

AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AMENDING TITLE IV OF THE CODE OF ORDINANCES OF THE CITY OF WILDWOOD BY DELETING CHAPTER 410 IN ITS ENTIRETY, AND ENACTING, IN LIEU THEREOF, A NEW CHAPTER 410 FOR THE REGULATION OF TREE PRESERVATION AND RESTORATION WITHIN THE CITY.

WHEREAS, one of the first items of legislation the City of Wildwood adopted shortly after its incorporation was regulations to protect trees across the community, along with preserving them on development sites to the greatest extent possible; and

WHEREAS, these regulations, in the form of Chapter 410 Tree Preservation and Restoration Code, were adopted by the City Council on February 26, 1996 and have been applied since that time on all development sites, from the Town Center Area to individual lots for new single family dwellings in the Non-Urban Residential Areas of Wildwood; and

WHEREAS, since that adoption date, the regulations have been reviewed or updated several times, with one (1) such update being the inclusion of a new Sustainable Plantings Guide, while others included efforts to better address ‘grand’ trees and their protection, while also improving the mitigation process, and associated steps, on lots where tree loss is unavoidable, but impactful for a range of reasons; and

WHEREAS, despite these updates, the Landscape Manual remained primarily unchanged, since its initial adoption in 1996, and other components of the code had to be addressed to reflect new maintenance techniques, better control invasives, and ensure past practices, such as timber harvests, were respective of the value of trees the community holds for them in this regard; and

WHEREAS, this matter, after discussion by the Planning and Zoning Commission, was included in its yearly Work Program and assigned a ‘high’ priority relative to its completion; and

WHEREAS, once part of the Planning and Zoning Commission’s Work Program, the Department began extensive research into tree preservation steps and other techniques, which led to contacts of certified arborists, State agencies, like the Missouri Department of Conservation (MDC), property owners, residents, and other communities across the United States to understand today’s ‘best practices’ in this regard; and

WHEREAS, the Planning and Zoning Commission held a public hearing regarding this matter at its April 5, 2021, meeting, where it discussed the current regulations governing tree preservation and restoration requirements in Wildwood, and how they might be improved, inclusive of generally acknowledged needs to update the Landscape Manual and Sustainable Plantings Guide at this time; and

WHEREAS, this public hearing process was then followed by a Work Session on this topic and several updates to the Planning and Zoning Commission where comments were solicited by the Department relative to the proposed structure of the changes to the existing code; and

WHEREAS, the City Council conducted a public hearing on this matter at its June 12, 2023 meeting and agreed to authorize the preparation of legislation to proceed with these recommended additions and changes to correct inconsistencies among separate sections of the Code of Ordinances for this Chapter; and

WHEREAS, this action adhered to the established processes that are consistent with both State and local requirements for notification, posting, and review, and supports the public's general health, safety, and welfare.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI AS FOLLOWS:

Section One. Regulations. That Chapter 410 *Tree Preservation and Restoration Code* of the Code of Ordinances of the City of Wildwood be and is hereby amended by repealing it in its entirety and enacting, in lieu thereof, a new *Chapter 410 Tree Preservation and Restoration*, to read as follows (the City's consultant team and the Department of Planning's review comments are shown as dark red font; the City Attorney's initial review comments are indicated by the same dark red font color, but bolded and italicized; and the most recent additions relative to the definition of 'Grand Tree Stand' and a 'grandfathering' clause are indicated by the blue font color):

Chapter 410. Tree Preservation and Restoration Requirements - [R.O. 1997 § 410.010; Ord. No. 206 § 1, 2-26-1996; Ord. No. 221 § 4, 4-8-1996; Ord. No. 1629 § 1, 6-8-2009]

Section 410.000 Findings, Purpose, And Intent.

