

# CHAPTER 22 TREES

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## ARTICLE I. DECLARATION OF POLICY AND PURPOSE

**Sec. 22-01. Purpose.** The City Council has determined that there are many trees growing on public and private premises within the city, the loss of which would substantially depreciate the value of public and private premises, and impair the safety, good order, general welfare and convenience of the public. The City Council desires to protect the integrity of the natural environment and finds that trees, and in particular the scenic Oak, do so by providing for better air quality, scenic beauty and noise buffer; by protection against wind and water erosion, storm water run off, and severe weather conditions; and by providing habitat for birds and other wildlife. Additionally, the City Council finds that mature trees take many years to replace and such trees protect privacy and provide enhancement of property values.

The City Council hereby declares its intention to protect and preserve existing trees and to provide regulations relating to the cutting, removal or killing of trees, with the consequent damage and destruction of the wooded and forested areas of the city, to promote the orderly development of such areas and thereby minimize public and private losses; to insure the maintenance of the natural vegetation and topography; to encourage protection and preservation of the natural environment and beauty of the city; to encourage a resourceful and prudent approach to urban development of wooded areas which provides for minimal tree loss and mitigation of tree removal resulting from development; to provide an objective method to evaluate a development's impact on trees and wooded areas and identify whether and how the impact may be reduced; to provide incentive for creative land use and good site design which preserves trees while allowing development in wooded areas with mitigation or tree removal and destruction; to control and prevent the spread of fatal diseases affecting trees and the insect pests and vectors which carry such diseases; and to provide for enforcement and administration thereby promoting and protecting the public health, safety, and welfare.

No clear cutting of significant woodland areas shall be permitted except pursuant to a duly authorized and approved permit or development plan consistent with the provisions of this chapter.

## ARTICLE II. APPLICATION

These guidelines shall apply to the following site activities in the city not governed by Section 25-175 - Design Standards:

1. All sites of new development,
2. All sites of new building construction,
3. All sites for which application for a city grading permit is being made.

**Sec. 22-02. Definitions.** The following terms, as used in this section shall have the meanings stated:

- **Builder:** Any person or entity to which a building permit is issued.
- **Canopy of a Tree:** The horizontal extension of a tree's branches in all directions from its trunk
- **Coniferous/Evergreen Tree:** A woody plant which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year-round.
- **Construction Area:** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.
- **Deciduous Tree:** A woody plant which, at maturity, is at least fifteen (15) feet or more in height, having a defined crown, and which loses leaves annually.
- **Developer:** Any person or entity that undertakes to improve a parcel of land, by platting, grading, installing utilities, or constructing any building thereon. For purposes of these guidelines, a developer does not include a builder as defines herein.
- **Diameter:** The length of a straight line measured through the trunk of a tree at 54 inches above the ground.
- **Drip Line or Root Zone of a Tree:** An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground
- **Forester:** A person holding a Bachelor's degree in forestry from an accredited four-year college of forestry.
- **Landscape Architect:** A person licensed by the State of Minnesota as a Landscape Architect.
- **Nurseryman:** A person licensed by the State of Minnesota as a Nurseryman.
- **Significant Tree:** A healthy tree measuring a minimum of eight inches in Diameter for hardwood Deciduous Trees or a minimum of 12 inches in Diameter for softwood Deciduous Trees measured at 54 inches above the ground, and a minimum of 12 feet in height for Coniferous/Evergreen Trees. Some examples of significant deciduous trees include but are not limited to the following:

Hardwood Deciduous $\geq 8''$		Softwood Deciduous $\geq 12''$
Ironwood	Ash	Cottonwood
Catalpa	Hickory	Poplars/Aspen
Oak	Birch	Silver Maple
Maple (hard)	Basswood	Box Elder
Elm	Walnut	Willow

- **Significant Woodland:** A grouping or cluster of Coniferous and/or upland Deciduous Trees, occupying 500 or more square feet of property, which are comprised predominantly of a single species of Deciduous Trees between four inches and twelve inches in Diameter or Coniferous Trees between four feet and twelve feet in height.

### ARTICLE III. TREE PRESERVATION REQUIREMENTS

**Sec. 22-03. Developments.** Unless otherwise determined by the City Council, the following process for preserving trees shall be required for new development in any zoning district; new building construction in any zoning district; any existing commercial, industrial or institutional

building to be expanded by ten (10) to fifty (50) percent of its size, where an approved tree preservation plan is not on file with the city; and any site for which application for a city grading permit is being made.

1. Developers are required to do the following:
  - (a) Prepare a Tree Preservation Plan that shall be incorporated on the grading plan.
  - (b) Implement the Tree Preservation Plan prior to and during site development.
  - (c) Submit a performance guarantee for compliance with the Tree Preservation Plan.
  - (d) Comply with the city's Tree Replacement Schedule.
2. The Tree Preservation Plan shall be submitted with preliminary plat plans in accordance with Chapter 21 (Subdivision Regulations) of the City Code, as part of the landscape plan as required under Chapter 25 (Land Use Regulations/Zoning) of the City Code, or as part of the application for a grading permit as required under Chapter 5 (Building Regulations) of the City Code.
3. The Tree Preservation Plan must be certified by a Forester, Landscape Architect, or Nurseryman retained by the developer.

**Exception** - If the land alterations are undertaken on an occupied parcel for the construction of an accessory building or addition to the existing structure and less than 6 significant trees are affected, the owner or contractor can provide the Tree Preservation Plan.

