

CITY OF EYOTA  
EYOTA, MINNESOTA

ORDINANCE NO. #####  
AN ORDINANCE REGULATING TREES

REPEALS ORDINANCE NO. 46

REPEALS ORDINANCE NO. 63, WITH THE EXCEPTION OF SECTIONS 8, 9, 10 AND 11,  
PERTAINING TO THE "DUTY OF PROPERTY OWNERS TO CUT GRASS AND WEEDS."

NOW THEREFORE, IT IS ORDAINED BY THE CITY OF EYOTA, MINNESOTA AS  
FOLLOWS:

**SECTION 1. Authority and Purpose** The purpose of this ordinance is promoting preservation, protection, and planting of trees within the City. In perpetuating a healthy city forest, it is necessary and desirable to regulate tree planting and maintenance on public property within the City of Eyota. To ensure the health of the city forest, the authority to require removal of hazard trees from public or private property is needed.

**SECTION 2. Definitions**

Boulevard: Area between curb or street edge and the private property/parcel line. This publicly owned area is defined by the distance noted on official city maps from the center of the street or cul-de-sac to the property's lot line.

Public Property: Any area or building owned by the City of Eyota including sidewalks, alleys, and public parking lots, but not limited to: boulevards, parks, playgrounds, wetlands, and streets.

Public Right-of-way: Portion of property reserved for public use and accepted for such use by the City to provide circulation and travel to abutting properties, including but not limited to: streets, boulevards, alleys, sidewalks, and easements for public utilities.

Public Utility: Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, sanitary or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.

Tree: Any tree, shrub, hedge or woody vegetation.

Defining: Small trees as those growing to a maximum height of thirty (30) feet,  
Medium trees growing to a maximum height of thirty (30) to fifty (50) feet, and  
Large trees growing to a maximum height of over fifty (50) feet.

1. Boulevard Tree: A tree planted within the strip of land lying between property lines and the edge of streets, avenues, boulevards, or roadways within the City.
2. Park Tree: A tree growing in designated parks owned by the City to which the public has free access.

3. Public Tree: Any tree growing on public right-of-ways and city owned lands, including boulevard and park trees.
4. Private Tree: All trees growing on private property within the city limits.
5. Hazard Tree: Any public or private tree or part thereof which has an infectious or destructive disease, insect problem or other pestilence which endangers the growth, health, life or well-being of trees in the City, or which threatens to or is capable of causing a spread of a disease, pestilence or insect infestation;
  - a) is infected with Dutch elm disease, oak wilt, or Emerald Ash Borer;
  - b) is dead, dying, broken or decayed;
  - c) obstructs street lights, traffic signs, or the view of any street intersection;
  - d) obstructs the free passage of pedestrians or vehicles;
  - e) is causing the surface of a public street, curb or sidewalk to be up-heaved or otherwise disturbed;
  - f) poses an imminent threat to the sewer system, electric power lines, gas lines, water lines or other public improvement; or
  - g) constitutes an imminent danger to the health, safety or well-being of the general public.

Topping: 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. This is an undesirable practice, causing shock to the tree, leaving it susceptible to disease and affecting the overall health by disturbing the crown to root ratio.

Urban Forest: Is a forest or a collection of trees growing within a city. It may include any kind of woody plant vegetation growing in and around the city.

### **SECTION 3. Responsibilities of City and Private Property Owners**

#### **SUBDIVISION 1: City of Eyota Responsibilities:**

1. City Tree Board Established. The City Park Board will serve as the City Tree Board. This Tree Board shall serve in an advisory capacity to the City Council concerning issues related to the well-being of the urban forest resources within the municipal boundaries of the City.

The responsibility of the Tree Board shall include, but are not limited to, promoting well-managed growth and development of the urban forest within the City.

Duties shall be to:

- a) Serve as an advocate of the City's urban forest. It will meet monthly, or otherwise as needed.
- b) Recommend to City Council the adoption and alteration of all rules and regulations which it shall deem in the public interest to enhance and beautify the urban forest as well as to carry out the purposes of this ordinance. This may include, but is not limited to:
  - i. establishing standards and specifications needed to carry out tree care work in the City;

- ii. develop and maintain a list of both desirable and unsuitable trees for planting along streets in three size classes: small, medium and large;
  - c) Encourage improvement of the urban forest:
    - i. promote appreciation of trees and the urban forest, through Arbor Day observances and other activities in conjunction with the school district and community organizations;
    - ii. encourage landscaping, planting and maintenance of trees and vegetation on private property by providing information on the value of landscaping and on the proper planting and care of trees and other vegetation; and
    - iii. assist City departments to enhance the urban forest in the City of Eyota and recommend obtaining professional assistance when needed.
2. City may annually appoint a qualified City Tree Inspector. The tree inspector will coordinate activities relating to control and prevention of damage by tree pests. The tree inspector will recommend to the Council the details of any program for declaration, control, and prevention of tree pests.
3. The City will designate resources for the planting and care of public trees and other vegetation. This includes assigning and managing City staff to complete necessary tasks. If needed, the City shall appoint or contract with a licensed Arborist to perform the duties imposed by this ordinance. The Arborist will provide proof of liability insurance and workers compensation insurance.

