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ORDINANCE #88

ORDINANCE TO REGULATE TREE/SHRUB PLANTING AND MAINTENANCE

An ordinance regulating the planting and maintenance of tree and other woody vegetation on public property within the City of Danube and establishing a City Tree Board.

The City Council of Danube ordains as follows:

SECTION 1. DEFINITIONS

STREET TREES: "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues 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.

TREE SIZES: A "Small Tree" shall be defined as any plant material that will grow to a height of 30 feet; a "Medium Tree" shall be defined as any plant material that will grow to a height of 50 feet; a "Large Tree" shall be defined as any plant material that will grow to a height of over 50 feet.

SECTION 2. ESTABLISHMENT OF CITY TREE BOARD

SUBD. 1. TREE BOARD There is hereby created and established a City Tree Board for the City of Danube, which Board shall consist of not less than two (2) nor more than (7) members, who shall be appointed by the Mayor with the approval of the City Council. Unless the Council shall provide otherwise, the City Park Board is hereby designated as the City Tree Board.

SUBD. 2. MEMBERS The persons to be appointed by the Council to the City Tree Board shall hold office for a term of one (1) year. Members of the Park Board shall hold office concurrently with their terms as Park Board members.

SUBD. 3. COMPENSATION Members of the City Tree Board shall serve without compensation.

SUBD. 4. DUTIES AND RESPONSIBILITIES It shall be the responsibility of the City Tree Board to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs, in parks, along streets and in other public areas. The plan shall be presented to the Council, and following the review and approval by the Council shall constitute the official comprehensive City Tree Plan for the City of Danube. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

SUBD. 5. OFFICERS The Board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall constitute a quorum for the transaction of any business. Nothing in this section shall be deemed to conflict with Section 412.501-.531 of Minnesota Statutes respecting the operation of a Municipal Park Board.

SECTION 3. STREET TREE SPECIES TO BE PLANTED

No species may be planted on public property within the City of Danube without the prior written permission of the City Tree Board. Prior to the Tree Board taking action, it shall review all requests for planting to assure that the species are appropriate. The Tree Board shall submit written reports to the City Council on those matters of special requests by the Council prior to taking official action.

SECTION 4. SPACING AND LOCATION OF STREET TREES

SUBD. 1. SPACING The spacing of Street Trees shall be in accordance with tree species size classes provided in this ordinance, and not trees may be planted closer together than as follows: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by the City Forester.

SUBD. 2. LOCATION The distance trees may be planted from curbs or curblines and sidewalks shall be in accordance with the tree species size classes listed in Section 1 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4, feet.

SUBD. 3. CORNERS, FIREPLUGS AND DRIVEWAYS No Street Tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 15 feet to any fireplug, nor 5 feet from any driveway.

SUBD. 4. UTILITIES No Street Trees other than those defined as "Small Trees" in Section 1 of this ordinance may be planted under, or within 10 level feet of, any overhead utility wire; or over or within 10 lateral feet of any underground water line, sewer line, transmission lines, or other utility.

SECTION 5. PUBLIC TREE CARE

SUBD. 1. CARE OF STREET TREES The City of Danube shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alley, avenues, lanes, squares, and public grounds as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of such public grounds. No other planting may be done without consent of the City Forester.

SUBD. 2. REMOVAL OF TREES ENDANGERING UTILITIES OR OTHER PUBLIC IMPROVEMENTS The City Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvement, or is affected with any injurious fungus, insect, or other pest.

Every tree overhanging any street or right-of-way within the City shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of at least 8 feet above the street or sidewalk. Dead, diseased, or dangerous trees, or broken or decayed limbs which endanger the safety of the public shall be removed.

SUBD. 3. TREES ON PRIVATE PROPERTY The City Tree Board shall have the authority to order the trimming, treatment, and removal of trees, shrubs or plants upon private property when such action is necessary to public safety or to prevent the spread of disease or insects to trees, shrubs, or plants located on public property. Any tree or shrub situated upon private property, but so situated as to extend its branches over the improved portion of a public street or highway easement, shall be so trimmed by the owner of the real property upon which the same is located, so that there is a clear height of at least 8 feet over that portion of such easement used for pedestrian travel; and such persons shall remove the dead or diseased branches or stubs of trees which are or may become hazardous to the public use of such easement. Any trees obstructing traffic control signs or devices from the view of the pedestrian or motorist shall be pruned to a height established by the City Tree Board to insure proper safety for motorist or pedestrians.

All orders to trim, remove, or treat trees, shrubs, or plants given pursuant to this section, shall be in writing and shall be served in person or by first class mail upon the owner of the property where such trees, shrubs, or plants are located. Such orders shall afford the owner of the property not less than fourteen (14) days from the date of the mailing of such notice to comply with such order. It shall be unlawful for any owner of property receiving such an order to fail to comply with the order in the time specified.

If the required action is not taken by the property owner within the specified time, the City Tree Board may cause the trees, shrubs, or plants concerned to be trimmed, removed, or treated, with the costs being borne by the property owner. If not voluntarily paid to the City by such owner, the costs of such trimming, removal, or treatment may be recovered by the City by special assessment upon the property owner.

SECTION 6. TREE TOPPING

It shall be an unlawful practice for any person, firm, or City department to top any Street Tree, Park Tree, or other tree on public property without authorization from the City Forester. Topping is defined as the severe cutting back of limbs to subs 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. Trees severely damage by storms or other causes, or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board.

SECTION 7. 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 in accordance with Ordinance #65.

SECTION 8. 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 grounds, as authorized in this ordinance.

SECTION 9. DESTRUCTION OF TREES ON PUBLIC PROPERTY

It shall be unlawful for any person to remove, alter, or destroy any Street Tree or Park Tree without the prior authorization of the City of Danube.

SECTION 10. RIGHT OF REVIEW BY CITY COUNCIL

Any person aggrieved by any ruling or order of the City Tree Board may appeal to the City Council, which shall hear the matter and make a final decision. The City Council shall have the right to review the conduct and decisions of the City Tree Board. The City Council may modify, affirm, or reverse any determination of the City Tree Board.

SECTION 11. PENALTY

Any person, firm, or corporation who violates any provision of this ordinance shall be guilty of a misdemeanor and may be punished by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both. In addition thereto, the costs of prosecution may be imposed upon the defendant, and the Court shall order restitution to the City for damage to the tree or public property.

SECTION 12. EFFECTIVE DATE

This ordinance is effective from and after its passage and publication.

Passed by the City Council this 26th day of May, 1993.