

ORDINANCE NO. 2015-03

AN ORDINANCE OF THE CITY OF CLEARWATER, MINNESOTA, ESTABLISHING A SHADE TREE PROGRAM, PROVIDING REGULATIONS FOR THE CONTROL OF CERTAIN DISEASES AND PESTS, AFFECTING TREES, INCORPORATING AGENCY RULES AND REGULATIONS, AND PROVIDING FOR PENALTY FOR VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF CLEARWATER HEREBY ORDAINS:

SECTION 1. Chapter 14 of the Clearwater Code is hereby amended to add Article VII which shall read as follows:

Section 1. Regulations.

1.1 State laws adopted by reference. Minnesota Statutes Chapter 89, and all other state laws and Minnesota Department of Agriculture regulations regarding the use, management, protection and disposal of shade trees, together with amendments thereof to date, are hereby adopted by reference and made a part of this ordinance as if set out hereat in full, except as hereinafter provided.

Section 2. Administration.

2.1 City Forester. It shall be the duty of the City Forester to coordinate, under the direction and control of the City Council, all activities of the municipality relating to the protection, management, and removal and replacement of shade trees within city limits. The City Forester shall act as an advisor to the City Council to effectively implement the terms of this ordinance.

2.2 Permits for Planting Trees in Boulevards and Utility Corridors. Private parties must secure a permit from the City before planting any tree in any boulevard or utility corridor in the City. City approved trees may be planted by the owner of the land abutting the boulevard, or by a person retained by the property owner. Only trees of the hardwood variety, with good mature appearance, adaptability to the climate, long lived and generally resistant to injurious insects and diseases, as determined by the City Forester, may be approved for planting in any boulevard or utility corridor in the City.

2.3 Permits for Tree Trimming and Removal. Private parties must secure a permit from the City before cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or other vegetation within the City rights of way, City parks or other City property.

Section 3: Tree Pruning Guidelines.

3.1 A public utility company must notify the City Administrator before pruning trees in a utility corridor, and all such pruning by or under the direction of a public utility shall be done in accordance with the current American National Standards Institute (ANSI) Tree Care Performance Standards.

3.2 Private parties may trim or prune trees, shrubs or other woody vegetation within City right of way if City trimming and pruning guidelines are followed. Private parties must contact the City to review the guidelines regarding accepted methods for pruning and optimal time of the year for pruning.

Section 4: Regulations for Planting Trees on Boulevards and Utility Corridors:

- 4.1 Tree plantings shall conform to the minimum standards of ANSI Z60, the American Standard of Nursery Stock. Tree calipers shall be measured six inches above the root ball per ANSI Z60.
- 4.2 No trees, shrubs and hedges shall be planted in a location that, in the determination of the City Forester, will cause a traffic hazard. All trees, shrubs and hedges shall be planted in accordance with the following regulations:
- (1) The spacing of shade trees shall be in accordance with the three species size classes defined as follows:

Small Trees – any plant material that will grow to a height of 30 feet or less. Small trees are to be planted no closer than 10 feet apart.

Medium Trees – any plant material that will grow to a height of 50 feet or less. Medium trees shall be planted no closer than 25 feet apart.

Large Trees – any plant material that will grow to a height of over 50 feet. Large trees shall be planted no closer than 35 feet apart.

These spacing requirements may be modified in special plantings designed or approved by the City Council prior to the planting of the shade trees.
 - (2) Trees, shrubs and hedges with a mature height greater than 30 inches shall not be planted within the sight triangle at intersections measuring 25 feet along the boundary of each of the intersecting roadways, measured from the point of intersecting curb lines, or in the case of a curved curb corner, measuring 25 feet parallel to each street side from the center point of the radius of such curve.
 - (3) Trees shall be planted at least 10 feet from the street openings of driveways and alleyways. No tree or shrub shall be planted in such a manner that its eventual growth cannot be reasonably controlled so as to avert interference with or obstruction to any improvements installed for public benefit.
- 4.3 No tree except crabapple, Japanese treelilacs, hawthorn, or other smaller tree species approved by the City Forester, shall be planted on any boulevard where the distance between the nearest edge of the sidewalk and the curb is less than 5 feet. Such trees on smaller boulevards/tree lawns are acceptable unless their location and presence conflict with sight lines, vehicles and pedestrians, hydrants, etc.
- 4.4 No tree shall be planted without the prior approval of the City Forester as to the location of the tree planting.
- 4.5 All trees shall be planted equi-distant from the nearest edge of a proposed or existing sidewalk and curb, except when the City Forester may direct otherwise.
- 4.6 In all utility corridors where overhead transmission lines are used or may be used in the future, as determined by the City Forester, trees or shrubs planted must be of a variety and must be placed in a manner so that the height or circumference of the tree or shrub at maturity will not interfere with an existing or potential transmission line as determined by the City Forester.

4.7 In all utility corridors where buried transmission lines and/or surface transformers or other equipment are used or may be used in the future, as determined by the City Forester, trees or shrubs planted must be of a variety and must be placed in a manner so that the root system of the tree or shrub at maturity will not interfere with said utility lines or equipment as determined by the City Forester.

4.8 No tree shall be planted within 10 feet of a fire hydrant without the prior approval of the City Forester.

Section 5. Removal of Healthy Trees from City Boulevards.

