

**BROADUS TOWN TREE ORDINANCE
ORDINANCE # 98-02**

Be it ordained by the Town Council of the Town of Broadus, State of Montana.

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, or ways within the town.

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 town, or to which the public has free access as a park.

Section 2. Creation and Establishment of a Town Tree Board

There is hereby created and established a Town Tree Board for the town of Broadus, State of Montana, which shall consist of five members, citizens and residents of this town, who shall be appointed by the mayor with the approval of the council

Section 3. Terms of Office

The term of the five persons to be appointed by the mayor shall be three years Except that the term of two of the members appointed by the first board shall be for only one year and the term of two members of the first board shall be two years. In the event that a vacancy shall occur during the term of one member, his successor shall be appointed for the unexpired portion of the term.

Section 4. Compensation

Members of the board shall serve without compensation.

Section 5. Duties and Responsibilities

It shall be the responsibility of the board to study, investigate, and develop and/or update annually, 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. Such a plan will be presented annually to the Town Council and upon their acceptance and approval shall constitute the official comprehensive town tree plan for the town of Broadus, State of Montana. The board, when requested by the Town Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

Section 6. Operation

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 be a quorum for the transaction of business.

Section 7. Street Tree Species to be Planted

No species other than those included in this list may be planted as Street Trees without written permission of the Town tree Board.

Small Trees

Apricot
Crabapple, Flowering (sp)
Golden Rain Tree
Hawthorne (sp)
Pear (Bradford)
Redbud
Soapberry
Lilac, Jap. Tree
Peach, Flowering
Plum, Perpetual
Serviceberry

Medium Trees

Ash, Green
Hackberry
Honeylocust
Linden or Basswood (sp)
Mulberry, Red (fruitless, male)
Oak, English
Oak, Red
Pagodatree, Japanese
Pecan
Birch, River
Osage Orange, (Male, thornless)
Persimmon
Poplar, White

Large Trees

Coffeetree, Kentucky
Maple, Silver
Maple, Sugar
Oak, Bur
Sycamore
Sycamore, London plantree
Cottonwood, (Cottonless, male)

Section 8. Spacing

The spacing of Street Trees will be in accordance with the species size classes listed in Section 7 of this ordinance, and no trees may be planted closer together than according to the following guidelines: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by a landscape architect or for windbreak plantings.

Section 9. Distance from Curb and Sidewalks

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 7 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.

Section 10. Distance from Street Corners and Fireplugs

No Street Tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 10 feet of any fireplug.

Section 11. Utilities

No Street Trees other than those species listed as Small trees in Section 7 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Section 12. Public Tree Care

The Town shall have the right to plant, prune, maintain and remove tree, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such grounds.

The Town 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 improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 7 through 11 of this ordinance.

Section 13. Tree Topping

It shall be unlawful as a normal practice for any person, firm, or town department to top any Street Tree, Park Tree, or any other tree on public property. Topping is defined as the severe cutting back of limbs to stubs 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 damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the determination of the Town Tree Board.

Section 14. Pruning, Corner Clearance

Every owner of any tree overhanging any street or right of way within the town shall prune the branches so that such 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 eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

Section 15. Dead or Diseased tree Removal

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property, or harbor insects or disease, which constitutes a potential threat to other trees within the town. The Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost or removal on the owner's property tax notice. Any citizen has the right to appeal this notice to the Tree Board within the sixty days.

Section 16. Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. Stumps in existence at the time of passage of this ordinance shall be exempt from the requirements of this section.

Section 17. Interference with Town Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the Town 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 18. Arborists License and Bond

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the Town without first applying for and procuring a license. The license fee shall be \$25.00 annually in advance; provided, however, that no license shall be required of any public service company or Town employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the Town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Section 19. Review by Town Council

The Town Council shall have the right to review the conduct, acts, and decisions of The Town Tree Board. Any person may appeal from any ruling or order of the Town Tree Board to the Town Council who may hear the matter and make the final decision.

Section 20. 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 \$1,000.

This ordinance shall be come effective 30 days after its passage on second reading.

READ, CONSIDERED AND PASSED FIRST READING THIS 15th DAY OF September, 1998.

Milton L. Amiden
Mayor

Muhelien Rubein
Attest

READ, CONSIDERED AND PASSED SECOND READING THIS 6th DAY OF October, 1998.

Milton L. Amiden
Mayor

Muhelien Rubein
Attest