SUBDIVISION 2: Private Property Owners Responsibilities:

1. Protection and maintenance of public trees in boulevard. Any owner of private property abutting a boulevard shall have the following responsibilities for public trees located in the boulevard adjacent to the owner's property:
- a) Periodic watering of trees, located in the boulevard, when necessary to maintain good health and vigor.
  - b) Protection of trees against damage caused by lawn mowers, weed trimmers, snow blowers and similar equipment.
  - c) The City may maintain boulevard trees, but residents are encouraged to care for trees in the boulevard adjoining their property according to these specifications: that branches are no closer than eight (8) feet above sidewalks or level of turf and a minimum of twelve (12) feet above the street.
  - d) It shall be the responsibility of the property owner to accomplish the trimming and/or removal of private trees with due consideration for public safety concerns, such as, a duty to adequately block off any affected street, sidewalk and/or yard area to make certain there are no pedestrians under a proposed fall line of the trees or branches to be trimmed and that adequate consideration for protection of neighboring property is also provided. Third parties are required to provide proof of liability insurance.

## **SECTION 4. Tree Planting, Maintenance, and Removal**

### **SUBDIVISION 1: Permits required:**

1. It is unlawful for any person to plant or remove any tree on public property (boulevard tree), without first obtaining a permit from the City.
2. In the case of a requested boulevard planting, a permit application shall be submitted and the City will provide a list of approved and suggested trees and guidelines for planting and pruning.
3. Permits shall not be required for tree removal from private property, but due consideration for streets, pedestrians, neighbors and proof of third party liability insurance must be made.
4. There is no fee for the permits.
5. Permits shall not be required for work performed by city employees.

### **SUBDIVISIONS 2: Planting - Boulevard tree specifications:**

1. Tree Species: A list of desirable trees for planting and a list of trees not suitable for planting in boulevards will be available at City Hall.
2. Utilities: No public trees may be planted under or within ten (10) lateral feet of any overhead transmission or primary utility wire, over or within five (5) lateral feet of any underground water line, sewer line, sub-drain, transmission line, or other utility. No trees shall be planted within utility easements. A locate call must be made prior to planting to determine location of utility lines (Gopher State One Call: 800-252-1166).
3. Distance from Intersection: Tree's minimum distance from an intersection is defined by "Clear Vision Areas" (Section 8.09, Zoning Ordinance): "A clear vision area shall be maintained on the corners of all property at the intersection of two streets, or a street and a railroad. A clear vision area shall be a triangular shaped area with two (2) sides following lot lines; the clear vision areas shall extend along the edge of the road surface or curb for a distance of not less than twenty-five (25) feet. The clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction exceeding thirty-six (36) inches in height, except for trees with branches and foliage removed to a height of eight (8) feet above the ground, and open wire fencing that does not obscure sight."
4. Distance from Driveways: Trees must be at least five (5) feet from any driveway or approach sidewalk within a boulevard area.
5. Distance from Curb, Sidewalk, and Streets edges without curbing: When no sidewalk exists the trees must be a minimum of eight (8) feet behind the curb. When a sidewalk exists with an eight (8) foot boulevard, the trees may be centered between the sidewalk and the curb. If the boulevard is smaller than eight (8) feet, the trees should be planted at least four (4) feet to the house side of the sidewalk. On streets lacking curbing and a paved parking area, plant trees a minimum distance of twelve (12) feet from the edge of the road. Follow these distance requirements, unique situations or specific requirement questions should be referred to the Tree Board.
6. Distance from Fire Hydrants: No public tree shall be planted closer than ten (10) feet to any fire hydrant.
7. Evergreen trees: must not be planted in boulevard areas.

SUBDIVISION 3: Maintenance:

The City shall have the right to plant, prune, maintain, and remove public trees as may be necessary to ensure the public safety or to preserve or enhance the symmetry and beauty of such public property. The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition of which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest, including Dutch elm disease, oak wilt disease or Emerald Ash Borer. If the City chooses to plant boulevard trees on a property's boulevard, the property owners shall be notified in writing and have the right to stop the planting.