5.3 No healthy tree shall be removed from a City boulevard without first obtaining the express written permission of the City Forester. In the event a healthy tree is removed from a City boulevard after such prior written approval from the City Forester, the person removing the tree shall also remove the tree stump, place fill in the stump hole and seed the fill, all at the person's cost. All said work shall be done to the reasonable satisfaction of the City Forester.

Section 6. Damage to Trees on Public Property.

No person shall do any of the following:

6.1 Damage, cut, carve, top, kill or injure the bark of any tree or plant on public property.

6.2 Attach any rope, wire or other contrivance to any tree or plant on public property, except to stabilize new plantings in a manner approved by the City Forester.

6.3 Cause or permit any wire charged with electricity or any gaseous, liquid or solid substance harmful to tree or plants to come into contact with them.

6.4 Attach any sign, poster or decoration to any tree or plant on public property without prior City permission.

Section 7. Abatement of Shade Tree Disease Nuisances.

A shade tree with an epidemic or contagious disease or pest, as determined by the City Forester, shall be sprayed, removed, burned, chipped or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of contagious shade tree diseases. Such abatement procedures shall be completed in a manner and according to a schedule determined by the City Forester. Whenever the City Forester or City Council finds with reasonable certainty that a contagious tree disease infestation exists in this municipality, the procedures in the following Sections shall apply.

Section 8. Abatement of Nuisances on Private Property.

It is unlawful for any person to permit any public nuisance as herein defined to remain on any premises owned, leased, occupied or controlled by that person. Such nuisance may be abated in the manner prescribed by this ordinance.

Section 9. Inspection and Investigation.

- 9.1 The City Forester, or the City's other agents or employees, shall inspect all premises and places within the City as often as practicable to enforce the terms of this ordinance. Any violation of this ordinance shall be reported to the City Forester or City Council.
- 9.2 The City Forester, or the City's other agents or employees, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them hereunder.
- 9.3 The City Forester, or the City's other agents or employees, upon finding conditions of a contagious disease, such as Dutch elm, Oak wilt or other infestation, immediately shall take and send appropriate specimens or samples to the Commissioner of Agriculture (Bureau of Plant Industry), State of Minnesota, for analysis, or take such other steps for diagnosis as may be recommended by the Minnesota Department of Agriculture and/or University of Minnesota Plant Disease Clinic. Except as provided in Section 11, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.
- 9.4 Within 10 days of receipt of the diagnosis, the owner, lessee, occupant or person in control of the property from which the specimen was obtained shall be notified of the result by certified mail or personal service of written notice.

Section 10. Abatement of Tree Disease Nuisance on Public Property.

In abating the nuisance defined herein on public property, the City Forester or the City's other agents or employees, shall at City cost cause the infected tree or wood to be removed and burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases. City staff shall also take such steps as are necessary to prevent root graft transmission of the disease. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

Section 11. Abatement of Tree Disease Nuisance on Private Property.

Whenever the City Forester, or the City's other agents or employees, finds with reasonable certainty that any infestation exists in tree or wood located on private property, they shall notify by certified mail or personal service of written notice, the owner of such property on which the nuisance is found, of the infestation and direct that the infestation shall be removed and burned, or otherwise effectively treated by such owner, in a manner approved by the City Forester within 20 days after receipt of such notice. The notice shall also state that if the nuisance shall not be abated by the owner within the time provided, the owner, lessee, occupant or person in control may be charged with a violation of this Section for maintaining a nuisance and that the City by and through its Council may abate the nuisance and assess the costs against the property. If the owner of any private premises upon which such a tree is situated fails to have such tree so removed and burned or otherwise effectively treated, within 20 days after receipt of notification by mail or personal service, the City Forester, or the City's other agents or employees, shall proceed to have such tree removed and burned or otherwise effectively treated, and any expense incurred by the City in so doing shall be a charge and lien upon the said property and shall be collected as a special assessment in the same manner as other special assessments.

Section 12. Removal of Tree on Private Property Due to a City Project

Whenever the City Forester or City Council deems that a tree must be removed as a result of a current or upcoming project the City may, in the City's sole discretion, either reimburse the owner of the property from which the tree was removed in an amount deemed reasonable by the City Council for the value of the tree that was removed or reimburse the property owner for the cost of a tree planted by the property owner

to replace the tree that was removed if the replacement tree is a tree of the hardwood variety, with good mature appearance, adaptability to the climate, long lived and generally resistant to injurious insects and diseases

Section 13. Transporting Firewood.

Whenever the City finds with reasonable certainty that wood being transported in the City is infested and/or infected with a contagious disease, and constitutes a hazard to the public, the City shall have the authority to prohibit such transporting.

Section 14. Interference Prohibited.

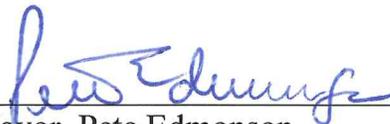
It is unlawful for any person to prevent, delay or interfere with the City Forester or other City agents or employees while they are engaged in the performance of duties imposed by this ordinance.

Section 15. Penalty.

Any person, business entity or organization who violates this ordinance is guilty of a misdemeanor and may be punished by a penalty as set out for misdemeanors under Minnesota Statute 609.03 (3), or any laws amending or superseding said law. Each day the violation continues shall be considered a separate offense.

SECTION 2. This ordinance becomes effective from and after its passage and publication in summary form in the City's official newspaper.

CITY OF CLEARWATER, MINNESOTA

By:  _____
Mayor Pete Edmonson

ATTEST:

By:  _____
City Administrator Kevin Kress

