

**ORDINANCE NO. 99**

**AN ORDINANCE AMENDING SECTION 845 OF THE  
KENYON CITY CODE REGARDING REGULATION OF TREES, GRASS AND WEEDS  
IN PUBLIC STREETS AND PUBLIC PROPERTY**

**THE CITY COUNCIL OF THE CITY OF KENYON, MINNESOTA, ORDAINS:**

**Section 1.** Section 845 of the Kenyon City Code is hereby amended as follows:

SECTION 845 – REGULATION OF TREES, GRASS AND WEEDS IN  
PUBLIC STREETS AND PUBLIC PROPERTY  
(Added, Ord. No. 21, Third Series)

845.01. Regulation of trees, grass and weeds in public streets and public property. Subdivision. 1. City to control tree planting. The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all streets and other public property. The city may establish and enforce uniform standards relating to the species and types of trees to be planted, placement and the maintenance and removal thereof.

Subd. 2. Definitions. As used in this section, the following words and terms shall have the meanings stated:

- a) public tree - A tree, shrub, bush or other woody vegetation growing on any public property owned and/or managed by the city.
- b) private tree - A tree, shrub, bush or other woody vegetation growing on private property within the city.
- c) street tree - A tree, shrub, bush or other woody vegetation growing on land lying between property lines on either side of all streets, avenues and boulevards within the city.
- d) park tree - A tree, shrub, bush or 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.
- e) public utility - Any public private or cooperatively owned line, facility of system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste or stormwater, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.
- f) **hazardous tree- A tree which has structural defects in the roots, stem or branches that may cause the tree or tree part to fail, and such failure may cause property damage or personal injury or impede on a public right-of-way.**

Subd. 3. Tree planting requirements; species; location.

- a) Landscaping plan review. In conjunction with issuing a building permit for a new dwelling, or when the development of a new subdivision or commercial property occurs, the city will review landscaping plans and may require trees to be planted in any of the streets, parking lots, parks and other public places abutting the lands developed and/or subdivided, in accordance with guidelines established by the city.
- b) Tree species. The city shall develop and maintain a list of desirable trees for planting along streets. A list of trees not suitable for planting will also be created and enforced by the city.
- c) Spacing between trees. The spacing of street trees will be in accordance with the list established in this section, and no trees may be planted closer together than as set forth in such list; except in special plantings designed or approved by the city.
- d) Planting near utilities. No street trees other than those species allowed herein may be planted under or within 10 lateral feet of any overhead utility wire.
- e) Planting near curbs and sidewalks. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with this section, and no trees may be planted closer to any curb or sidewalk than the following: four feet.
- f) Distance from corners, fire hydrants 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 fire hydrant, nor five feet from any driveway.
- g) Special planting arrangements. The city may grant authorization for special planting arrangements that deviate from the requirements of this subdivision, when special circumstances exist.

Subd. 4. Public trees; planting, care and removal.

- a) Care of public trees. The city shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the lines of all streets, alleys, 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 public grounds. No other planting may be done without consent of the city.
- b) Removal of trees endangering utilities or other public improvements. The city may remove or cause to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to any public utility or 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 will not obstruct the light from any street lamp or obstruct the view of

any street intersection, and so that there is a clear space of at least eight feet above the sidewalk and 13 feet above the road surface.

- c) Protection of public trees near construction activities. Any tree located on city property in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work which has potential for injury, shall be protected from such injury.
- d) Tree topping prohibited. It is unlawful for any person to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove 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 exempted from this section, as determined by the city.
- e) Authorization relating to public trees. It is unlawful for any person to plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring authorization from the city. The person receiving the authorization shall abide by the standards set forth in this section.
- f) Adjacent landowner responsibility. Owners of property adjacent to street trees shall maintain the trees by periodic watering and fertilization of street trees as necessary to maintain good health and vigor and protect the trees against damage caused by lawnmowers, weed trimmers, snowblowers and similar equipment.
  - (i) Public trees - private property owner requests - financial responsibility. In cases where an owner of private real property abutting city property requests city actions on street trees or public trees, the requesting owner shall be financially responsible for the following:
    - (1) Removal of trees, limbs, or roots preventing house moving or other construction activities;
    - (2) Removal of trees, limbs, or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists;
    - (3) Spraying, fertilizing, or treatment other than may be regularly conducted on a city-wide basis by the city.
  - (ii) Financial responsibility. Financial responsibility does not eliminate the requirement of obtaining the necessary authorization required by this section.

Subd. 5. Duty of property owners to cut grass and weeds and maintain trees and shrubs. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of eight inches it shall be prima facie evidence of a failure to comply with this subdivision. Every owner of property abutting on any street shall, subject to the provisions herein requiring authorization therefor, trim, cut and otherwise maintain all trees and shrubs in an unharmed and healthy condition, from the line of such property nearest to such street to the center thereof.

**Subd. 6. Removal of hazardous trees. Any hazardous tree on any private property, which if it fell may land within any public right of way or property owned by another person or entity, shall be removed immediately and in no case more than 30 days after being served notice by the city to remove the tree.**

Subd. 7. City may order work done. The city may, in cases of failure to comply with this section, perform such work with employees of the city, **or contractors** keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.

Subd. 8. Assessment. If maintenance work described in the foregoing subdivision is performed by the city, the city administrator shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The city administrator shall present such certificate to the council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment **or service charge** against such abutting land and such special assessment **or service charge** shall be certified for collection as other special assessments **or service charges** are certified and collected.

**Section 2.** This ordinance shall be in full force and effect upon its passage and publication.

Passed by the City Council of the City of Kenyon, Minnesota, this 14<sup>th</sup> day of June, 2022.

ATTEST:

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Douglas Henke, Mayor

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Mark R. Vahlsing, City Administrator

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