

## Chapter 23.5

### TREES AND VEGETATION

**Art. I. In General, Sections 01 through 25**

**Art. II. Dutch Elm and Oak Wilt Diseases, Sections 26 through 40**

**Art. III. Weed Control, Sections 41 through 46**

#### ARTICLE I. IN GENERAL

**Sections 01 through 25. Reserved.**

#### ARTICLE II. DUTCH ELM AND OAK WILT DISEASES

##### **Section 26. Declaration of policy.**

The City Council of the City of Chaska has determined that the health of the Elm trees within the municipal limits has been threatened by the fatal diseases known as Dutch Elm disease and Oak Wilt respectively. It has further determined that the loss of Elm and Oak trees growing upon public and private property would substantially depreciate the value of property within the City and impact 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 and this article is enacted for that purpose. (Ord. No. 218, Sec. 1, 5/14/74)

##### **Section 27. General powers and duties of Tree Inspector: Conferred upon head of Public Works Department; enumerated.**

(a) The powers and duties of the City Tree Inspector as set forth in this article are hereby conferred upon the Department of the Public Works Department.

(b) It is the duty of the Tree Inspector to coordinate under the direction and control of the Council all activities of the City relating to the control and prevention of Dutch Elm disease and Oak Wilt. He shall recommend to the Council the details of a program for the control of Dutch Elm disease and perform the duties incident to such a program adopted by the Council. (Ord. No.218, Sec. 2, 5/14/74)

##### **Section 28. Intention to conduct plant pest control program; Tree Inspector to coordinate activities.**

It is the intention of the City Council to conduct a program of plant pest control pursuant to authority granted by Minnesota Statutes 1961, Section 18.022. This program is directed specifically at the control and elimination of Dutch Elm disease fungus and Elm bark beetles and Oak Wilt and is undertaken at the recommendation of the Commissioner of Agriculture. The City Tree Inspector shall act as coordinator between the Commissioner of Agriculture and the Council in the conduct of this program. (Ord. No.218, Sec. 3, 5/14/74)

## **Section 29. Nuisances declared; permitting nuisance unlawful; abatement generally.**

(a) The following things are hereby determined to be a public nuisance whenever they are found within the City of Chaska.

(1) Any living or standing Elm tree or part thereof infected to any degree with Dutch Elm disease fungus *Cercospora Ulmi* (Buisman) Moreau or which harbor any of the Elm beetles *Scolytus- Multi-strietus* (Eichh) or *Hylurgopinus Rufips* (Marsh).

(2) Any dead elm tree or part thereof including logs, branches, stumps, firewood or other Elm material from which the bark has not been removed and burned or sprayed with an effective Elm bark beetle insecticide.

(3) Any living or standing Oak tree or part thereof infected to any degree with Oak Wilt.

(4) Any dead Oak tree or part thereof including logs, branches, stumps, firewood or other Oak material from which the bark has not been removed and burned or sprayed with an effective Oak Wilt insecticide.

(b) It is unlawful for any person to permit any public nuisance as defined in Subsection(a) to remain on any premises owned or controlled by him within the City of Chaska. Such nuisances may be abated in the manner prescribed by this article. (Ord. No.218, Sec. 4, 5/14/74)

## **Section 30. Inspections and Investigations.**

(a) *Periodic inspections.* The tree inspector shall inspect all premises and places, private or public, within the City as often as practicable, but at least twice annually, to determine whether one of the conditions described in Section 29 of this article exists thereon. He shall investigate all reported incidents of infestation by Dutch Elm fungus, Elm bark beetles, or Oak Wilt.

(b) *Right of entry.* The Tree Inspector or his duly authorized agent may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this article.

(c) *Diagnosis.* The Tree Inspector shall, upon finding conditions indicating Dutch Elm infestation or Oak Wilt, immediately send an appropriate specimen or sample to the Commissioner of Agriculture for analysis or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 33 of this chapter, no action to remove infected trees or wood shall be taken until positive diagnosis of disease has been made. (Ord. No.218, Sec. 5, 5/14/74)

## **Section 31. General abatement procedure.**

In abating the nuisances as defined in Section 29 of this chapter, the Tree Inspector shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus, Elm bark beetles, or Oak Wilt. Such abatement proceedings shall be carried out in

accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture. (Ord. No.218, Sec. 6, 5/14/74)

**Section 32. Abatement of nuisance by tree Inspector or property owner; notice of abatement; hearing costs.**

(a) Whenever the Tree Inspector finds within reasonable certainty that the infestation defined in Section 29 of this chapter exists in any tree or wood on any public or private place in the City, he shall proceed as follows:

(1) If the Tree Inspector finds that the danger of infestation of the Elm and Oak trees is not imminent because of dormancy, he shall make a written report of his findings to the Council and shall proceed by:

a. Abating the nuisance as a public improvement under Minnesota Statutes Chapter 429; or

b. Abating the nuisance as provided in Subsection(b) of this section.

(2) If the Tree Inspector finds that the danger of infestation of other Elm or Oak trees is imminent, he shall notify the abutting property owner by certified mail that the nuisance must be abated within a specified time, not less than five (5) days from date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice, the Tree Inspector may abate the nuisance.

(b) Upon receipt of the Tree Inspector's report required by Subsection(a) (1), the Council shall, by Resolution, order the nuisance abated. Before action is taken on such Resolution, the Council shall publish notice of its intention to meet to consider taking action on the abatement of such nuisance. This notice shall be mailed to the affected property owners and published once no less than one (1) week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of the assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear from property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a Resolution confirming the original Resolution with such modifications as considered desirable and provide for the doing of the work by day labor or contract.

(c) The Tree Inspector shall keep a record of the costs of abatements done under this section and shall report monthly to the City Clerk work done for which assessments are to be made stating and certifying the description of the land, lots, and parcels involved and the amount chargeable to each.

(d) On or before September 1 of each year the Clerk shall list the total unpaid charges for each abatement against the separate lot or parcel to which they are attributable under this article. 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 the taxes. (Ord. No.218, Sec. 7, 5/14/74)

### **Section 33. Spraying trees.**

(a) Whenever the Tree Inspector determines that any Elm or Oak trees or Elm or Oak wood within the City is infected with Dutch Elm fungus or Oak Wilt, he may spray all nearby high value Elm or Oak trees with an effective insect or disease destroying concentrate. Spraying activities authorized by this section shall be conducted in accordance with technical and expert opinion and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his agents whenever possible.

(b) The notice provisions of Section 32 of this chapter shall apply to spraying operations conducted under this Section. (Ord. No.218, Sec. 8, 5/14/74)

### **Section 34. Transporting bark-bearing elm wood or disease infected elm or oak wood.**

It is unlawful for any person to transport within the City any bark-bearing Elm wood or disease infected Elm or Oak wood, without having obtained a permit from the Tree Inspector. The Tree Inspector shall grant such permits only when the purposes of this article will be served thereby. (Ord. No.218, Sec. 9, 5/14/74)

### **Section 35. Interfering with enforcement of article.**

It is unlawful for any person to prevent, delay, or interfere with the Tree Inspector or his agents while they are engaged in the performance of duty imposed by this article. (Ord. No.218, Sec. 10, 5/14/74)

### **Section 36. Agency rules adopted by reference; exceptions.**

(a) Sections 1.0109 through and including 1.0111 of 3 Minnesota Code of Agency Rules, Department of Agriculture, Shade Tree Program (1978 edition), together with amendments thereof to date, are hereby adopted by reference and made apart of this article as if set herein in full, except as hereinafter provided; and a copy of said agency rules herewith incorporated is on file in the Office of the City Clerk, City of Chaska, Minnesota.

(b) Notwithstanding anything to the contrary in this section, the stockpiling of bark-bearing elm wood within the City limits shall be permitted during the period September 15 through April 1 of any given year; and any such wood not utilized by April 1 of any year shall then be removed and disposed of as provided in this Section, and the regulations incorporated hereby. (Ord. No. 289, Sec. 2, 11/5/79)

### **Sections 37 through 40. Reserved**

## **ARTICLE III. WEED CONTROL**

### **Section 41. Definition.**

The word "weeds" as used in this article shall be construed to mean and include:

(a) Such annual, biannual, and perennial plants which are deemed by the Commissioner of Agriculture to be injurious to public health, public roads, crops, livestock and other property; and

(b) Such useless and troublesome plants as are commonly known as "weeds" to the general public and any weeds or grass growing to a height of one (1) foot or greater or which have gone to or about to go to seed growing on any lot or parcel of land presently occupied by a residential, commercial or industrial building or on a subdivided lot intended to be used for a residential, commercial or industrial building. (Ord. No.235, Sec. 1 4/5/76)

### **Section 42. Deemed nuisance.**

Any weeds or grass as set forth in Section 41 of this chapter hereof growing on any lot or parcel of land in the City is hereby declared to be a nuisance and dangerous to the health, safety and good order of the City. (Ord. No.235, Sec. 2, 4/5/76)

### **Section 43. Notice to abate.**

Any conditions of use on any lot or parcel of land in the City violative of the provisions hereof shall be the duty of the weed inspector to serve a notice upon the owner, occupant or agent of such lot or parcel of land, ordering such owner, occupant or agent to have such weeds or grass cut and removed within five (5) days after the service thereof, such notice shall also state that in the case of noncompliance of said order, same will be done by the weed inspector at the property owner's expense. (Ord. No.235, Sec. 3, 4/5/76)

### **Section 44. Duty to abate.**

It shall be the duty of the owner, lessee, or occupant of any lot or parcel of land to cut and remove, or to cause to be cut and removed, all such "weeds" as often as may be necessary to comply with the provisions of this article. (Ord. No.235, Sec. 4, 4/5/76)

### **Section 45. Abatement by City; lien.**

If the provisions of the foregoing Sections are not complied with and the owner, occupant, or agent shall fail to cut such "weeds" pursuant to notice of the weed inspector, the weed inspector shall cause such "weeds" to be cut and removed. The actual cost of cutting and removal of said "weeds" shall be billed to the owner, whose responsibility it shall be to pay therefor. Any such bills for the cutting and removing of "weeds" shall be a lien against the property and any such bill unpaid as of the first day of October of each year shall be certified to the City Council and the City Council shall, by appropriate resolution, assess the cost thereof against the premises and shall certify the same to the County Auditor of Carver County, Minnesota, for collection with the taxes to be levied upon such lot. The same shall be collected and enforced in the same manner as the collection of real estate taxes. (Ord. No.235, Sec. 5, 4/5/76)

**Section 46. Penalty.**

If any person shall neglect to cut and remove noxious weeds, grass or other vegetation as directed in this article, or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided, or who shall violate any of the provisions of this article, who shall resist or obstruct the weed inspector, or his employees or designated representatives, in the cutting and removal of "weeds" shall be guilty of a misdemeanor, and upon conviction thereof may be penalized pursuant to the provisions of the Code of Ordinances of the City of Chaska, Section 08 of Chapter 1. (Ord. No.235, Sec. 6, 4/5/76)