

ORDINANCE NO.2024-08

OF THE CITY OF PERU, NEMAHA COUNTY, NEBRASKA

AN ORDINANCE FOR THE MANAGEMENT, PLANTING, MAINTENANCE, AND PROTECTION OF TREES ON PUBLIC PROPERTY; ESTABLISHING THE CITY OF PERU, NEBRASKA AS A TREE CITY; ESTABLISHING STANDARDS, PROHIBITING DAMAGES, DECLARING CERTAIN TREES A NUISANCE, PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR THE REPEAL OF ALL PRIOR ORDINANCES IN CONFLICT HEREWITH; ORDERING THE PUBLICATION OF THE ORDINANCE IN PAMPHLET FORM; AND TO PROVIDE THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PERU, NEBRASKA;

SECTION 1. Purpose. The purpose of this ordinance is to enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal or trees on private property under certain conditions.

SECTION 2. Definitions. As used in this Ordinance, the following definitions shall apply:

Damage – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or party of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

Nuisance – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

Parkway – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

Public property – all grounds and rights-of-way (ROWS) owned or maintained by the City.

Public tree – any tree or woody vegetation on city-owned or maintained by the City.

Top or Topping – the non-standard practice of cutting back of limbs to stubs within a tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree.

SECTION 3. Authority and power.

a) **Delegation of authority and responsibility.** The Maintenance Superintendent and/or their designee, hereinafter referred to as the “Director”, shall have full authority and responsibility to plant, prune, maintain, and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property. This shall include the removal trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

b) **Coordination among city departments.** All city departments will coordinate as necessary with the Maintenance Superintendent and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under direct jurisdiction of the Director.

c) **Interference.** No person shall hinder, prevent, delay, or interfere with the Maintenance Superintendent or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

SECTION 4. Tree planting and care standards.

a) **Standards.** All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 “Standards for Tree Care Operations” and shall follow all tree care Best Management Practices (BMPs) published by the International society of Arboriculture.

b) **Requirements of franchise utility companies.** The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.

c) **Preferred species list.** The Maintenance Superintendent shall maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with written approval from the Maintenance Superintendent.

d) **Planting distances.** The Maintenance Superintendent shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant.

e) **Planting trees under electric utility lines.** Only trees listed as Ornamental trees on the official tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

SECTION 5. Prohibition against harming public trees.

a) It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Maintenance Superintendent.

b) It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.

c) It shall be unlawful for any person, firm, or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Maintenance Superintendent.

d) Any person, firm, corporation, or city department performing construction near any public tree(s) shall consult with the Maintenance Superintendent and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Best Management Practices (BMPs) for “Managing Trees During Construction” published by the international Society of Arboriculture.

e) Each violation of this section as determined and notified by the Director shall constitute a separate violation, punishable by fines and penalties under Section 10, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

SECTION 6. Adjacent owner responsibility.

a) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area.

b) No property owner shall allow a tree, or other plant growing on his/her property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Maintenance Superintendent shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

SECTION 7. Certain trees declared a nuisance. Any tree, or limb thereof, on private property determined by the Maintenance Superintendent to have contracted a lethal communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the

free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal.

SECTION 8. Violations and penalty. Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

SECTION 9. Appeals. Appeals to decisions by the Director, or to penalties imposed after violations of this ordinance, shall be heard by City Council.

SECTION 10. Savings and repeal. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

SECTION 11. Severability. Should any word, sentence, clause, paragraph, or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 12. Effective Date. This Ordinance shall take effect after approval and publication as provided by law.

SECTION 13. This Ordinance shall be published in pamphlet form and take effect as provided by law.

Passed and approved this 18th day of November 2024, by the following votes.

Katy Novak	Aye: <input checked="" type="checkbox"/>	Nay: <input type="checkbox"/>	Absent: <input type="checkbox"/>	Abstain: <input type="checkbox"/>
Theresa Westfall	Aye: <input checked="" type="checkbox"/>	Nay: <input type="checkbox"/>	Absent: <input type="checkbox"/>	Abstain: <input type="checkbox"/>
Quentin Kieler	Aye: <input type="checkbox"/>	Nay: <input type="checkbox"/>	Absent: <input checked="" type="checkbox"/>	Abstain: <input type="checkbox"/>
Brent Brown	Aye: <input checked="" type="checkbox"/>	Nay: <input type="checkbox"/>	Absent: <input type="checkbox"/>	Abstain: <input type="checkbox"/>
Dave Pease (Mayor) (on tie breaker)	Aye: <input type="checkbox"/>	Nay: <input type="checkbox"/>	Absent: <input type="checkbox"/>	Abstain: <input type="checkbox"/>

SUSPEND
READINGS _____
(3/4 VOTE)

FIRST READING	<u>18th November 2024</u>
SECOND READING	_____
THIRD READING	_____

Dave Pease

Dave Pease, Mayor of the City
of Peru, Nebraska

ATTEST:

Traci A. Ribble

Clerk of the City of Peru, Nebraska

(Seal)

