

ORDINANCE NO. 919

An Ordinance establishing Title 8, Chapter 5 of the Red Lodge City Code concerning the regulations of trees on City owned land and City maintained public rights of way within the City of Red Lodge.

WHEREAS, the City of Red Lodge desires to consolidate its tree regulations into one Ordinance to include those currently identified under Title 8, Chapter 7, and

WHEREAS, The Red Lodge City Council desires to update the tree regulations to, incorporate the recommendations of the Red Lodge Urban Forestry Management Plan,

Now Therefore,

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA:

The existing Title 8, Chapter 7, Parks Board, is hereby repealed.

A new Title 8, Chapter 5 (currently reserved), is hereby adopted as follows to be identified as Tree Regulations:

Chapter 5

Tree Regulations

Section:

8-5-1: Short Title

8-5-2: Purpose

8-5-3: Definitions

8-5-4: Urban Forestry Management Plan

8-5-5: Tree Inventory

8-5-6: Street Tree Species List

8-5-7: Spacing

8-5-8: Utilities

8-5-9: Public Tree Care

8-5-10: Tree and Shrub Pruning and Trimming

8-5-11: Tree Topping

8-5-12: Abuse or Mutilation of Public Trees

~~8-5-13: Dead or Diseased Trees~~

8-5-~~13~~14: Planting of Trees

8-5-~~14~~ 15: Penalties

8-5-1: Short Title.

This Chapter shall be known and be cited as the **TREE REGULATIONS OF THE CITY OF RED LODGE, IN THE COUNTY OF CARBON, STATE OF MONTANA.**

8-5-2: Purpose.

It is the purpose of these regulations 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 on City owned land and City maintained public rights of way within the City of Red Lodge.

8-5-3: Definitions.

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

- A. Park Trees and Plants:** Trees, shrubs, bushes, and other beautification or landscaped plantings, now or hereafter planted or growing within parks within the city of Red Lodge.
- B. Pruning:** The selective removal of plant parts to meet specific goals and objectives related to protecting the tree.
- C. Street Trees:** Trees, shrubs, bushes and other woody vegetation, including beautification projects, within City public rights of way.
- D. Topping:** The reduction of a tree's size using head cuts that shorten limbs or branches back to a predetermined crown limit.
- E. Tree Drip Line:** The area defined by the outermost circumference of a tree canopy.
- F. Tree Inventory:** A geographic database containing information regarding street tree species, size, condition and geographic location.
- G. Trimming:** Removing overgrown branches from shrubs and hedges, either for aesthetic, safety or clearance purposes.
- H. Urban Forestry Management Plan:** A document that outlines a strategic approach to sustaining the City's community trees on a short and long-term basis

8-5-4: Urban Forestry Management Plan

The Parks Board shall oversee review and update of the Urban Forestry Management Plan. The primary goals of this Plan shall be to (1) prevent a net loss of trees by maintaining a healthy and diverse urban forest, (2) preserve existing trees to the maximum extent reasonable and feasible, and (3) where possible, increase trees proportional to population growth. This Plan shall outline a strategic approach to sustaining the City's community trees on a short and long-term basis and shall be reviewed every five years and updated as appropriate.

8-5-5: Tree Inventory

A. Goals: The Parks Board shall oversee the development and biennial update of a tree inventory of street and park trees. The Parks Board shall utilize this inventory to prioritize tree maintenance needs, to plan for the community's future and to provide a basis for implementation of the Urban Forestry Management Plan.

B. Components: The tree inventory should provide tree species, preferably in binomial nomenclature (Latin names, i.e. genus species), size such as DBH (diameter at breast height for deciduous trees) and tree height (for coniferous trees), canopy width, overall condition such a health and maintenance needs, overcrowding, possible problems, present or absence of insects or diseases. Characteristics of the site should also be listed such as soil type and condition, root space and safety.

C. Update: The tree inventory shall be reviewed and updated every two years and the results shall be examined as part of the Urban Forestry Management Plan.

8-5-6: Street Tree Species List.

The Parks Board shall maintain a list of trees preferred as well as trees not approved for use in parks, public rights of way and other City owned lands. Such list shall constitute the requirements of the City, be consistent with the landscaping requirements of the City of Red Lodge Zoning Ordinance and shall be open to review. A list of recommended trees that are particularly well suited to the Red Lodge area will be available to the City and the public.

8-5-7: Spacing.

