

Tree Ordinance

City of Hendricks, Minnesota

Adopted 12/4/2006

Definitions

Caliper

The diameter of a tree trunk measured at a point six inches above the existing grade. Caliper measurement is used in reference to nursery stock for new planting.

DBH- Diameter at Breast Height

The diameter of a tree trunk measured at a point 4 ½ feet above the ground.

Designee

The person designated by the City to carry out the duties outlined in this chapter.

Developer

The owner of land or person who is the applicant for alternation of the land.

Dripline

A line on the ground established by a vertical plane extending from a tree's outermost branch tips to the ground: i.e., the line enclosing the area directly beneath the tree's crown from which rainfall would drop.

Grading

The placement, removal or movement of earth by use of mechanical equipment on a property.

Hazard or Nuisance

Trees, shrubs and all other woody vegetation on public and private property that pose a threat to public safety by their condition or location.

Pest

Any injurious plant, animal, disease, insect or other organism that harms trees or other woody vegetation or humans.

Public Tree

Any street tree, park tree or other woody plant on City property.

Topping

The severe cutting back of limbs within a tree's crown to such a degree that only stubs remain or the removal of the top part (trunk and limbs) of a coniferous tree, thereby removing a significant portion of the normal crown.

Tree Service

Any person, firm, or corporation engaged in the business of cutting, trimming, pruning, spraying, injecting chemicals, or removing trees or shrubs for compensation.

Title & Purpose

1. Short Title

This ordinance shall be known and may be cited as the Tree Ordinance of the City of Hendricks, Minnesota.

2. Purpose & Intent

The City of Hendricks desires to conserve their natural resources during development, reduce tree and infrastructure conflicts, and ensure the longevity of its city trees by establishing a city forestry program. This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-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.

Authority and Power

1. The City's Right to Plant, Maintain and Remove Trees on Public Property

The City shall have the right, but does not have the obligation, to plant, prune, maintain and remove trees, plants, and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

2. City's Right to Maintain and Remove Trees on Private Property

The City shall have the right to cause the repair or removal of any dead, diseased or structurally damaged trees on private property when such trees constitute a potential hazard to life and property within the right-of-way or on public property.

3. Establish Tree Board

There shall be created a board to be known and designated as "Tree Board".

4. Composition of Tree Board

The Tree Board shall consist of the City Clerk Administrator, and three appointed residents of the City of Hendricks.

5. Appointment to Tree Board

The City Council shall approve the three appointed residents of the tree board at Annual Council Meeting.

6. Tree Board Compensation

Members of the Tree Board shall serve without compensation.

7. Tree Board Procedures

The Tree Board shall make its own rules and regulations and keep a journal of its proceedings and be responsible for development and implementation of the City Tree Plan

8. Conflict of Interest on Tree Board

A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the Tree Board during the consideration and discussion of that matter.

9. Tree Board Duties

The Tree Board shall perform the following duties:

The Tree Board shall advise and consult the City Administrator and City Forester on any matter pertaining to the City of Hendricks Tree Ordinance and its enforcement.

The Tree Board, in cooperation with the City Forester, shall develop, and periodically update, a Hendricks City Tree Plan. The plan shall outline urban forestry activities for a minimum of the next five years. The Tree Board shall have the duty to amend or add to the Hendricks City Tree Plan at any time that circumstances make it advisable.

The Tree Board shall investigate available grants, loans, or contributions from other governmental agencies, public or private corporations or individuals.

The Tree Board shall advise on the appropriateness of all tree plantings and landscape plans within the public right-of-way/tree easement projects and new development plans.

The Tree Board shall be responsible for initiating and maintaining the status of the Tree City USA program and Arbor Day program.

The Tree Board upon the request of any person who disagrees with the decision of The City, shall hear all issues of the dispute if they involve matters of the interpretation or enforcement of the Hendricks City Tree Plan, or the interpretation or enforcement of this ordinance.

10. Vacancies on the Tree Board

Within 60 days following the expiration of the term of any appointed member, a successor shall be approved by the City Council and shall serve for the unexpired period of the vacated term.

Private Tree Services

1. Insurance Coverage

Any contractor hired by the The City must first file evidence of possession of liability insurance in the minimum amounts of \$1,000,000 for bodily injury and \$100,000 property damage indemnifying the city or any person injured resulting from the pursuit of such endeavors as herein described.

2. Work Practices

All private tree care firms contracted by The City shall be responsible for the work performed under the provisions of this chapter and shall comply with the standards set forth in the Hendricks City Tree Plan.

New Development Tree Preservation and Landscaping

1. New Developments

No new commercial, residential, or industrial development shall be approved unless it is found to include tree preservation or replacement of existing trees and planting of approved street and parking lot trees within the adjacent parkways in conformity with this ordinance and Hendricks City Tree Plan under the Tree Board's supervision.

