

PREPARED BY:
CITY OF LEAD
801 W. MAIN ST.
LEAD, SD 57754
(605) 584-1401

ORDINANCE #1095-23

AN ORDINANCE MODIFYING LEAD CITY ORDINANCES TITLE IX, GENERAL REGULATIONS, BY ADDING CHAPTER 94.072: TREE CARE

BE IT ORDAINED by the City Commission of the City of Lead that, pursuant to SDCL 9-19, section of Lead Ordinance Title IX, be amended by adding Chapter 94.072: Tree Care:

§ 94.072 TREE CARE

To enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property, the City of Lead Board of Commissioners herein delegates the authority and responsibility for managing public trees, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

A. Definitions- As used in this ordinance, the following words and phrases shall have the meanings indicated:

1. **Damage-** Any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.
2. **Nuisance-** Any tree, or limb thereof, that has infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.
3. **Parkway-** The area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.
4. **Public Property-** All grounds and rights-of-way (ROWS) owned or maintained by the City of Lead.
5. **Public Tree-** Any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.
6. **Top or Topping-** The non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree that it removes the normal canopy and disfigure the tree.

B. Authority and Power

1. **Delegation of Authority and Responsibility:** The Public Works Director and/or their designee(s), hereinafter referred to as the "Director", shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in

or upon all municipal streets, rights-of-way, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

2. **Coordination Among City Departments:** All City of Lead Departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this ordinance as it relates to street, alleys, rights-of-way, drainage, easements, and other public properties not under the jurisdiction of the Director.
3. **Interference:** No person shall hinder, prevent, delay, or interfere with the Director or his designee(s) while engaged in carrying out the execution or enforcement of this ordinance.

C. Tree Planting and Care Standards

1. **Standards-** All planting and maintenance of public trees shall conform to the American National Standard Institute (ANSI) A-300 “Standards for Tree Care Operations” and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
2. **Requirements of Franchise Utility Companies:** The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
3. **Preferred Species List-** The Director shall maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less at maturity) and Shade (greater than 20 feet at maturity). Trees from this approved list may be planted without special permission; other species may be planted with the approval of the Director.
4. **Planting Distances-** The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within 10 feet of a fire hydrant.
5. **Planting Trees Under Electric Utility Lines-** Only trees listed as Ornamental trees on the official city tree species list may be planted under or within 15 lateral feet of any overhead utility wire.

D. Prohibition Against Harming Public Trees

1. It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without permission from the Director.
2. It shall be unlawful for any person, firm, or corporation to attach any cable, wire, sign, or any other object to any street, park, or public tree.
3. It shall be unlawful for any person, firm, or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the discretion of the Director.
4. Any person, firm, corporation, or city department performing construction near any public tree(s) shall consult with the Director and shall employ appropriate measures to protect the tree(s), according to the procedures contained in the Best Management Practices (BMPs) for “Managing Trees During Construction” published by the International Society of Arboriculture.

5. Each violation of this section as determined and notified by the Director shall constitute a separate violation, punishable as a Class II misdemeanor, in addition to mitigation values placed on the tree(s) removed or damaged in violation of this section.

E. Adjacent Owner Responsibility

1. The owner of any land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway.
2. No property owner shall allow a tree, or other plant growing on his or her property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction exists, the Director shall notify the property owner(s) to prune or remove the tree or plant. If the owner fails to comply within the time given by the Director, the City of Lead may undertake the necessary work and charge the cost to the property owner(s).

F. Certain Trees Declared a Nuisance

1. Any tree, or limb thereof, of private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City of Lead may require its treatment or removal.
2. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City of Lead may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director or designee in writing within the notification period.

G. Violations and Penalty: Any person, firm, or corporation violating any provisions of this ordinance shall be deemed guilty of a Class II misdemeanor and shall be subject to a maximum of 30 days imprisonment and or a maximum of a \$500 fine or both. In addition, restitution can be awarded to the City of Lead for the costs associated with any remedy for the violation.

H. Appeals: Appeals to decisions made by the Director will be heard by the City of Lead Board of Commissioners within 30 days of written notice given to the City of Lead by the person appealing. Any decision made by the City of Lead Board of Commissioners can be appealed to Circuit Court.

I. Savings and Repeal: All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

J. Severability: Should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.

Those voting aye:

Those voting nay: None

Motion carried.

Ron Everett
City of Lead, Mayor
(Seal)

ATTEST:

John Wainman
City of Lead, Administrator

First Reading: 11/20/2023

Second Reading: 12/04/2023

Published:

Enacted: