

ORDINANCE NO. 92

AN ORDINANCE REGULATING THE PLANTING AND MAINTENANCE OF TREES AND OTHER WOODY VEGETATION ON PUBLIC PROPERTY WITHIN THE CITY OF NEW YORK MILLS

SECTION I. ALL ORDINANCES INCONSISTENT HEREIN OR PARTS THEREOF INCONSISTENT HERewith ARE APPEALED UPON PASSAGE AND PUBLICATION OF THIS ORDINANCE.

SECTION II. GENERAL PROVISIONS

A. PURPOSE

It is the purpose of this Ordinance to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, care and removal of trees, shrubs and other plants within the City of New York Mills, Minnesota.

B. AUTHORITY AND POWER

There is hereby created and established a City Tree Board for the City of New York Mills, which shall consist of five (5) member, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council. Members shall serve without compensation. Along with the City Citizen representation on this board, the City shall have the City Tree Inspector, Park Board members and public utilities manager serve as members of this board.

C. APPLICABILITY

Principle: This Ordinance provides full power and authority over all trees, plants and shrubs located within street right of way, parks and public places of the City; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

D. LANDSCAPING

Principle: In new subdivisions, housing areas or when the development of commercial/industrial property occurs, the City Tree Board will review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

SECTION III. DEFINITIONS

A. Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines of either side of all street, avenues boulevards or ways within the City.

- B. Park Trees: "Park Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all area owned by the City, or to which the public has free access as a park.
- C. Tree Sizes: A "Small Tree" shall be defined as any plant material that will grow to a height of 30 feet; a "Medium Tree" shall be defined as any plant material that will grow to a height of 50 feet; a "Large Tree" shall be defined as any plant material that will grow to a height of over 50 feet.

SECTION IV. CERTIFIED TREE INSPECTOR. The Council shall designate a tree inspector or tree inspectors, certified by the Minnesota Commissioner of Agriculture, who shall administer the Dutch Elm disease and/or Oak wilt control programs for the City in accordance with tree disease ordinance and within the designated Dutch Elm disease and/or Oak Wilt control areas within the City.

- A. Any standing or living tree or part thereof infected to any degree with the Dutch Elm disease fungus, *Ceratocystis ulmi* (Busiman) Moreau, or which harbors any of the elm bark beetles: *Scolytus multistriatus* (Eichh) or *Hylurgopinus rufipes* (Marsch). And also any dead elm tree or part thereof with bark intact including logs, branches, stumps or firewood which has not been disposed of properly.
- B. Any living or standing tree or part thereof in the red oak group (red oak, pin oak, scarlet oak, blak oak) infected to any degree with oak wilt fungus, *Ceratocystis fagecearum* (Bretz) Hunt.
- C. Also, any living or standing tree in the white oak group (white oak, bur oak, bicolor oak) that poses a threat of transmission of the oak wilt fungus to other trees of the same species through interconnected root systems.

SECTION VI. ABATEMENT. It is unlawful for any person to permit a public nuisance as defined in Section V to remain on any premises owned or controlled by that person within the designated control areas of the City. Such nuisances may be abated in the manner prescribed by this section.

SECTION VII. STREET TREE SPECIES TO BE PLANTED. No species may be planted on public property within the City of New York Mills without the prior written permission of the City Tree Inspector. The Tree Inspector shall submit written report to the City Council on those matters of special requests by the Council prior to taking official action.

SECTION VIII. CORNERSM FIREPLUGS, DRIVEWAYS AND UTILITIES. No Street Tree shall be planted closer than 25 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 15 feet to any fireplug, nor 5 feet from any driveway.

- A. No Street Trees other than those defined as “Small Trees” in Section III of this Ordinance may be planted under or within 10 level feet of any overhead utility wire, or over or within 10 lateral feet of any underground water line, sewer, transmission line or other utility.

SECTION IX. PUBLIC TREE CARE

- A. Care of the Street Trees. The City of New York Mills shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the line of all streets, alleys, avenues, lands, squares and public grounds as may be necessary to insure the public safety of to preserve or enhance the symmetry and beauty of such public grounds. No other planting may be done without consent of the City Tree Inspector.
- B. Removal of Trees Endangering Utilities or Other Public Improvements. The City Tree Inspector may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or its affected with any injurious fungus, insect or other pest.