1. The City has determined that trees provide a wide range of benefits to it and its property owners and residents.
2. The City has determined that trees help to maintain and increase property values within the community.
3. The City has determined that trees improve the aesthetic character of the community.
4. These regulations are intended to promote acceptable and appropriate tree practices for their preservation, conservation, restoration, maintenance, and removal, when necessary, within the City of Wildwood.
5. These regulations recognize the threat caused by invasive plants and non-native plantings on the ecological balance of the collective forest of the City and encourage steps to address them to produce a healthy and sustainable environment for trees.
6. These regulations will be applicable to all public trees under the jurisdiction of the City of Wildwood.
7. The intent of these regulations is to retain and support a healthy forest within the City of Wildwood.
8. Notwithstanding any provisions of the provisions of this Chapter to the contrary, projects which have been approved pursuant to the provisions of Section 415.510 of this Code prior to the date of approval of Ordinance 2805, and where the approval remains valid pursuant to the Section 415.510, shall remain subject to the provisions of this Chapter in effect at the time of approval of such project by the City Council.

Section 410.010. Definitions. For purposes of this Chapter, the following definitions apply:

CALIPER (New Plantings Only – B&B Trees)

The diameter of the trunk 6 inches above the soil or root ball for bare root trees. For coniferous trees, tree height is used. New trees are measured in caliper inches. ~~A measurement of the size of a tree equal to the diameter of its trunk measurement at 4.5 feet above natural grade. If a tree splits into two (2) or more trunks below four and one half (4 1/2) feet, then the trunk is measured at its most narrow point below the split. For newly planted trees the caliper measurement will be taken six (6) inches above natural grade.~~

CANOPY

The spread of the branches and the area within them from the top of the trunk to the outside diameter edge of an individual tree, massed individuals or massed groupings of trees as shown on the baseline aerial photograph.

CANOPY COVER AREA

Unless using another methodology approved by the City Arborist, canopy cover area is determined by, first, mapping the projection of the canopy onto the ground on a plat or aerial photograph of the property. Then Measure and map the extent of the canopy in relation to structures and property lines by recording the distances from the property lines, buildings, and other structures. Calculate the square foot area by sectioning the canopy off into squares, rectangles, triangles or circles. Multiply the length by the width of the sections if they are a square or rectangle, multiply length by width and divide by 2 for a triangle, and use the formula for the area of a circle if more or less circular. Add the various sections together to calculate the total tree canopy cover area in square feet.

CERTIFIED ARBORIST

A person In possession of a valid Certified Arborist credential issued by the ISA.

CITY ARBORIST

Such person or persons as may be designated by the City Administrator from time to time.

CRITICAL ROOT ZONE (CRZ)

Area of soil around a tree where the minimum amount of roots considered critical to its structural stability or health are located, ***but not less than a distance from the trunk that equals one foot for every inch of the tree's diameter.*** ~~An area drawn for each tree surveyed which represents the average root system. The average root system follows the crown drip line extending from the outer surface of a tree's branch tips to the ground. CRZs vary depending upon tree species, tree size, soils and moisture level, but shall always be deemed to incorporate a minimum distance of ten (10) feet beyond its defined boundary.~~

DIAMETER AT BREAST HEIGHT (DBH) (Existing Trees)

Refers to the tree diameter measured at 4.5 feet above the ground and intended to be applied to standing trees, not new plantings (see caliper definition in this section).

DISTURBANCE - LAND

Any removal or destruction of trees, **including, but not limited to, the intentional or unintentional removal, destruction or killing of any tree**, ground cover, or other vegetation by means of **any hand tools, chemicals, or** heavy mechanized equipment [including all equipment weighing in excess of one thousand eight hundred (1,800) pounds] or by any means affecting an area of five thousand (5,000) square feet or more in a period of one (1) year or less.

