

CITY OF DE SMET
ORDINANCE NO. VII-6

TREES

Section VII-6-1. ESTABLISHMENT OF CITY TREE BOARD

- A. CREATION.** There is hereby created and established a City Tree Board for the City of De Smet, South Dakota, which shall consist of four (4) member citizens and residents of this City and one (1) city Alderman, who shall be appointed by the Mayor with the approval of the City Council. The City Park Superintendent shall be a non-voting member of the board, serving in an advisory capacity.
- B. TERM OF OFFICE.** The term of the four (4) persons to be appointed by the Mayor shall be three years, except that the term of one of the members appointed to the first board shall be for one year, and the term of one member shall be for two (2) years. The city Alderman shall be appointed on an annual basis. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.
- C. COMPENSATION.** Members of the Tree Board shall serve without compensation.
- D. PURPOSE AND RESPONSIBILITIES OF THE BOARD.** It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, planting, replanting, trimming, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of De Smet, State of South Dakota.
- E. OPERATION.** The Tree Board shall hold its annual meeting in the month of July, with other meetings to be scheduled by the City Park Supt. as deemed necessary for the transaction of business. The City Finance Officer shall be responsible for keeping a journal of the proceedings. A majority of the members shall be a quorum for the transaction of business. The Tree Board shall be advisory in nature and shall not have the power to obligate or bind the City of De Smet.
- F. INTERFERENCE WITH CITY TREE BOARD.** It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private property, as authorized in the City of De Smet Tree Ordinance.
- G. REVIEW BY CITY COUNCIL.** The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Final decision-making and spending authority shall rest with the City Council. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make final decision.

Section VII-6-2. DONATIONS: Donations given for tree board projects shall be deposited in a separate savings account which shall be designated as the De Smet City Tree Project 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 City Tree Board to select projects appropriate for each donation and submit said projects to the City Council for final approval. Interest earned on monies accumulating in the Tree Project Donation Fund shall become a part of that fund to be utilized for tree projects only.

Section VII-6-3. ADOPTION OF TREE STANDARDS AND SPECIFICATIONS: The City Tree Board shall prepare Tree Standards and Specifications for the City of De Smet. The City Council shall review, modify if desired, and adopt by Ordinance Tree Standards and Specifications as prepared and proposed by the Tree Board. Upon passage said Tree Standards and Specifications may be modified by further ordinance. A copy of the Tree Standards and Specifications shall remain on file at all times with the Finance Officer.

Section VII-6-4. ABATEMENT:

- A. The failure of property owners to comply with planting, spacing minimum distance, utilities, trimming and tree removal provisions of the Ordinance shall constitute a nuisance and the City shall have the authority to abate the nuisance, which may include removal of it.
- B. The City shall keep a record of the costs of abatements done under this Ordinance and shall report monthly to the Finance Officer all work done for which billings and assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each. On or before September 1 of each year the Finance Officer shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Ordinance. The City may then spread the charges or any portion thereof against the property involved as special assessment as prescribed by statute for certification to the Finance Officer and collection the following year along with current taxes.
- C. The payment of monies to the City for the abatement of nuisances from private property shall be handled in the following manner:
 - a. All expenses shall be kept by the Finance Officer. All monies will be presented in the form of individual bills to the individual property owner stating the work done and the amount owed. Payment shall be due on the entire amount owed within thirty (30) calendar days from the date of the bill.
 - b. After the passage of the original thirty (30) days the City may assess the remaining amount due to the owner's property or may present claims in Small Claims Court for payment against the individual property owners.

Section VII-6-5. INTERFERENCE WITH CITY: It shall be unlawful for any person to prevent, delay or interfere with the City while engaging in the inspection or removal of any Street Trees, Park Trees, or Private Trees, as authorized in this Ordinance.

Section VII-6-6. APPEAL: Any individual who receives an order or is denied permission to plant, care for, or remove a tree shall have the right to appeal within seven days to the City Tree Board.

