

## **ORDINANCE NO. 291**

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

**AN ORDINANCE OF THE CITY OF ARLINGTON, MINNESOTA, REPEALING AND REPLACING ORDINANCE 238, 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.**

### **Section 1. Regulations.**

1.1 State laws adopted by reference. Minnesota Statutes Chapter 89, Minnesota Statute 17.86, and all other state laws and 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 Shade Tree Board. The Mayor shall appoint a three-member board each year, subject to City Council approval, to act as a Shade Tree Board for the City of Arlington. This Board shall have general supervision of shade tree management within the City of Arlington. The Board shall make recommendations to the City Council regarding the conduct and regulation of the city shade tree program, propose an annual budget for said program and make periodic reports to the City Council on the status of the shade tree inventory of the city. The City Council shall have final authority to regulate and budget for the shade tree program.

2.2 City Forester. The position of City Forester is hereby created in the City of Arlington. It shall be the duty of the Forester to coordinate, under the direction and control of the Shade Tree Board, and under the general authority 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 shade tree board to effectively implement the terms of this ordinance.

2.3 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 purchased and planted by the property owner of the land abutting the boulevard, or by a person retained by the property owner. Varieties of trees approved shall be trees of the hardwood variety,

with good mature appearance, adaptability to the climate, long lived and generally resistant to injurious insects and diseases.

- 2.4 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 or city parks or other city property.

### **Section 3: Tree Pruning Guidelines.**

- 3.1 Any public utility company must notify the City Administrator before any trees are pruned in a utility corridor, and any such pruning done by or for a utility and regulated in this section shall be done in accordance with the current ANSI Tree Care Performance Standards.
- 3.2 Tree limbs within the right of way will be pruned by the City if they create a potential threat to public safety. As a general guideline, limbs will be trimmed to provide 10 feet clearance above sidewalks and 14 feet clearance over the street.
- 3.3 Private parties may trim or prune trees, shrubs or other woody vegetation in the right of way if City guidelines are followed. Private parties should 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 shall be placed so as in the opinion of the City to cause a traffic hazard. Some specific measurement regulations are as follows:
  - (1) The spacing of shade trees will 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 ignored in special plantings designed or approved by the Shade Tree Board.

- (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, with the exception of certain smaller tree species, shall be planted on any boulevard where the distance between the nearest edge of the sidewalk and curb is less than 5 feet. Acceptable smaller trees may include crabapple, Japanese treelilacs, hawthorn, or other species approved by the City. 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 The City shall approve and assist in staking out the location of the tree planting.
- 4.5 All trees shall be planted equi-distant from the nearest edge of the proposed or existing sidewalk and curb, except when the City may direct otherwise.
- 4.6 In all utility corridors where overhead transmission lines are used or may be used in the future, 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 said transmission line.
- 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, 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.
- 4.8 The City must be contacted for approval prior to planting trees near fire hydrants.

## **Section 5. Removal of Trees on Public Property.**

- 5.1 The City will remove, prune, or trim trees and shrubs on public property or rights of way that are determined by the City to be diseased, dead, hazardous or a public nuisance, at city cost.
- 5.2 The City will remove the stump of any tree or shrub disposed of under Subsection 5.1 above, at the city's cost. The City shall also provide fill and grass seeding to fill the hole left by the stump removal, at city cost. The watering and maintenance of

the replacement grass planting shall be the responsibility of the adjoining property owner for any stump removal sites on any residential neighborhood boulevards.

- 5.3 No removal of healthy trees shall be done on city boulevards without first obtaining the express written permission of the city. In such case, the removal of any such healthy tree approved by the city shall be at the cost of the private property owner requesting such removal, including the cost of stump removal, fill for the stump hole, and grass seeding at the private property owner's cost, all said work to be done to the reasonable satisfaction of the city.

## **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 Shade Tree Board.
- 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.**

Any shade tree with an epidemic or contagious disease or pest, determined by the City, 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 carried out in accordance with current technical or expert opinions and guidelines. Whenever the City Forester or Shade Tree Board finds with reasonable certainty that a contagious disease infestation exists in this municipality, the procedures in the following sections will pertain.

## **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 Shade Tree Board.

- 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 defined in Section 7 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 in an approved manner by such owner with 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 nuisances 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. 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 13. 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 14. 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 15. Supersedes Previously Ordinances.**

The terms of this ordinance amend and supersede all prior ordinances in consistent with this ordinance.

This ordinance shall become effective immediately upon publication.

For City of Arlington

/s/ James R. Kreft  
By James R. Kreft  
Its Mayor

First Reading: November 17, 2014  
Second Reading: December 1, 2014  
Adopted: December 1, 2014  
Published: December 11, 2014

/s/ Liza M. Donabauer  
By Liza M. Donabauer  
Its City Administrator