DISTURBANCE

~~The intentional or unintentional removal, destruction, or killing of any tree.~~

GRAND TREE

~~Any tree in fair or better condition which~~ that equals or exceeds the following diameter sizes: Large hardwoods (i.e., oaks, hickories, etc.) — twenty-four (24) inch DBH; Large softwoods (i.e., pines, spruces, etc.) — **twelve (12)** ~~twenty (20)~~ inch DBH; Small trees (i.e., dogwood, redbud, etc.) — **six (6)** ~~twelve (12)~~ inch DBH, and its condition being assessed by a professional arborist as ‘fair or better.’

~~A tree in fair or better condition is defined as having a life expectancy of greater than fifteen (15) years, a relatively sound and solid trunk with no extensive decay, no more than one (1) major and several minor dead limbs (hardwoods only), and no major insect or disease problems.~~

GRAND TREE STAND

A grouping of trees, no less than six (6) in total, each having a size of twelve (12) inches DBH or greater, which has a canopy cover area of no less than six thousand (6,000) total square feet.

GROVE

~~Any grouping of eight (8) or more trees each having eighteen (18) inches or greater caliper with no tree trunk farther than thirty (30) feet from any other tree trunk in the group.~~

INVASIVE MANAGEMENT PLAN

A City-wide, comprehensive plan to minimize the harm caused by invasive species on natural lands and encourage the health of native plants and wildlife ***and to manage and eliminate invasive and non-native plantings.***

INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA)

An organization that promotes the professional practice of arboriculture, along with promulgating best practices for the same.

PROHIBITED PRACTICES

No tree shall be subject to excessive cutting, pruning, smothering, or topping, thereby leading to its loss. Pruning or root cutting shall be in accord with ***generally accepted arboricultural best management practices***, using clean and sharp tools.

SENSITIVE LANDS

Certain areas, where the combination of soils, landforms, and vegetation, create potential environmental hazards due to their inability to retain and absorb stormwater runoff, thereby offsetting their natural functions to ~~offset~~ **mitigate** threats to the health and safety of City residents,

including, but not necessarily limited to, floodplains, floodways, ephemeral drainageways, and sinkholes.

[Ord. No. 2286, 8-14-2017]

SPECIMEN VEGETATION

A unique grouping of rare or unusual plants justifying preservation pursuant to any established Federal, State or local guidelines, including those requirements established in the Wildwood Tree Manual.

TIMBER SALE

A cutting, removal or other disturbance of trees affecting seven thousand five hundred (7,500) square feet or more of tree canopy coverage area for the purpose of selling or harvesting such trees or maintaining the health of a wooded area.

TREE

A woody plant that grows mostly upright as a single or multi-stem that may eventually attain a height of fifteen (15) feet or more.

TREE CANOPY COVERAGE

The area in square feet of a tree's spread. Existing tree canopy is determined by measuring the ground's surface area that is covered by the branch spread of a single tree or clump or grove of trees. Ultimate tree canopy to be used where replanting is required, is determined by assigning the following values for planted trees: One thousand (1,000) square feet for a large shade tree or major street tree; seven hundred (700) square feet for each medium street tree and most conifers and three hundred (300) square feet for small flowering trees. The Wildwood Tree Manual contains a list of approved restoration tree species and their categories.

TREE PRESERVATION PLAN

A tree preservation plan (TPP) is a site plan prepared by an approved professional that delineates tree save areas and details measures to be taken to ensure protection and survivability of trees to be saved, prior to and during construction, and also complies with guidelines which are listed in the Wildwood Tree Manual. A tree preservation plan should include a tree stand delineation.

TREE STAND DELINEATION

A detailed description and location of trees and other woody vegetation on the site prior to any proposed land disturbance, prepared in map form, as specified in the Wildwood Tree Manual. The tree stand delineation (TSD) map is to be prepared using the proposed development plan as a base map so that decisions can be made with respect to preserving existing vegetation.

