

**CITY ORDINANCES
RELATED TO TREES
AS OF MAY 2019**

5-8-1: POLICY AND PURPOSE:

The city council has determined that the health of the elm trees within city limits is threatened by a fatal disease known as Dutch elm disease, that oak trees are threatened by a disease known as oak wilt, and that ash trees are threatened by the emerald ash borer. The council has further determined that the loss of such trees growing upon public and private property would substantially depreciate the value of property within the city, cause significant costs to the public for tree removal, and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the council to control and prevent the spread of these diseases as well as infestation by these insects, and this chapter is enacted for that purpose. (Ord. 1217, 8-9-2010)

5-8-2: FORESTER:

The powers and duties of the forester, as set forth herein, are conferred upon the city forester. It is the duty of the forester to coordinate, under the direction and control of the council, all activities of the city relating to control and prevention of Dutch elm disease, oak wilt, and emerald ash borers. He shall recommend to the council the details of a program for the control of Dutch elm disease, oak wilt, and emerald ash borers and perform the duties incident to such a program adopted by the council. (Ord. 1217, 8-9-2010)

5-8-3: DUTCH ELM, OAK WILT, AND EMERALD ASH BORER DISEASE PROGRAM:

A. Intent: It is the intention of the city council to conduct a program of plant pest control pursuant to the authority granted by Minnesota statutes chapter 18G. The program is specifically aimed at the control and elimination of the following:

1. Dutch elm disease fungus.
2. The elm bark beetles that carry Dutch elm disease fungus.
3. Oak wilt fungus.
4. Emerald ash borers.

B. State Statutes Adopted: Except as modified herein, the council hereby adopts by reference Minnesota statutes [chapter 18G](#), and all amendments thereto, and the rules and regulations promulgated thereunder by the commissioner of agriculture.

C. Control Zones: By resolution, the council shall establish control zones in the city within which the control and abatement procedures for Dutch elm disease, oak wilt, and emerald ash borers shall apply. Areas outside the established control zones shall not be subject to the control and abatement procedures herein set forth. The council may from time to time change the control zones. (Ord. 1217, 8-9-2010)

5-8-4: NUISANCES DECLARED AND PROHIBITED:

A. Nuisances Declared: The following items are hereby declared to be public nuisances when found within the control zones between April 1 and September 15:

1. Any living or standing elm tree, or part thereof, infected to any degree with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau.
2. Any elm tree or part thereof suffering from dieback or any other disease or harmful condition which, in the opinion of the city forester or his agents, renders that tree or any parts thereof possible breeding or harboring sites of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh).
3. Any red oak tree or part thereof exhibiting wilting to any degree in July or August, this wilt caused by the oak wilt fungus *Ceratocystis fagacearum*. Red oak trees affected at other times and white oaks with root systems in contact with other trees of the same species are also hereby declared nuisances.
4. Any ash tree that is diseased with the emerald ash borer that poses or threatens to pose a danger to person or property by reason of potentially falling or loss of tree limbs in the opinion of the city forester or the city forester's designee or is otherwise subject to a directive for removal from the Minnesota department of agriculture or other state agency.
5. Elm trees or oak trees or parts thereof as described in subsections A1, A2 through A4 of this section hereby shall be termed hazardous trees and portions.
6. Any dead elm tree, standing or fallen, or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been completely removed. Red oak wood not covered by a plastic tarpaulin during May and June is also hereby declared a public nuisance. Any dead ash tree, standing or fallen, or part thereof, including logs, branches, stumps, firewood or other ash material that is not handled consistent with guidelines issued by the Minnesota department of agriculture or other state agency, as amended from time to time. Such nuisances are hereby termed hazardous wood.

B. Prohibited; Abatement Required: It is unlawful for any person to cause or permit any public nuisance as defined in subsection A of this section to remain on any premises owned or controlled by him within the disease control zones between April 1 and September 15. Such nuisances may be abated in the manner herein set forth. (Ord. 1217, 8-9-2010)

5-8-5: INSPECTIONS AND INVESTIGATIONS:

A. Annual Inspection: The forester shall inspect all premises and places within the established control zones as often as practical to determine whether any condition described in subsection [5-8-4A](#) of this chapter exists. The city forester shall investigate all reported incidents of infestations of Dutch elm disease, oak wilt, the elm bark beetles, and emerald ash borers.

