

ORDINANCE NO. 2016-2

AN ORDINANCE TO REPEAL AND REPLACE ORDINANCE NO. 130 OF THE CITY OF COOPERSTOWN, NORTH DAKOTA AND AMENDMENTS THERETO AND PROVIDING FOR THE CONTROL AND PREVENTION OF DISEASE AMONG TREES, SHRUBS AND OTHER FOLIAGE AND FOR THE TRIMMING OF SAME AND PROVIDING A PENALTY FOR VIOLATION THEREOF.

BE IT ORDAINED, by the City Council of the City of Cooperstown, North Dakota, as follows:

SECTION 1: REPEALED, REPLACED AND ENACTMENT:

Ordinance No. 130 of the City of Cooperstown, North Dakota and amendments thereto are hereby repealed and replaced and enacted to read as follows:

SECTION 2: REAL OR POTENTIAL HAZARDS:

Any vector or potential vector of any condition which poses a real or potential hazard to trees, shrubs or foliage in the City of Cooperstown shall include, but not be limited to the following:

- A) Dutch Elm disease.
- B) Elm bark beetles Scolytus multistriatus (Eich b.) or Hylurgopinus refines (Marsh.)
- C) Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus to any degree or in a weakened condition which harbors any of the elm bark beetles, Scolytus multistriatus (Eich b.) or Hylurgopinus refines (Marsh.)
- D) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed or correctly sprayed with an effective elm bark beetle destroying insecticide.
- E) Any tree, shrub or hedge, or part thereof, growing upon public or private property which interferes with the use of any public walk, street or highway, park or public place within the City, which endangers the life, health, safety

real or potential health hazard to other trees, shrubs or foliage.

SECTION 3: TRIMMING OF TREES, SHRUBS AND BUSHES:

The owner or occupant of any private property within the City of Cooperstown shall trim all trees, shrubs or bushes bordering alleys, sidewalks, boulevards or streets so that the lowest branch or part thereof shall be trimmed to at least eight (8) feet above any such sidewalk and fifteen (15) feet above any such street or alley.

SECTION 4: PROHIBITED ACTS:

It shall be unlawful for any person, firm or corporation to do or perform any of the following:

- A) Transports or stores any bark-bearing elm wood, refuse or material from any tree, shrub or foliage on public streets or highways or other public premises without first securing the written permission of the City.
- B) Prevents the removal of any condition set forth in Section 2 hereinabove.
- C) Cuts, shakes, pulls, twists, bends, breaks, mutilates, disturbs, or otherwise maliciously interferes with, any such tree or removes any branch from any growing or live tree, plant, shrub, or hedge, or walks over or through any hedge within the City.
- D) Hauls any tree, branch or limb of any tree, or any shrubbery on the street, alley or public way in the City of Cooperstown, or on the highway leading to the disposal grounds or elsewhere in the City of Cooperstown so as to cause the falling and scattering of such trees, parts of trees, branches or limbs of trees or shrubbery on the streets, alleys or public ways or on the highway leading to the disposal grounds.
- E) Stores any firewood, or tree or part thereof, including branches, stumps, or other tree or shrub material less than eight inches (8") above the surface of the ground.

- F) Plants any cottonwood tree that is not of the seedless variety.
- G) Plants any tree, shrub or hedge on the boulevard, bordering the alley or other public areas without specific permission by the City. If permission is granted the City shall issue a tag to be placed on the plant and which shall remain on the plant plainly visible for the first year of growth.

SECTION 5: NOTICE OF ALLEGED VIOLATION OF THIS ORDINANCE:

- A. Notice of an alleged violation of any part of this Ordinance shall be in writing and served personally upon the owner, agent or occupant of such property, if occupied or may be posted in a conspicuous place upon vacant or unoccupied property.
- B. If the owner or agent resides outside of the City of Cooperstown, North Dakota, said Notice shall be served upon said owner or agent by certified mail if the address of same can be ascertained. The owner or occupant shall thereafter have ten (10) days within which to remove the cause of the alleged violation, or to request a hearing before the Administrative Board of the City of Cooperstown on the matter.
- C. Upon a finding of a violation or upon a failure of the owner, agent or occupant to request a hearing or to remove the offending material, the City of Cooperstown may cut, destroy and/or remove any tree, shrub, bush or hedge or other condition deemed to pose a real or potential hazard to other trees, shrubs, bushes or other foliage, human life or the use of equipment.

SECTION 6: COST OF REMOVAL OF TREE, SHRUBS, BUSHES, FOLIAGE FROM PRIVATE PROPERTY:

- A) The cost of any removal of trees, shrubs, bushes or other foliage from private property by the City, if not paid by the owner prior thereto, may be charged back against the property from which said tree, shrub, bush or other foliage was removed as a special assessment against such property. Such special assessment shall be levied

and assessed by City against the property involved as hereinafter provided.

- B) An assessment list showing the lots or tracts to be assessed with the cost against each lot or tract shall be prepared as are other special assessment lists and shall be approved by the governing body. Such assessments shall be subject to the same procedure for certification to the county auditor, payment and collection as are other special assessments under state law.

SECTION 7: PENALTIES:


Any person, firm or corporation violating any of the provisions of this Ordinance shall, upon conviction be subject to a fine not to exceed \$100.00.

SECTION 8: CONFLICTS:

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed insofar as the conflicting portions thereof are concerned.

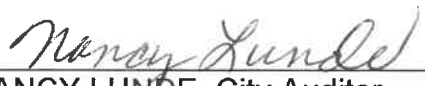
SECTION 9: EFFECTIVE DATE:

This Ordinance shall be in effect from and after its final adoption and publication of its title and penalty clause in the manner provided by law.



PAUL PAINTNER, Mayor

ATTEST:



NANCY LUNDE, City Auditor

First Reading May 16, 2016

Second Reading June 6, 2016

Final Passage and Adoption June 10, 2016

Publication June 10, 2016

Reference

Ordinance 130
Amendment to Ordinance 130