

63-1

ORDINANCE NO. 63

AN ORDINANCE PROVIDING FOR THE MANAGEMENT OF THE CUTTING AND PLANTING
OF TREES

- I. 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, maintenance and removal of trees, shrubs, and other plants within the City of Shelly.
- II. AUTHORITY AND POWER: There is hereby created and established a City Tree Board for the City of Shelly, which shall consist of three members, citizens and residents of the City of Shelly, who shall be appointed by the Mayor with the approval of the City Council. Members of the Board shall serve without compensation.
- III. TERM OF OFFICE: The term of the three persons to be appointed by the Mayor shall be three years, except that the term of one of the members shall be two years, and one of the members shall be one year for the initial appointment period. In the event that a vacancy shall occur during the term of any Tree Board member, the successor shall be appointed by the Mayor for the unexpired portion of the term.
- IV. APPLICABILITY: This ordinance provides full power and authority over all trees, plants and shrubs located within street right-of-ways, parks and public places of the City; and to trees plants and shrubs located on private property that constitute a hazard or threat described herein.
- V. PERMIT: It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the City for a fee without first obtaining from the City Clerk a permit. said permit to be issued upon payment of a fee in an amount that may be set by the City Council by resolution. The permit shall be issued for the calendar year. No permit shall be issued until payment of fee and submission of proof of insurance is provided in Article VI hereafter.
- VI. INSURANCE: Before any permit is authorized for a business to plant, cut, trim, prune, remove, spray or otherwise treat trees, shrubs or vines for a fee, the permittee shall file with the City Clerk evidence of possession of liability insurance in a minimum amount of \$300,000.00 for bodily injury or death and \$50,000.00 property damage indemnifying the City against any liability to any persons injured or suffering loss as a result of the activities of the permittee.

VII. TREE PLANTING, MAINTENANCE AND REMOVAL: Specifically, this portion of the City Tree Ordinance directs the proper procedure for the safe and orderly management of the City Tree Management Program. The City of Shelly Tree Board develops and maintains a list of desirable trees for planting along streets in three classes: small, medium and large. A list of undesirable trees will also be maintained. No trees shall be planted within 15 feet of a curb of any public street, except in compliance with the restrictions contained herein. No trees may be planted closer to any curb or sidewalk than the following: small trees - 2 feet from curb or sidewalk; medium trees - 3 feet from curb or sidewalk; and large trees - 4 feet from curb or sidewalk. Spacing must also be maintained in accordance with the three tree classes as follows: small trees - 30 feet distance between trees; medium trees - 40 feet distance between trees; and large trees - 50 feet between trees, except in special plantings designed for special purposes with the consent of the City Shelly Tree Board. No new plantings shall be installed which will have a negative impact or which may adversely affect any local utility systems. Any person planting a tree shall have the duty to consult with the Public Works Director regarding the location and nature of utility systems that may be affected. A permit for tree planting will not be issued for plantings determined to be detrimental to the city utility systems. Any trees planted that are determined to be detrimental to the city utility systems shall be removed. It shall be unlawful for any person to "top" any trees on public lands or within any dedicated portion of public streets. "Topping" is described as the cutting back of limbs to stubs within the tree crown to such a point 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 other obstructions where normal pruning practices are impractical may be exempted from this ordinance at the determination of the City of Shelly Tree Board.

VIII. ADJACENT LANDOWNER RESPONSIBILITY: No person shall plant, remove, cut above ground, or disturb any tree on any street, park or other public place without first filing an application and procuring a permit from the City Tree Board. The person receiving this permit shall abide by the standards set forth in this ordinance and such special conditions set by the City Tree Board.

IX. TREE PROTECTION: Upon the discovery of any destructive or communicable disease which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the City Tree Board shall immediately send written notice to the owner of the property upon which the diseased or infested tree is located, and the notice shall require the owner to eradicate, remove or otherwise control such condition within the time frame specified in the notice. A tree, brush or shrub which is infected with a destructive or communicable disease which endangers this growth or health of trees, bushes or shrubs shall constitute a public nuisance.

X. PRIVATE TREES: Members of the City of Shelly Tree Board have the authority to enter onto private property whereon is located a tree, shrub, plant or plant part that is suspected to be a public nuisance. For the purpose of this ordinance, a public nuisance is defined as "any tree, shrub, plant, or plant part determined to have an infectious disease or insect problem, dead or dying trees, tree limb or limbs that obstruct traffic control devices, restricts free passage of pedestrians or vehicles, or a tree that poses a threat to the public safety. Written notice and a date of compliance shall be issued to the owner of such trees, shrubs, plants or plant parts by the Tree Board.

XI. ENFORCEMENT: The City of Shelly Tree Board shall have the power to enforce the procedure and standards set forth in this ordinance. The purpose of the enforcement portion of this ordinance is meant solely to promote and insure that practical and ethical tree management policy if followed. Any person who willfully disregards the provisions of this ordinance or the intent of its contents shall be guilty of a misdemeanor, which shall be punishable according to Minnesota Statute. If, as a 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 the repair or replacement of such tree, shrub or other plant shall be the responsibility of the party in violation. The replacement value of the trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens", as published by the International Society of Arboriculture. Any party found in violation of this ordinance may address the City Tree Board and the Shelly City Council to appeal the indicated violation. After hearing the evidence submitted, the Shelly City Council will vote to determine the outcome of the appeal. A majority vote of the council members is required for decision. In the event of a tie vote, the mayor will cast the tie-breaking vote.

The City may enforce removal of diseased trees by injunctive relief. Any costs incurred by the City in obtaining injunctive relief or removal of the tree, bush, shrub or other plant shall be reimbursed to the City by the notified landowners within ten days of a statement being mailed to the said landowner. Interest at the rate of twelve (12%) percent per annum shall be paid on any amounts not paid within said ten day period.

Being put to the vote, the above Ordinance was adopted by the following vote:

Ayes: Anderson, Bernhardson, Hams, and Koth

Nayes: None

Marvin A. Sandbeck
Mayor

ATTEST: Nancy Nelson
City Clerk
D:3/8

April 5, 1993

