible for the entire cost of removal and replacement. Within thirty (30) days of planting the new tree, the landowner may submit a copy of the invoice for removal services to the City Clerk for reimbursement and the City shall, within sixty (60) days of receipt of the invoice and approval by the City Council, reimburse the property owner for the costs of removal. The immediately preceding sentence shall not obligate the City to reimburse any property owner for the costs of replanting a tree.

(6) No Other Amendment. Except as expressly provided herein, this Ordinance shall not modify or amend any provision of the Code.

(7) Conflicting Ordinances. The City hereby repeals all ordinances passed and approved prior to the passage, approval, and publication of this Ordinance to the extent of the conflict therewith.

(8) Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form.

Passed and approved this 22nd day of July, 2026.

Jessica Miller, Mayor

ATTEST

Lori Matchett, City Clerk

APPROVED AS TO FORM:

David C. Levy, Esq., City Attorney