1. Prevention of visual obstructions. Every public or private tree overhanging any street or right-of-way within the City shall be trimmed so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection or street sign and so that there shall be a clear space of at least twelve (12) feet above the street or eight (8) feet above the sidewalk.
2. Topping. It shall be unlawful for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Inspector.
3. Control of private hazard trees. The City of Eyota maintains the right to take action on private trees that meet the definition of hazard trees to protect the public. Every effort will be made to cooperate with the citizen before action is taken. Required process for orders relating to private hazard trees:
  1. Except in situations of imminent danger to human life and safety, the tree inspector or City representative will not enter private property for the purpose of inspecting for hazard trees without the permission of the owner, resident, or other person in control of the property, unless the inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.
  2. All orders to remove, treat or trim trees, eradicate or otherwise control the hazardous condition given pursuant to this section shall be in writing and authorized by the City or its designated representative. Orders shall be served in person or by mail upon the owner of the property where such trees are located. Such orders shall afford the owner of the property not less than thirty (30) days or a reasonable amount of time determined by the City from the date of the mailing of such notice to comply with such order.
  3. If the required action is not taken by the property owner within the specified time, the City may cause the tree concerned to be trimmed, removed, or treated for the hazardous condition to be eradicated or otherwise controlled. The costs of such actions shall be apportioned as provided in this ordinance. (See #5)
  4. Disposal of wood from hazard trees must follow accepted Department of Natural Resource standards to ensure diseased wood does not infect healthy trees. Wood from elms infected with Dutch elm disease, oaks infected with oak wilt or green ash infected with Emerald Ash Borer must follow DNR approved quarantine procedures.

5. Apportionment of costs relating to hazard trees:

- a) **Public Trees:** In the event that the City determines that a tree located on a boulevard or on public land as defined in Section 2 herein is a hazard, the City will be responsible for the tree treatment, trimming, or removal.
- b) **Private Trees:**
  - i. In the event the City determines that a private tree is a hazard to city owned utilities, the homeowner will assume responsibility for the cost of removal, treatment, trimming or otherwise eradicating or controlling the hazardous condition.
  - ii. In cases wherein the tree is determined to be infected with a shade tree pest or disease, including but not limited to Dutch elm disease, oak wilt disease, and Emerald Ash Borer, and where the City has determined that a private tree is a hazard, the owner will be responsible for removal, treatment, trimming or otherwise eradicating or controlling the hazardous private tree.
  - iii. In situations where a private tree is dead, dying and decayed and deemed of being an imminent danger to public health, safety, and well-being, the owner will be responsible for appropriate trimming or removal of their tree.
- c) **Special Assessments:** If a private hazard tree is not removed or treated as ordered or if the owner does not voluntarily pay to the City the cost of removal or treatment by the city, all costs incurred by the City for trimming, tree removal, treatment or eradicating or controlling the hazardous condition may be recovered by the City by assessing the property.

**SUBDIVISION 4: Removal:**

Permits shall not be required for trees removed from private property, but due consideration for streets, pedestrians, neighbors and proof of third party liability insurance must be made. Permits are required, at no cost, to remove any boulevard tree.

**SECTION 5. Tree Protection**

1. **No person may plant, remove, alter, destroy, cut or disturb any public tree within the City of Eyota without permission from the City.**
2. **Abuse or Mutilation of Public Trees:** No person shall damage, transplant, top, remove or mutilate any public tree. Damage may include but is not limited to the following: posting signs with nails, staples, screws or other devices, hanging wires of any kind, vehicle damage, weed whip, lawn mower damage, stripping bark off the tree, and poison or toxin applications.
3. **Protection of Public Trees near Construction Activities:** Any public tree in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work which has potential for injury, shall be protected from injury by the person responsible for carrying out the construction activities.

**SECTION 6. Penalties, Claims**

1. **Violations:** Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provisions of the ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$1,000 and/or imprisonment not to exceed ninety (90) days; or both, plus, in either case, the costs of prosecution.

If, as the result of the violation of any provision of this ordinance, the injury, mutilation, or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of the International Society of Arboriculture/Council of Landscape Appraisers system.

2. Assessment of Claim: In the event that a hazardous condition is not removed by the date specified in the notice, the City is authorized to cause the removal of such hazardous condition. The reasonable cost of such removal shall be filed as an assessment against the property on which the hazardous tree was located.
3. Appeals: Any person aggrieved by any ruling or order of the City may appeal to the City Council, which shall hear the matter and make a final decision. The City Council shall have the right to review decisions and may modify, affirm, or reverse any determination of the City Tree Board.

**SECTION 7. Constitutionality.** If any part of this ordinance is found invalid or unconstitutional by any court, that portion of the ordinance shall be deemed a separate, distinct and independent portion of the remainder of the ordinance, and shall not affect the validity of the rest of the ordinance.

**SECTION 8. Effective Date.** This ordinance becomes effective from and after its passage and publication. Passed and adopted by the Eyota City Council this \_\_\_ day of \_\_\_\_, 2013. This Ordinance shall become effective on the \_\_\_\_\_, 2013; after being published in the Post Bulletin.

\_\_\_\_\_  
Marlis Knowlton  
Clerk/Treasurer

\_\_\_\_\_  
Tyrel Clark  
Mayor

*Draft as of 11/20/13  
Approved by Planning Commission*