WILDWOOD SUSTAINABLE PLANTINGS GUIDE

A document, adopted by this Chapter of the City Code and on file in the City offices, having detailed instructions for preparation, placement, selection, maintenance and other facets for the use of low-water, native plantings for ground water conservation purposes. The Director of Planning may make amendments to the specifications, standards and procedures in the Wildwood Sustainable Plantings Guide for application of the Tree Preservation and Restoration Code, and

such amendments shall become effective upon order, resolution or other approval of the City Council.

WILDWOOD TREE MANUAL

A document, adopted by this Chapter of the City Council and on file in the City offices, having detailed instructions for preparing and evaluating tree preservation plans, grading, planting and protection of all types of vegetation. The Director of Planning may make amendments to the specifications, standards and procedures in the Wildwood Tree Manual for application of the Tree Preservation and Restoration Code, and such amendments shall become effective upon order, resolution or other approval of the Council.

Section 410.020. Scope And Title. - [R.O. 1997 § 410.020; Ord. No. 206 § 2, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009]

This Chapter shall be known as the "Tree Preservation and Restoration Code" and the requirements herein shall, except as otherwise provided, apply to any disturbance of trees that requires a permit for grading by City ordinance **or a zoning authorization, given said application indicates the disturbance of a tree identified as protected on an approved plan or plat of the City or includes any grand tree, component of a grand tree stand, or determined to be specimen vegetation, as defined hereto.** This Chapter shall supplement the requirements and standards established by the Grading Code, Chapter **425** of this Code, as may be amended, and shall be applied in conjunction therewith.

Section 410.030. Tree Preservation Plan Required. - [R.O. 1997 § 410.030; Ord. No. 206 § 3, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009]

No grading permit, **plan/plat, or authorization** shall be granted by the City until a tree preservation plan has been filed with and approved by the Department of Planning, **with direction from the City Arborist.** The tree preservation plan may be included as part of a proposed grading plan or may be a supplement to such plan, **plat, or plot.** The tree preservation plan shall ensure the protection of remaining trees and vegetation on any site subject to authorized land disturbance and shall include such specifications, standards and precautionary measures as prescribed by the Director of Planning, pursuant to the City guidelines in the Wildwood Tree Manual.

Section 410.035. Sustainable Plantings (Xeriscaping) Criteria. [R.O. 1997 § 410.035; Ord. No. 1629 § 1, 6-8-2009]

- A.** With the adoption of this Chapter by the City Council, any new or amended development listed below shall be subject to the criteria of the Sustainable Plantings Guide, excepting any existing or future, privately-owned residential lots (zoned "NU" Non-Urban Residence District and "R" Districts):
1. Developments zoned "C-8" Planned Commercial District or "M-3" Planned Industrial District;
 2. Developments governed by Planned Residential Development Overlay District, landmarks and preservation area, **Special Circumstances Overlay District,** and/or a conditional use permit; or

3. Developments/uses requiring a site development plan (as set forth in Section **415.480**, Site Plan Review Procedure, of the Zoning Ordinance of the City of Wildwood).

B. Compliance to the Sustainable Plantings Guide for those properties and projects subject to its criteria shall be determined by the submittal of a landscape plan to the Planning and Zoning Commission for their review and action. Enforcement of these criteria shall be as set forth by Section **100.140**, Violations and Penalties, of this Chapter.

Section 410.040. Preservation Of Trees Outside Setback Areas. [R.O. 1997 § 410.040; Ord. No. 206 § 4, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009; Ord. No. 2286, 8-14-2017]

No grading permit, **plan/plat, or authorization** shall be granted unless at least thirty percent (30%) of all tree canopy coverage on land not within any building setback area (required by applicable zoning or subdivision regulations) shall be retained and undisturbed. If disturbance of the building setback area is the result of construction of a driveway at a width in excess of twelve (12) feet or utility installation, a corresponding amount of tree canopy coverage shall be added to the land not within any defined building setback area, i.e., greater than the required minimum of thirty percent (30%).

