

**CITY OF BOX ELDER**

**TREE CARE REGULATIONS**

**ORDINANCE #492**

**EFFECTIVE 8/20/2010**

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TREE CARE REGULATIONS  
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BE IT ORDAINED by the Common Council of the City of Box Elder as follows:

**ARTICLE I – PURPOSE AND JURISDICTION**

**SECTION 1 – PURPOSE**

Ordinance #492 is an ordinance regulating the care of trees and shrubs in parks, along streets, and in other public and private areas within the jurisdiction of the City of Box Elder. The Common Council of the City of Box Elder has deemed these regulations and controls to be reasonable and reasonably related to the health, safety, and welfare of the residents of Box Elder and to preserve and enhance the symmetry and beauty of parks, streets, and public areas within the City.

**SECTION 2 – JURISDICTION.**

This Ordinance shall govern all territory within the municipal limits of the City of Box Elder, South Dakota for the purpose of promoting the health, safety, and general welfare of the community.

**SECTION 3 – SEVERABILITY AND SEPARABILITY.**

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

**ARTICLE II – DEFINITIONS**

For the purposes of this Ordinance, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive.

**BOARD:** The Parks Board.

**CITY:** The City of Box Elder, South Dakota.

**COUNCIL:** The Common Council of the City of Box Elder, South Dakota.

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**PARK TREES:** Trees, shrubs, bushes, and all other woody vegetation located in whole or in part on land dedicated for use as a public park, all land owned by the City of Box Elder, or land which the public has free access to for use as a park.

**STREET TREES:** Trees, shrubs, bushes, and all other woody vegetation located in whole or in part within the public right-of-way of all public streets.

**TOPPING:** The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**ARTICLE III - THE PARKS BOARD**

**SECTION 1 – DUTIES OF THE BOARD.**

The Board shall study, investigate, counsel, develop, update annually, and administer a Community Forestry Plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs within the City. The Board shall present a report on the Community Forestry Plan to the Council annually. The Board, when requested by the Council, shall consider, investigate, make finding, report, and recommend upon any special matter or question pertaining to forestry. The Board shall also keep a record of its proceedings.

**SECTION 2 – APPEAL OF BOARD ORDERS.**

Any person may appeal a ruling or order by the Board to the Council.

**SECTION 3 – BOARD MEETINGS.**

Regular meetings of the Board shall be held at least quarterly. Board meetings shall be held in the City Hall Council Chambers and be open to the public after notice is properly posted. Special meetings of the Board shall follow the same procedures as followed by the Council.

**ARTICLE IV – OFFICIAL TREE AND SHRUB SPECIES**

**SECTION 1 – OFFICIAL TREE AND SHRUB SPECIES.**

The following list constitutes the official Street Tree and Shrub Species for the City. No species other than those included in this list may be planted as Street Trees without the written permission of the Board.

- A. Small Trees and Shrubs: Native Plum, Common Lilac, S. Sumac, Nanking Cherry, Redosier Dogwood, Juneberry, Honeysuckle, Buffaloberry,

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Sandcherry, Nannyberry, Caragana, Cotoneaster, Hanson Hedge Rose, American Black Currant, and Prairie Red Plum.

B. Medium Trees and Tall Shrubs: Chokecherry, Crabapple (flowering), Apricot, Hawthorne, Harbin Pear, Schubert Chokecherry, Amur Maple, Rocky Mountain Juniper, and E. Red Cedar.

C. Large Trees: Cottonwood (seedless), NW Poplar (cottonwood), Honey Locust, Siberian Elm, Hackberry, Bur Oak, Black Hills Spruce, Scotch Pine, Colorado Blue Spruce, and Ponderosa Pine.

**SECTION 2 – SPACING.**

No Street Trees shall be planted, except in special plantings designed by a landscape architect and approved by the Board before planting begins, closer together than the following: Small Trees-thirty feet (30'); Medium Trees-forty feet (40'); and Large Trees-fifty feet (50').

