

ORDINANCE NO. 325

BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF HAYTI,
HAMLIN COUNTY, SOUTH DAKOTA:

TREE ORDINANCE

10-1 NUISANCE TREE DECLARED.

Dead, diseased or insect-infested trees or other woody plants identified by the council shall be declared dangerous and a nuisance.

10-2 CONTROL ON PRIVATE PROPERTY.

The Head of Maintenance shall have the authority to regulate and control nuisance trees and other woody plants upon private property only when an action is demonstrably necessary for public safety or to prevent the spread of disease or insects to public trees and places.

10-3 DUTY TO CORRECT.

The occupant, person in charge or owner of any lot or parcel of land in the Town of Hayti shall keep the property free of nuisance trees and other woody plants by treating or removing, as may be appropriate and approved by the Head of Maintenance.

10-4 PLANTING OF ASH TREES PROHIBITED.

No person shall plant, or allow to be planted, any variation of Genus Fraxinus, commonly known as ash, on any property.

TREES IN PUBLIC PLACES

10-5 GENERAL SUPERVISION.

The Head of Maintenance shall have exclusive jurisdiction and supervision over all trees and other woody plants growing in public places.

10-6 HEAD OF MAINTENANCE'S AUTHORITY GENERALLY.

The Head of Maintenance shall have authority to regulate and control the planting, trimming, spraying, preservation and removal of trees and other woody plants in public places to ensure safety or preserve the symmetry and beauty of those public places.

10-7 SUPERVISION OF WORK.

The Head of Maintenance shall regulate, control and supervise all work done in accordance with the terms of this chapter.

10-8 STREET TREES PERMITTED.

- (a) The Town Council shall maintain a list of approved street trees.
- (b) The Town Council may approve species other than from the approved list when the planting of the species is of equal or greater benefit to the town.

10-9 PLANTING IN PUBLIC RIGHTS-OF-WAY.

- (a) The Town Council shall establish rules and regulations for the planting of trees in the public parking strip, including, but not limited to:
1. No person shall plant or allow a tree to be planted in the right-of-way without first checking on approved trees with the City;
 2. Only approved trees may be planted in the areas along the public streets and avenues between the curb line and the right of way lines of the adjoining property owner.
 3. No tree shall be planted where the clear space between the curb and the sidewalk is less than five feet;
 4. No tree shall be planted closer than three feet from the curb;
 5. Trees must be one inch in diameter or larger measured six inches above the ground;
 6. Trees shall not be planted under power lines unless approved by the Head of Maintenance;
 7. Trees shall be planted at least 40 feet apart except where otherwise permitted by the Town Council;
 8. Trees shall be planted at least ten feet from a fire hydrant;
 9. Trees shall be placed at least 15 feet from a streetlight;
 10. Trees on a corner lot shall be planted at least 30 feet back from the corner; and
 11. Trees shall be placed at least 20 feet back from stop/yield sign or traffic signal.

10-10 INJURY TO TREES BY MOWING; TRIMMING.

No person, whether licensed or not, shall move any building or structure in a manner as to interfere with or injure any tree in any public area, except as provided in this section. If in moving any building or structure it is necessary to trim or move any tree, all work shall be done under the supervision and control of the Head of Maintenance and at the expense of the person moving the building or structure. Should injury or death result to any tree because of trimming or moving, the person moving the building or structure shall, upon direction of the Head of Maintenance replace the tree at the expense of the person moving the building or structure.

10-11 DUTIES OF PRIVATE OWNERS.

Any person growing a tree within the area between the curb or edge of the public road if no curb and the property line of the adjoining property owner or other public place or responsible for trees growing on property abutting on public places supporting trees or woody plants shall:

- (a) Trim trees or woody plants so as not to cause a hazard to public places or interfere with the proper lighting of Public Street by the streetlights or interfere with the visibility of any traffic sign. All trees or woody plants shall be trimmed to allow free passage of pedestrians and vehicular traffic

- and in a manner so as to allow ten feet clearance along arterial or collector streets shall be trimmed to allow a clearance of 16 feet;
- (b) Treat or remove any trees or woody plants that are so diseased or insect ridden as to constitute a hazard to public safety or other trees or plants in public places.

10-12 ASSESMENT FOR MAINTENANCE.

The Town council may, at the time of making its annual tax levy for other purposes, levy for the purpose of maintaining, repairing, planting and otherwise improving and caring for boulevards a special front foot assessment.

10-13 ORDER TO REMOVE; PROCEDURE.

When the Head of Maintenance determined that the removal of trees or other woody plants upon private property is necessary to preserve public health and safety, protect the health of the urban forest, the Head of Maintenance may serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

10-14 ORDER TO REMOVE; TIME FOR COMPLIANCE.

The order to remove trees or other woody plants shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the Head of Maintenance may require compliance immediately upon service of the order.

10-15 ORDER TO REMOVE; APPEAL OR ORDER.

A person to whom an order to remove trees or other woody plants is directed may, within five days of the service of the order, appeal to the town council who shall set a day for hearing thereon and give notice thereof to the person appealing. Upon the hearing and review the town council may affirm, modify or revoke the order of the Head of Maintenance. Unless the order is revoked or modified it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with the order within five days after an appeal shall have been determined.

10-16 ORDER TO REMOVE; FAILURE TO COMPLY.

When a person whom an order to remove trees or other woody plants is directed fails to comply within the specified time, the Chairperson shall remedy the condition or contract with others for that purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made under this section may enter the premises for that purpose.

10-17 ORDER TO REMOVE; SPECIAL ASSESSMENT.

If the cost of remedying a condition for which a written notice of responsibility from the Chairperson to remove or trim trees or other woody plants is not paid within 30 days after receipt of a statement, the cost may be levied against the abutting property benefitted as a special assessment. The levying of special assessment shall not affect the liability of the person to whom the written notice