2. Tree Preservation Requirements

The preliminary plan shall show the number and location of trees of 20" (DBH) or greater and shall further indicate all those trees marked for retention and removal. If the development requires the destruction of more than 25% of such trees, the developer must plant a new tree of at least 2 inch caliper for each tree lost. All trees subject to preservation shall be guarded with a minimum 4 foot high protective fence placed a minimum 10 foot radius from the trunk of the tree or at the dripline of the tree, and no grading, trenching, building materials, dirt, equipment, or debris shall be allowed inside of the fenced area unless approved by the Tree Board.

3. Street Tree Requirements

Street trees shall be required in each proposed development and provisions in accordance with the City Tree Plan.

4. Parking Lot Requirements

Trees must be provided in each parking lot at a minimum average density of one shade tree, of at least 2 inch caliper or greater, for every 15 parking spaces provided. Additionally, 5% interior landscaping area shall be provided for every 25,000 square feet of parking area. All landscaped areas, including the permeable areas and driplines around trees and planting beds used for visual screening which abut any parking lot or vehicle travel area, shall be protected with curbs, parking blocks, or similar barriers sufficient to protect them from vehicular intrusion.

5. Cash in lieu Payments

Where the planting of required trees may not be in the best interest of the public or the development, the City may require a cash in lieu fee in the amount of \$300 per replacement tree to support the City's Tree Program.

Trees on Public Property

1. Tree Planting & Maintenance

Any person desiring to plant or prune trees or shrubs on City property require prior consent from the Tree Board. All planting and pruning shall comply with the terms and conditions of the Tree Ordinance and Hendricks City Tree Plan.

2. Prohibit 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 shall be pruned according to the standards set forth in the latest revisions of the American National Standards Institute (ANSI) A300 & Z133.1 or removed at the determination of the Tree Board or its agent.

3. Tree Protection

All trees and shrubs on any street or other publicly owned property near any excavation or construction of any building or structure shall be guarded with a minimum 4 ft. high fence placed at a minimum 10 ft. radius from the trunk of the tree or at the dripline of the tree, and all grading, trenching, building materials, dirt, equipment, or debris shall be kept outside the fence, except by permission of the Tree Board or its agent.

No person shall deposit, place, store, or maintain upon any public place, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or fertilizer to the roots on any tree growing therein, except by permission of the Tree Board or its agent.

No person shall fasten any rope, wire, electric attachment, sign or other devices to any public tree with the exception of holiday or ornamental lighting, or by the decision of the Tree Board or its agent.

No person shall allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with any public tree or shrub.

No person shall allow fire or extreme heat to come in contact with any public tree.

No person shall willfully injure, destroy, or deface any tree or shrub on public property

No person shall remove any guard, stake, or other device or material intended for the protection or establishment of any public tree or shrub.

Trees on Private Property

1. Sidewalk & Curb Protection

All trees planted by any property owner on his or her property shall be planted at least 8 feet away from any sidewalk or curb line adjacent to the property to protect the sidewalk and curb from disturbance.

2. Vehicle & Pedestrian Clearance

Property owners of any tree overhanging any street right-of-way within the city shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection and so there shall be a clear space of thirteen feet above street surface and seven feet above the sidewalk surface.

No tree shall be planted within 30 feet of any street corner, measured from the point of nearest intersecting curbs or curblines.

3. Utility Clearance

No trees other than species that grow to a mature height of 30 feet or less may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

No tree shall be planted within 10 feet of any fire hydrants or fire plugs.

4. Public Nuisance

Any private tree or shrub that constitutes a potential or immediate hazard to life and property within the right-of-way or on public property shall be declared a public nuisance and it is the property owner's responsibility to abate such nuisance in accordance with Hendricks City Code Chapter 8. Section 107 & Chapter 8: Section 108.

Right to Enter Property

The City Administrator, City Forester, or his or her agent has authority to enter onto private property for the purpose of inspecting a public tree when the tree cannot be adequately inspected from public property, or for the purpose of inspecting a private tree believed to be a public nuisance.

Violations

Any person who violates any provision of this ordinance or who fails to comply with any notice pursuant to the provisions of this ordinance, shall be guilty of a misdemeanor and subject to an administrative fine of \$50.00 for the first offence and \$100.00 for the 2nd offence if within 1 year. If, as a result of the violation of any provisions 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 plant shall be borne by the party in violation and assessed according to the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture.

Enforcement

The City Administrator, City Forester, or his or her agent shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the city.

Variance

Variance requests will be considered by the Tree Board. An application for a variance may occur where the applicant determines that by reason of certain circumstances, adherence to the code would cause unnecessary hardship.

Appeals

Any person, aggrieved by the City's decision to remove or maintain a privately owned tree may then appeal to the Tree Board. The request must be submitted in writing to City Hall within 30 days after the notice to remove or maintain the tree or shrub was delivered and the Tree Board will make a determination at their next meeting.

Any person found guilty of violating this ordinance, or any provision of this ordinance, and wishes to appeal the City's decision, may then appeal to the Tree Board within 30 days of being found guilty of violating this ordinance and the Tree Board will make a determination at their next meeting.

The City Council shall have the right to review the conduct, acts, and decisions, of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the City Council who may hear the matter and make final determination.

Severability

If any section of the ordinance is found to be invalid or unconstitutional, it does not affect the validity of remaining sections.