Where land disturbance is requested in conjunction with development of more than one (1) parcel of land, or where the development will require subdivision into more than one (1) parcel, the setback areas shall apply and be determined by lot according to the approved record plat or preliminary plat for the proposed development. Redevelopment, resubdivision, or amended platting of land after the tree preservation plan has been implemented shall not be permitted to defeat or avoid the tree preservation requirements of this Code first applied to the site, and approval of such redevelopment may be conditioned upon restoration of trees to equal the previous plan. Where grading is requested for an approved commercial use, the Director may allow replantings, or existing trees designated to remain after grading, anywhere on the site to count towards the required tree canopy coverage.

Section 410.050. Supplemental Standards For Land Disturbance. - [R.O. 1997 § 410.050; Ord. No. 206 § 5, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009]

A. General Standards—Variances. In addition to all other standards for land disturbance established by law, all approved land disturbance on sites containing any trees shall also conform to the specifications and standards established by the City of Wildwood Tree Manual, all requirements established by an approved tree preservation plan, and any other requirements or conditions imposed by the Director of Planning, **with input from the City Arborist, and** consistent with this Chapter. The tree preservation standards required by this Chapter may not be varied by any City Officer or the Planning and Zoning Commission, except as necessary for construction pursuant to an approved final site plan, planned zoning development, conditional use permit, approved subdivision plat, or approved final site plan (or section plan where applicable) specifically authorizing a modification of this standard. Any variance shall be no more than is necessary to complete the construction or use approved, and the Director or approving body may, when feasible, condition a permit upon the restoration or relocation of trees or vegetation on the site in an amount or quality

sufficient to offset or ameliorate the variance. A variance shall not be deemed "necessary" where feasible changes in design or construction location or technique could reduce or eliminate the amount of variance.

- B. Timber Sales. Notwithstanding anything in this Chapter or the Grading Code to the contrary, timber sales shall be permitted, as authorized by this Subsection. Any person desiring to undertake a timber sale shall request a permit from the Director of Planning. Permit applications shall include a **forest ~~timber~~** management plan from a professional forester or other approved professional indicating that the cutting of trees constitutes a thinning or harvest that ensures continued health and existence of the woodland. The **timber ~~forest~~** management plan shall specify an acceptable method of regeneration for the area to be harvested and shall conform to the standards established by the Missouri Department of Conservation, or such other designated agency, for proper management of tree farms and timber sales. Property conditions, after the harvest has been completed and restorative measures taken, shall protect waterways from sedimentation and erosion, while eliminating scraps associated with the activity from sensitive lands. **Skid roads shall be fully restored, at the conclusion of the timber harvest, while avoiding any defined drainageway area, unless determined necessary and appropriate to accommodate this activity by the Director of Public Works.** Unless waived by the Director of Planning for good cause, no permit for a timber sale shall be granted for any area more than once every ten (10) years. [Ord. No. 2286, 8-14-2017]
- C. Exceptions. Nothing in this Chapter shall apply to disturbance of trees constituting forest crops regularly harvested (i.e., Christmas tree farms, nursery stock).

Section 410.060. Grand Trees And Specimen Vegetation. - [R.O. 1997 § 410.060; Ord. No. 206 § 6, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009; Ord. No. 2286, 8-14-2017]

- A. Grand trees, **grand tree stands**, and specimen vegetation shall not be disturbed, except where it is necessary to permit construction or a use specifically authorized by a planned zoning, conditional use permit, approved subdivision plat, or approved final site development plan (or section plan where applicable) granted by the City of Wildwood or as may otherwise be permitted by the Tree Manual, subject to a permit issued by the Department of Planning, the form for application for which shall be prepared by the Director **with the direction and recommendation of the City Arborist**. Authorization to remove a grand tree, or trees **of a grand tree stand**, as defined herein, shall also be subject to a restoration process, based upon its replacement that utilizes one (1) of the following approaches:
1. A one-to-one replacement of any grand tree removed with the planting of a new tree having a caliper (DBH) of no less than three (3) inches but no greater than six (6) inches. If caliper (DBH) size selected for the new tree planting is less than twenty-five percent (25%) of the caliper of the removed grand tree, a combination of new tree plantings may be required whereby the cumulative caliper (DBH) of each new tree planted is equal to the caliper size of the removed grand tree;