Section VII-6-7. PENALTY: Any person violating any provision of this Ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed one hundred dollars (\$100.00).

Mark Hoek, Mayor

First Reading:	August 13, 1997
Second Reading and Adoption:	September 10, 1997
Published:	September 17, 1997

ATTEST:
Eileen Wolkow, Finance Officer

TREE STANDARDS AND SPECIFICATIONS CITY OF DE SMET

I. DEFINITIONS

Street Trees: "Street Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on boulevards which would be land lying between property lines on either side of all streets, avenues, or right-of-ways within the City.

Park Trees: "Park Trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Private Trees: "Private Trees" shall include all trees and other woody vegetation on private lots and residences within the City.

Public Trees: "Public Trees" shall include all street trees, park trees, or any other trees growing in any public area.

Small Trees: Trees less than twenty feet (20') tall at maturity.

Medium Trees: Trees between twenty to forty feet (20' - 40') tall at maturity.

Large Trees: Trees larger than forty feet (40') tall at maturity

City: "City" shall mean the elected and/or designated official, authorized agent, or employees of the City of De Smet lying within the County of Kingsbury, State of South Dakota assigned to carry out the enforcement of this ordinance.

Tree Board: An advisory board set up by the City Council to oversee tree planting, trimming, replanting and removal in accordance with the De Smet City Tree Ordinance.

Donation: A monetary gift donated to the De Smet City Tree Project Donations fund to be used for tree projects as specified by the donor.

Parks: "Parks" shall include all public parks having individual names.

Person: "Person" is any person, firm, partnership, association, corporation, company, organization, or political subdivision of any kind.

Public Places: "Public places" shall include all grounds owned by the City of De Smet, lying within the County of Kingsbury, State of South Dakota, or under contract of the City.

Property Owner: "Property owner" shall mean the person owning such property as shown by the records on file at the De Smet City Office or the Kingsbury County Register of Deeds.

Public Right-of-Way: the land lying between private property lines on either side of all streets, avenues, or right-of-ways within the city.

Trees and Shrubs: "Trees and shrubs" shall include all woody vegetation now or hereafter growing on any public or private property.

Plants: "Plants" shall include all "non-woody" vegetation now or hereafter growing on any public or private property.

Pest: An insect or disease agent that attacks a tree or woody vegetation.

Dehorning: The cutting back of tree limbs and leaving a stub rather than cutting back to a croth.

Topping: the severe cutting back of limbs or stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Public Nuisance: any tree or individual limb(s) that obstruct street lights, traffic signs, the free passage of pedestrians or vehicles; ie. a tree that poses a threat to safety.

District Forester: the individual employed by the South Dakota Game, Fish, Parks Forestry Division who is assigned to serve Kingsbury County.

Contagious Tree: A diseased tree from which it is possible to spread the disease to other nearby trees through insects, injury, workmen's tools, physical exporuse, etc.

Dead Tree: A tree which no shows no signs of growth or live vegetation.

Diseased Tree: A tree which shows signs of deterioration from other than environmental conditions.

Infected Tree: A tree which harbors insects or other disease producing agents.

II. DESIRABLE TREE SPECIES

A. Street Trees

1. Small Trees: Not allowed

2. Medium Trees: Not allowed

3. Large Trees: European Mountain-Ash, All Species of
Maple, Male Cottonwood, Seedless Ash, Hackberry, Thornless
Seedless Honeylocust, Bur Oak, Littleleaf Linden.

B. Park & Other Area Trees

1. Small Trees: Hawthorn, Apricot, Flowering Crabapple, Plum,
and Pear.

2. Medium Trees: Amur Maple, Lilac

3. Large Trees: Kentucky Coffee Tree, European Larch,
American Linden (Basswood), All Ash Species, Ponderosa Pine, Blue Spruce,
Black Hills Spruce, Scotch Pine, Austrian Pine.