Every tree overhanging any street or right-of-way within the City shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of at least 8 feet above the street or sidewalk. Dead, diseased or dangerous trees, or broken or decayed limbs which endanger the safety of the public shall be removed.

- C. Trees on Private Property. The City Tree Inspector shall have the authority to order the trimming, treatment and removal of trees, shrubs or plants upon private property when such action is necessary to public safety or to prevent the spread of disease of insects to trees, shrubs or plants located on public property. Any tree or shrub situated upon private property, but so situated as to extend its branches over the improved portion of a public street or highway easement shall be so trimmed by the owner of the real property upon which the same is located so that there is a clear height of at least 8 feet over that portion of such easement that is used for vehicular traffic and over that portion of such easement used for pedestrian travel, unobstructed by branches and such persons shall remove the dead or diseased branches or stubs of trees which are or may become hazardous to the public use of such easement. Any trees obstructing traffic control signs or devices from the view of the pedestrian or motorist shall be pruned to a height established by the City Council to ensure proper safety for motorist or pedestrians.

All orders to trim to treat trees, shrubs, or plants given pursuant to this section, shall be in writing and shall be served in person or by first class mail upon the

owner of the property where such trees, shrubs or plants are located. Such orders shall afford the owner of the property not less than fourteen (14) days from the date of mailing of such notice to comply with such order. It shall be unlawful for an owner of property receiving such an order to fail to comply with the order in the time specified.

If the required action is not taken by the property owner within the specified time, the City Council may cause the trees, shrubs or plants concerned to be trimmed or treated with the costs being borne by the property owner. If not voluntarily paid to the City by such owner, the costs of such trimming or treatment may be recovered by the City by special assessment upon the property owner.

SECTION X. TREE TOPPING. It shall be unlawful practice for any person, firm, or City department to top any Street Tree, Park Tree or other tree on public property without authorization from the City Tree Inspector. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Inspector.

SECTION XI. DESTRUCTION OF TREES ON PUBLIC PROPERTY. It shall be unlawful for any person to remove, alter or destroy any Street or Park Tree without the prior authorization of the City of New York Mills.

SECTION XII. PRUNING, CORNER CLEARANCE. Every owner of any tree on private property overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the view on any street intersection and so that there shall be a clearing of at least eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

SECTION XIII. TREE REMOVAL. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to the life and property of harbor insects or disease which constitute a potential threat to other trees within the City. The City Clerk or his/her representative will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within thirty (30) days after the date of service of notice. IN the event of failure to comply with such provisions, the City shall have the authority to remove such trees and charge the cost^s of removal on the owner's property tax notice.

SECTION XIV. 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 XV. STORING ELM WOOD PROHIBITED. It is unlawful for any person to store elm logs with bark intact within the City for more than seventy-two (72) hours during the period from April 1 through September 15 in any year. Any logs stored contrary to the provisions of this Section may be seized and destroyed by the City.

SECTION XVI. LIABILITY INSURANCE. It shall be unlawful for any party to engage in the business or occupation of pruning, treating or removing Street or Park Trees within the City without first filing evidence of possession of liability insurance in the minimum amounts of \$250,000 for bodily injury and \$250,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

SECTION XVII. DESTRUCTION OF TREES ON PUBLIC PROPERTY. It shall be unlawful for any person to remove, alter or destroy any Street or Park Tree without the prior authorization of the City Council of the City of New York Mills.

SECTION XVIII. RIGHT OF REVIEW BY THE CITY COUNCIL. Any person aggrieved by any ruling or order of the City Tree Inspector may appeal to the City Council which shall hear the matter and make a final decision. The City Council may modify, affirm or reverse any determination of the City Inspector.

SECTION XIX. PENALTY. Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a misdemeanor and may be punished by a fine of not more than the maximum penalty for a misdemeanor prescribed under State Law. In addition thereto, the costs of prosecution may be imposed upon the defendant, and the court shall order restitution to the City for damage to the tree or public property.

SECTION XX. This Ordinance shall take effect and be in force thirty (30) days from and after its passage and publication.

Passed by the City Council this 9th day of March, 1993.

Attest:

Wayne Mattson

City Clerk

Mayor