2. A stand of eight (8) or more trees, the cumulative caliper (DBH) of which shall equal the caliper of the removed grand tree; or
3. A submittal of a plan showing how the benefits of the removed grand tree, including, but not limited to, shade, screening, aesthetics, soil stabilization and wildlife habitat, are to be accommodated and replaced by the proposed landscaping scheme. Such a plan shall be prepared by a landscape architect licensed in the State of Missouri, **certified arborist**, or a person acceptable to the Department of Planning upon submission of evidence of at least ten (10) years' experience in the occupation of the cultivation of plants (such as trees and shrubs), especially for sale.

Section 410.070. Restoration Of Trees — Bond. - [R.O. 1997 § 410.070; Ord. No. 206 § 7, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009]

- A. Restoration Required. Any trees disturbed in violation of this Chapter or an approved tree preservation plan shall be replanted and restored within six (6) months according to the standards set forth in the Wildwood Tree Manual. Any tree or tree areas identified to be retained on the tree preservation plan that do not remain alive for a period of at least thirty (30) months after the development of the site or stage ceases shall be rebuttably presumed to be "disturbed" in violation of this Chapter and shall be restored or otherwise mitigated as required herein.
- B. Supplemental Bond. In determining the amount of bond to be submitted to secure a grading permit **or authorization**, the Director of Planning shall utilize the **ISA's Guide for Plant Appraisal, direction from a certified arborist, including the City Arborist,** ~~and include to determine~~ such amount as to ensure restoration of trees and compensate the site for such other losses, including loss of topsoil, as may occur from disturbance of trees in violation of this Chapter or an approved tree preservation plan. The additional bond amount established by the Director of Planning shall include the amounts set forth in the Tree Manual for restoration or loss of trees. The Director may allow reductions in bond amounts where the land disturbance is subject to stages, provided that no new stage is commenced until all restoration of the precedent stage is completed. If the restoration required by this Section is not completed within the time allowed, the Director may cause the bond to be used for such restoration. Upon completion of all construction and development within the site, any unused portion of the bond not used for restoration or unrestorable losses shall be returned; provided, however, that not less than fifteen percent (15%) of the original amount shall continue to be held for a period of thirty (30) months to guarantee survival or restoration for such period of any replanted trees or trees required to have been preserved. Any net amounts retained due to violations causing loss of trees in sizes or character that cannot be similarly replaced shall be transferred to a trust fund established for tree preservation and replacement to mitigate improper tree disturbance or returned to the permittee if no such appropriate fund exists or is established within thirty (30) months from the effective date of this Chapter (February 26, 1996). Notwithstanding any expenditure of the bond by the City, the person obtaining the land disturbance permit shall remain responsible for remedying any uncured violations of this Chapter. The Director of Public Works, with consent of the Director of Planning, shall have the authority to increase or

decrease the bond amounts and release provisions of this Chapter where under the circumstances such alteration would comply with the intent of this Section.

- C. Enforcement. The City Attorney shall be authorized to take any other action to enforce the provisions of this Chapter or to remedy any violation including seeking injunctive action or damages for such violations. [Ord. No. 2286, 8-14-2017]

Section 410.080. Unlawful Acts On Public And Private Property. - [R.O. 1997 § 410.080; Ord. No. 206 § 8, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009; Ord. No. 2286, 8-14-2017]