A. Guidelines: The spacing of park trees and plants and street trees will be in accordance with the prescribed guidelines provided by the Montana Department of Natural Resources and Conservation Community Forester, and included in the Urban Forestry Management Plan.

B. Street Intersections: Trees shall meet the intersection visibility and sight triangle requirements as defined in the Red Lodge Zoning Ordinance, Section 4.5.50.

C. Fire Hydrants: No tree shall be planted so as to obstruct the use of a fire hydrant as determined by the Public Works Director.

8-5-8: Utilities.

Street trees, shrubs and other woody vegetation shall not be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground utility or service connection.

Underground utilities include but are not limited to water mains and service connections, sewer mains and service connections, electrical lines, gas lines, telephone lines, fiber optic lines and cable lines.

8-5-9: Public Tree Care.

A. Rights of the City: The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the right-of-way of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to ensure public safety or to preserve or enhance the

symmetry and beauty of such public grounds. City Staff will make reasonable efforts to discuss major changes with the adjacent property owners before the work is done.

- B. Authorized Tree Work:** Authorized tree work on or within parks, City lands or the public right-of-way shall be completed by or in consultation with an International Society of Arboriculture (ISA) Certified Arborist or a licensed landscape architect. Consultation shall be initiated prior to work being performed or if such arborist is present while work is being performed. All other personnel utilized for work on or with trees or shrubs shall be trained to perform the work properly and safely.
- C. Recommend Removal:** City Staff may recommend removal of any tree or part thereof that is in an unsafe condition or which by reason of its nature may be injurious to public sewer lines, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.
- D. Tree Management Applications:** All application and/or use of pesticide, herbicide, insecticide and pheromone for purposes of tree management on City owned lands should be conducted by or under the supervision of a licensed applicator in accordance with product labels and material safety data sheets.

8-5-10: Tree and Shrub Pruning and Trimming.

A. Tree Pruning:

1. The City shall make available to the public the Tree Owner's Manual – National Edition, prepared by the Forest Service, U.S. Department of Agriculture as a guideline for pruning trees. Copies of the manual shall be available at City Hall. Applicable guidebooks developed by the International Society of Arboriculture may also be made available.
2. Pruning and trimming sponsored by the City, ~~for fee~~, shall be performed in accordance with the latest revision of the ANSI A300, an American National Standard for Tree Care Operations, and ANSI Z-133.1, Safety Requirements for Pruning, Trimming, Repairing, Maintaining Trees, and for Cutting Brush, or as otherwise in general compliance and approved by the City Council.

- B. Public Right-of-Way Clearance:** Any person owning or occupying real property adjacent to any public right-of-way upon which property there may be trees shall have the responsibility ~~of routine, maintenance care to include (1) watering, (2) pruning so as to prune such trees in a manner that they will not obstruct or shade the street lights, not~~ obstruct the passage of pedestrians on sidewalks, ~~and other light pruning, and (3) raking and removing leaves. The City shall be responsible for pruning trees so they will not,~~ obstruct ~~or shade the street lights,~~ ~~obstruct the~~ vision of traffic signs or obstruct ~~the~~ view of any street or alley intersection. Failure to adequately ~~care for trees~~ ~~prune trees~~ consistent with the intent of this section may result in the property owner being billed for pruning costs, related administrative costs and/or fined. ~~No live, diseased or dead trees that are located on public-right-of way shall be removed by private property owners unless approved by the Public Works Director.~~

- ~~**C. Side and Height Clearance: It shall be the responsibility of any person owning or occupying real property bordering any public right-of-way to prune or trim any trees, shrubs**~~

~~or other woody vegetation on both the real property and the public right-of-way in such a manner that they will not encroach over or into the public right-of-way at a height of less than eight (8) feet over sidewalks and fourteen (14) feet over all streets, avenues and alleys. Failure to prune trees may result in the property owner being billed for pruning costs, related administrative costs and/or fined.~~

C. **Funding:** The Parks Board shall annually allocate sufficient funds to maintain the quality of Red Lodge's urban forest.

D. ~~D.~~ Public Utilities: Any public utility maintaining any overhead or underground utilities shall obtain permission from the Public Works Director before performing any maintenance work on the wires, pipes or conduits which would cause injury to street trees. The public utility shall in no way injure, deface, prune or scar any street tree until their plans and procedures have been approved by the Public Works Director or his designee.

8-5-11: Tree Topping.

The topping of park trees and plants or street trees or any other trees on publicly owned or administered property shall not be a normal practice. Trees severely damaged by storms or other causes, existing trees located under utility lines or other obstructions where other pruning practices are impractical as determined by the Public Works Director are excluded from the requirements of this Chapter.