B. Entry Powers: The forester or duly authorized agents may enter upon any private place as defined in Minnesota statutes section 18G.13, at any reasonable time for the purpose of carrying

out any of the duties assigned under this chapter. Before making any inspection of any private place, it shall be the duty of the city forester to give notice of said inspection to all affected residents and property owners either through an individual oral or written notice, or by publishing said notice in a local newspaper. (Ord. 1217, 8-9-2010)

5-8-6: ABATEMENT PROCEDURE:

- A. **Methods Of Abatement:** In abating the nuisances of hazardous trees and portions and hazardous wood, the landowner shall, and upon his failure to do so, the forester may, cause the infected tree or wood to be sprayed, removed, burned, disposed of or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of the Dutch elm disease fungus, the oak wilt fungus, the elm bark beetles and/or emerald ash borers. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the commissioner of agriculture and shall be termed proper disposal.
- B. **Abatement in Control Zones:** When the forester finds with reasonable certainty that the Dutch elm disease fungus, the oak wilt fungus, elm bark beetles, or emerald ash borers exist in any tree or wood in the control zones, the procedure shall be as follows:
1. **Notice to Abate:** For hazardous wood or hazardous trees and portions found on private property, the property owner shall be given no more than fourteen (14) days for proper disposal from the date of notification. Within said fourteen (14) days, the property owner shall complete proper disposal of the nuisance. Notification shall be given in writing and shall be made either by personal service on the landowners and occupants or by mailing the written notice to them. If service is by mail, the owners shall be those shown on the records of the county treasurer. Notice shall be complete upon mailing.
 2. **Failure to Abate; Abatement by City; Costs:** Failure to abate the nuisance (or properly dispose of the hazardous wood or hazardous trees and portions) by the property owner within the time limit stated shall authorize the city forester to have the nuisance abated. The city may then charge all costs of abatement to the property owner and bill him directly. If the landowner does not pay the bill, the monies due may be assessed. Failure by the property owner to abate the nuisance within the time specified above is a violation of this chapter and shall be punishable as a misdemeanor. Further, the city may enforce this chapter by injunction or by any other legal remedy.
 3. **Record Of Costs:** The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the finance department and clerk all work done for which billings and assessments are to be made stating and certifying the description of the land, lots, and parcels involved and the amount chargeable to each.
 4. **Assessment of Costs:** On or before September 1 of each year, the clerk and finance department shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this chapter. The council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota statutes section 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

C. Payment Of Abatement Costs: The payment of monies owed to the city for the abatement of nuisances (as described in subsection [5-8-4A](#) of this chapter) from private property shall be handled in the following manner:

1. All expenses shall be kept by the city forester and submitted to the finance department and clerk. Individual bills shall be sent to the property owner stating the work done and the amount owed.
2. Payment shall be due on the entire amount owed within thirty (30) calendar days from the date of the bill.
3. After the passage of the original thirty (30) days, the city may assess the remaining amount due pursuant to Minnesota statutes sections 429.101 and 18G.13. (Ord. 1217, 8-9-2010)

5-8-7: STORAGE OF ELM WOOD PROHIBITED:

Between April 1 and September 15, it shall be unlawful for any person to store within established control zones any bark bearing elm wood. (Ord. 1217, 8-9-2010)

5-8-8: STORAGE OF ASH WOOD PROHIBITED:

Between April 1 and September 15, it shall be unlawful for any person to store within established control zones any bark bearing ash wood. (Ord. 1217, 8-9-2010)

5-8-9: INTERFERENCE WITH CITY OFFICIALS PROHIBITED:

It is unlawful for any person to prevent, delay or interfere with the forester or his agents while they are engaged in the performance of duties imposed by this chapter. (Ord. 1217, 8-9-2010)

5-8-10: PROHIBITED CONDUCT; PENALTY:

It is unlawful for any person to engage in an act or in the behavior prohibited by this chapter. Violation of any provision of this chapter is a misdemeanor and may be punished as provided in [title 1, chapter 4](#) of this code. (Ord. 1217, 8-9-2010)

7-1-4: PLANTING TREES AND SHRUBS:

No trees, bushes or shrubs shall be planted or placed within the public road right of way or within five feet (5') of the public road right of way or within the side strip or boulevard. No trees, bushes or shrubs shall be planted within thirty feet (30') of the intersection of curb lines on corner lots². (1974 Code § 800.19)

11-3-11: STREET TREES:

Street trees shall be planted not less than forty feet (40') apart with a minimum of one **tree** per lot. They shall be placed five feet (5') to seven feet (7') inside the property line and not in the side strip or boulevard. No **trees** shall be planted within thirty feet (30') of the intersection of curb lines on corner lots. The minimum size shall measure one and one-half inches (1½") in diameter at ground line. No

two (2) consecutive trees shall be of the same type or variety, and only those varieties approved by the city engineer will be used. (Ord. 1157, 6-11-2007)