- A. It shall be unlawful for any person to do any of the following acts on public property or a public right-of-way:
1. Attach any sign, advertisement, notice or any other object except for normal installation and maintenance devices or objects installed by the City to any tree or shrub or in any flower bed in the public right-of-way, park, or any other public property in the City.
 2. Attach or affix any sign, advertisement, notice, or any other object to any grand tree on property located within the City in such a manner as to unnecessarily and materially damage and harm such tree.
 3. Damage, cut, deface, destroy, top or injure any tree, shrub or plant by placing salt, brine, petroleum products, weed killers, concrete washout or any other substance in such an amount as to be injurious to tree or shrub growth planted in the public right-of-way or upon any park or public property. This provision shall not apply to any ordinary care and maintenance or removal of hazardous trees by a governmental entity authorized to exercise jurisdiction over the right-of-way, park or other public property.
 4. Place or store cement, asphalt, soil or any other substance in the right-of-way or on any public place which impedes access of air and water to the critical root zone of any tree or shrub planted in the right-of-way or any other public place.
 5. Permit any tree, shrub, plant or other item on that person's property to hang over or branch in such a way as to obstruct or obscure street lights, traffic signs, traffic signals or pedestrian or vehicular access on public rights-of-way or obstruct the view of any street intersection.
 6. Cause any excavation or construction on a public right-of-way to occur within twenty (20) feet of any public tree without installing fences, barriers or other guards to protect the tree on public right-of-way from damage from such excavation or construction.

Section 410.090. Protection Or Removal Of Trees On Public Property — Remedies. - [R.O. 1997 § 410.090; Ord. No. 206 § 9, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009]

The Director of Public Works may cause to be removed or may order the property owner to remove any trees, limbs, or other item encroaching on or over a public property or right-of-way in violation of an ordinance. In the event that the Director causes the encroachment to be removed after notice and failure of the property owner to voluntarily remove it, the Director shall send the property owner a bill for the costs of such removal, and the property owner shall be responsible for payment of such bill. Any person damaging, cutting, defacing or injuring any tree or shrub on any public

property or right-of-way shall be responsible to pay for any remedial costs in addition to such penalties as may be imposed.

Section 410.100. Nuisances. - [R.O. 1997 § 410.100; Ord. No. 206 § 10, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009; Ord. No. 2286, 8-14-2017]

The Director of Planning, **on recommendation from the City Arborist**, shall have the authority to order removal of trees or vegetation on private property that endanger the life, health, safety or property of the public and thereby constitute a nuisance. If such order is not complied with within thirty (30) days, the Director may cause the nuisance to be **abated consistent with the procedures set forth in Chapter 215 of this Code.**

Section 410.110. Violations And Penalties. - [R.O. 1997 § 410.110; Ord. No. 206 § 11, 2-26-1996; Ord. No. 1607 § 1, 3-23-2009; Ord. No. 1629 § 1, 6-8-2009; Ord. No. 1736 § 1, 7-12-2010; Ord. No. 2286, 8-14-2017]

Violation of any provision of this Chapter by any intentional act shall constitute an ordinance violation punishable pursuant to Section **100.140** of this Code.

Section 410.120. Appeals. - [R.O. 1997 § 410.120; Ord. No. 206 § 12, 2-26-1996; Ord. No. 1629 § 1, 6-8-2009]

Any appeals from application of this Chapter shall be made directly to the **Planning and Zoning Commission (the City's Tree Board) Council** unless the appeal is within the scope of the administrative review procedure of the City, whereby such procedure shall be followed. Upon compliance with the applicable review procedure, the Council may **then** modify application of the Code where such application would be arbitrary or constitute an unconstitutional taking of property without compensation or is otherwise determined to be lawful.

Section Two. Savings. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

Section Three. Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision, which had been held invalid, is no longer valid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Section Four. This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

This Bill was passed and approved this ____ day of _____, 2023, by the Council of the City of Wildwood, Missouri, after having been read by title or in full two (2) times prior to its passage.

Presiding Officer

James R. Bowlin, Mayor

ATTEST:

ATTEST:

City Clerk

City Clerk