8-5-12: Abuse or Mutilation of Public Trees.

A. Damaging Trees: Unless specifically authorized by the Public Works Director, through an approved written permit, no person shall intentionally damage, cut, carve, transplant, or remove any park trees and plants or street trees; attach any rope, wire, nail, advertising poster, or other contrivance to any park trees and plants or street trees; allow any gaseous liquid or solid substance which is harmful to such tree to come in contact with it; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree; allow or cause damage to the critical area root zone above and below grounds so as to damage park trees and plants or street trees.

B. Trenching or Grading Within Drip Line: At minimum, trenching or grading shall be prohibited within the drip line of such trees unless precautions are followed as agreed upon in advance and in writing by the Public Works Director. Such precautions could include, but not be limited to, marking trees designated for protection with site fencing or other means and preventing soil compaction by prohibiting construction materials from being placed on the ground within the drip line. The Public Works Director shall have the ability to halt development activity if it is found to be in noncompliance with such precautions or other elements of these regulations.

~~**8-5-13: Dead or Diseased Trees.**~~

~~**A. Pruning or Removal Required: All trees and shrubs within the City shall be pruned or removed when such trees or shrubs constitute a hazard to life and property or harbor insects or diseases which constitute a threat to other trees or shrubs within the City.**~~

~~**B. Advice/Recommendation of City Staff:** The Public Works Staff shall advise private property owners in the pruning or removal of a diseased and/or dead tree which constitutes a hazard to life and/or property.~~

8-5-1314: Planting of Trees in Public Spaces

- A. Permit Required:** The City encourages owners of real estate in the city to improve their premises by planting trees and properly cultivating, protecting and caring for the same in the streets or alleys adjoining their property; provided such trees, or the cultivation or protection thereof, shall in no case interfere with the full use of such streets for public purposes; and further provided, that no person shall plant any tree within the limits of any street, or alley in the city without having first obtained an approved written permit so to do from the Public Works Director.
- B. Application for Permit:** It shall be the duty of any property owner to make request, in writing, to the Public Works Director stating the species and precise location of each street tree to be planted, and requesting permission thereof. The Public Works Director shall grant such permission if, after personal investigation, the Public Works Director considers the location such that it will allow the normal growth and development of the street tree and the proposed tree species is included in the City's list of recommended trees.
- C. Investigation and Issuance of Permit:** The permit shall specify the location, species and grade of each tree, the method of planting, including the use of suitable soil. No permit shall be granted unless in compliance with the provisions of this Chapter. Fees for the permit and investigation may be established by resolution of the City Council, and no trees shall be planted except in accordance with the terms of the permit. The Public Works Director shall have ten (10) working days after the receipt of an application to grant said permit, deny the same or approve with conditions. Any denial shall clearly state the reasons for said denial.
- D. Recommended Tree Species List:** Trees suitable to be planted in the rights-of-way and public spaces of the City are identified in the Red Lodge Urban Forestry Management Plan. These shall be the only trees permitted to be planted, based on the ability to withstand insects, diseases and winter cold, and are identified by species, growth rate, light requirement with advantages and disadvantages of each tree identified.
- E. Location:** It shall be unlawful for any person to plant any tree so that the roots thereof will reach beyond the property line of said person's property into the streets of the City in such a manner as to interfere with the use of such street or with the municipal wastewater collection system. In the event that roots from trees on privately owned lands cause such interference, the property owner will be required to remove the tree and/or roots. In the event that this does not occur, the property owner will be billed for removal costs, related administrative costs and/or fined.

8-5-1415: Penalties:

Any person who violates any of the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to penalty as set forth in section 1-4-1 of the Red Lodge Municipal Code. Fines should be commensurate with what the fair market value of the trees would have been if they had been cared for in compliance with provisions of this Section.

Effective Date:

This Ordinance shall be effective 30-days after approval of a second reading by the Red Lodge City Council.

Be it ordained by the Council Members of the City of Red Lodge.

First reading by the Council on the ____ day of _____ 2015

Second reading by the Council on the ____ day of _____ 2015

PASSED AND APPROVED BY NO LESS THAN FOUR MEMBERS OF THE RED LODGE CITY COUNCIL THIS ____ day of _____ 2015

The City of Red Lodge

By: _____
Ed Williams, Mayor

Attest: _____
Loni Hanson, City Clerk