III. PLANTING, CARE/PRESERVATION, SPACING, AND REMOVAL/DISPOSITION OF TREES IN PARKS, RIGHT-OF-WAYS AND OTHER PUBLIC AREAS

A. Planting

1. The City of De Smet is herein responsible for tree planting in all city parks and established control of street tree planting on boulevards. Private planting of trees is subject to City control only if the safety and general well being of the public is involved. However, the city encourages property owners to utilize the city's desirable species and planting practices for private tree planting.

2. The City shall provide in its "Tree Standards and Specifications" a desirable species list for tree planting in the City. The list shall contain a minimum of eight (8) species in order to provide a diversity of tree types.

B. Care and Preservation

1. The City will herein be responsible for all tree care aspects of the Park Trees, and will accomplish insect and disease control for Street Trees when determined by the City that a pest is a serious threat to other trees and for which there is an adequate control measure.

2. The Property owner will be responsible for pest control of Private Trees and trimming of Street and Private Trees subject to City control when such pest control or trimming is deemed necessary to present hazards to life and property.

3. It shall be the duty of any person or persons owning real property bordering on any street upon which property there may be trees, to trim such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection, except where such services are provided for by utility firms. The minimum clearance of any overhanging portion thereof shall be ten (10) feet whenever practicable, and twelve (12) feet over all streets except truck thoroughfares where the clearances shall be from fourteen (14) to sixteen (16) feet, unless otherwise determined by the City Council.

4. Where any tree branches or hedges protrude or overhang on any thoroughfare within the City so as to be determined as in violation with this Chapter or affecting motor vehicle traffic and good maintenance practices, notification shall be given by the City Council to the property owner to remove such obstructions or undesirable branches or hedges within seventy-two (72) hours after receipt of notice. If not completed within that time, the City Council shall take immediate action to have such items removed with all costs assessed to the property owner. (SDCL 9-38-2)

5. Landowners will be responsible for all other types of tree care. The City will encourage proper tree care, but will not require any additional tree maintenance other than those mentioned in the above paragraphs.

6. The approved Method of trimming shall be drop crotch method. Topping or dehorning are prohibited.

7. No Street Trees, Park Trees or other trees on public property shall be topped as a normal practice. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other trimming practices are impractical may be exempted by determination of the City.

C. Spacing

1. The spacing of park street trees will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer together than the following: small trees, 15 feet; medium trees, 25 feet; and large trees, 35 feet; except in special plantings designed or approved by the City. Only large trees will be allowed for street tree planting with a minimum spacing distance of 25 feet.

2. No Street Trees shall be planted where the distance between the curb and sidewalk is less than four feet (4'). No trees may 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').

3. No Street Tree or Private Tree shall be planted closer than twenty feet (20') from any property corner adjacent to an intersection. No Street Tree or Private Tree shall be planted closer than ten (10') feet from any fireplug.

4. No Street Trees or Private Trees, except Small Trees may be planted under or within ten feet (10') of overhead utility wires. No trees shall be planted over or within five feet (5') of any underground water, sewer or other service line or overhead street light.

D. Removal and Disposition

1. Tree removal will be the responsibility of the City for Park and Street Trees. The City shall have the right to cause the removal of any Private Trees on Private Property having been determined by the District Forester to be dead or diseased. The property owner will be responsible for removing Private Trees that constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the City. The City will notify in writing or in person the owners of such trees.

2. Dead trees shall be removed. Trees will also be removed if they cannot be returned to an acceptable condition as determined by the District Forester. Trees harboring contagious pests for which there is not established control shall be removed.

3. Determination of a pest problem will be made by the District Forester. If the pest cannot be determined at the site with reasonable certainty samples will be taken for diagnosis to determine the pest.

4. Confirmed arrangements for removal shall be made within thirty (30) days from date of notification for trees found to be harboring a contagious disease and thirty (30) days for a dead or substantially dead tree from the time of declaring the tree a hazard or dead.

5. Wood from dead, substantially dead or infected trees may be used as firewood as long as that wood does not harbor a contagious pest or can be treated to prevent harboring contagious pests.