**SECTION 3 – DISTANCE TO CURBS AND SIDEWALKS.**

No Street Trees shall be planted closer to any curb or sidewalk than the following: Small Trees-two feet (2'); Medium Trees-three feet (3'); and Large Trees-four feet (4')

**SECTION 4 – DISTANCE TO STREET CORNERS AND FIRE HYDRANTS.**

No Street Tree shall be planted closer than thirty-five feet (35') to any street corner, measured from the point of nearest intersecting curbs or curb lines. No Street Tree shall be planted closer than ten feet (10') to any fire hydrant.

**SECTION 5 – DISTANCE TO UTILITY LINES.**

No Street Trees other than Small Trees shall be planted under or within ten lateral feet (10') of any overhead utility line, or over or within five lateral feet (5') of any underground water line, sewer line, transmission line, or other utility.

**ARTICLE V – TREE CARE**

**SECTION 1 – PARK AND STREET TREE PLANTING.**

The City shall have the right to plant, prune, maintain, and remove trees and shrubs within the lines 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.

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**SECTION 2 – TREE REMOVAL.**

The Board may remove, or cause an order for removal of, any tree or part thereof which is an unsafe condition or which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected by any injurious fungus, insect, or other pest. This section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with this Ordinance.

**SECTION 3 – TREE TOPPING.**

It shall be unlawful as a normal practice 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 Section by the Board.

**SECTION 4 – PRUNING AND CORNER CLEARANCE.**

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street light or obstruct the view of any street intersection. There shall be an unobstructed space of fourteen feet (14') above the surface of the street and ten feet (10') above the surface of the 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 the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

**SECTION 5 – DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.**

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 life and property, or harbor insects or disease which constitute a potential threat to other trees within the City.

**SECTION 6 – REMOVAL OF STUMPS.**

Stumps of Street or Park Trees shall be removed to below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

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**SECTION 7 – DECLARATION OF PUBLIC NUISANCE.**

The failure of a property owner to comply with the planting, minimum spacing or separation distance, trimming, care, or tree removal provisions of this Ordinance is hereby declared a public nuisance.

**ARTICLE VI – DONATIONS**

Donations given for Board projects shall be deposited in a reserved account by the City which shall be designated as the Community Tree Donation Fund. Each donation must be accompanied by a "Donation Designation" form to be completed and signed by the donor to insure that each donation is utilized for the purpose intended by the donor. It shall be the responsibility of the Board to select a project(s) appropriate to each donation and submit such project plans to the Council for approval of the disbursement of donation funds. Interest earned on monies accumulating in the Community Tree Donation Fund shall become a part of that fund to be utilized solely for tree projects.

**ARTICLE VII – VIOLATIONS AND PENALTIES**

**SECTION 1 – INTERFERENCE AS A VIOLATION.**

It shall be a violation of this Ordinance for any person to prevent, delay, or interfere with the Board or its agents while engaged in the care, planting, pruning, cultivating, maintaining, mulching, spraying, treating, or removing of any Street or Park Trees or trees not on public lands, as authorized in this Ordinance.

**SECTION 2 – CONTRACTOR'S LICENSE REQUIRED.**

It shall be a violation of this Ordinance for any person or firm to engage in the business or occupation of pruning, treating, or removing Trees within the City, without first applying for and procuring a Contractor's License. However, no License shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors.


**SECTION 3 – PENALTIES.**

A violation of any provision of this Ordinance or any amendment thereto, or failure to perform any act required hereunder, is a Class II Misdemeanor. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case. Any violation of this Ordinance is hereby declared to be a public nuisance per se.

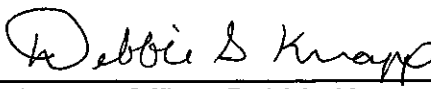
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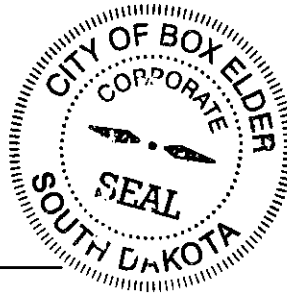
BE IT FURTHER ORDAINED by the Common Council of the City of Box Elder  
that this Ordinance shall become effective in accordance to law.

CITY OF BOX ELDER

  
\_\_\_\_\_  
Mayor Alfred Dial

ATTEST:

  
\_\_\_\_\_  
Finance Officer Debbie Knapp  
(SEAL)



P&Z Public Hearing: 5/10/10  
Common Council Public Hearing: 6/1/10  
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