4. The Developer shall be responsible for implementing the Tree Preservation Plan prior to and during site grading and plan development.
5. The Tree Preservation Plan shall include the following items:
  - (a) The name(s) and address(es) of property owners and Developers.
  - (b) Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.
  - (c) Delineation of all areas to be graded and limits of land disturbance.
  - (d) Size, species, and location of all significant trees and significant woodlands located within the area to be platted or within the parcel of record. For significant woodlands and large wooded sites, a representative sample may be used to determine the number of significant trees outside the limits of land disturbance.
  - (e) Identification of all significant trees and significant woodlands on all individual lots. (The developer shall be required to submit a list of all lot and block numbers identifying those lots, along with the Tree Preservation Plan).
  - (f) Measures to protect significant trees and significant woodlands.
  - (g) Identification of all Significant Trees and Significant Woodlands proposed to be removed within the construction area.
  - (h) Size, species, and location of all replacement trees to be planted on the property in accordance with the Tree Replacement Schedule.
  - (i) Signature of the person preparing the plan.
6. Measures proposed to protect Significant Trees and Significant Woodlands shall include:

- (a) Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the drip line of significant trees and significant woodlands to be preserved.
  - (b) Identification of any oak trees requiring pruning between April 15 and July 1; any oak trees so pruned shall be required to have any cut areas sealed with an appropriate tree wound sealant.
7. Measures to protect significant trees and significant woodlands may include, but are not limited to:
- (a) Installation of retaining walls or tree wells to preserve trees.
  - (b) Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation.
  - (c) Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
  - (d) Use of tree root aeration, fertilization, and/or irrigation systems.
  - (e) Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.
  - (f) Therapeutic pruning.
8. The Tree Preservation Plan will be reviewed by city staff to assess the best overall design for the project taking into account significant trees and significant woodlands and ways to enhance the efforts of the developer to mitigate damage to significant trees and significant woodlands. The developer is encouraged to meet with staff prior to submission of the preliminary plat application or prior to application for the grading permit, whichever is sooner, to determine the placement of buildings, parking, driveways, streets, storage and other physical features which result in the fewest significant trees and significant woodlands being destroyed or damaged.
9. Significant trees and significant woodlands removal shall be in accordance with the city-approved tree preservation plan. The plan should remove no more than 25% of the total number of significant trees and significant woodlands which were existing prior to the preliminary plat as a result of the following construction activities, approved by the city as a part of a preliminary plat:
- (a) Site grading.
  - (b) Installation of public utilities including sanitary sewer, storm sewer, water, natural gas, electrical service, and cable TV.
  - (c) Construction of public streets.
  - (d) Construction/grading of drainageways.
  - (e) Filling of any area.
  - (f) Any other activity within the construction area.

Where practical difficulties or practical hardships result from strict compliance with the provisions of this paragraph, city staff may permit the removal of up to an additional 5% of the significant trees and significant woodlands without requiring a variance approval by the City Council.

10. Significant trees and significant woodlands may be removed on individual lots for site grading, utility hook-ups, buildings, parking lots, driveways, storage areas, recreational

areas, private streets, or similar site improvements. Significant trees and significant woodlands removal shall be in accordance with the city-approved tree preservation plan. The plan should remove no more than 30% of the total significant trees and significant woodlands that existed prior to the preliminary plat on individual lots in completing these site improvements. Where practical difficulties or practical hardships result from strict compliance with the provisions of this paragraph, city staff may permit the removal of up to an additional 5% of the significant trees and significant woodlands without requiring a variance approved by the City Council.

11. If any significant tree or significant woodland indicated to be saved on the Tree Preservation Plan is destroyed or damaged, the Tree Replacement Schedule will be enforced by the city (see Article 4).
12. The developer shall provide the required performance guarantee outlined in Section 22-07 following approval of the Tree Preservation Plan and prior to any construction and/or grading. The performance guarantee may be included as part of any "performance guarantee" required in conjunction with design standards, site plans, grading, and landscape plans of the City Code.
13. The proposed grading plan shall be submitted to the city at least five working days prior to the issuance of grading permit, to ensure compliance with the approved Tree Preservation Plan. All sites shall be staked, as depicted in the approved grading plan, before grading is to commence. The city shall inspect the construction site prior to the beginning of the grading to ensure that protective fencing and other protective measures are in place. No encroachment, grading, trenching, filling, compaction, or change in soil chemistry shall occur within the fenced areas protecting the root zone of the trees to be saved.
14. The tree protection measures shall remain in place until all grading, construction, and restoration has been completed.
15. After grading, construction, and restoration has been completed a forester, nurseryman, or landscape architect retained by the developer, shall:
  - (a) Certify in writing to the city that the Tree Preservation Plan was followed.
  - (b) Certify in writing to the city that the tree protection measures were installed.
  - (c) Indicate which significant trees and significant woodlands remain and which have been destroyed or damaged.
  - (d) Submit a plan for city review identifying where replacement trees, if required, will be integrated into the approved landscape plan, or another plan, as required by the city.

**Sec. 22-04. Building.** The following process for preserving trees shall be required of all builders.

1. An individual lot Tree Preservation Plan be submitted no later than the application for a building permit. The plan shall be consistent with the original tree preservation plan for the plat, where said plan exists.
2. The builder will be responsible for implementing the Tree Preservation Plan prior to and during construction.
3. The individual lot Tree Preservation Plan must be provided by the builder and include:
  - (a) The name(s) and address(es) of property owners and builders.
  - (b) Delineation of all areas to be graded, limits of land disturbance, and buildings to be situated thereon.

- (c) Size, species, and location of all significant trees and significant woodlands within the lot.
  - (d) Identification of all significant trees and significant woodlands proposed to be removed within the Construction Area.
  - (e) Measures to protect significant trees and significant woodlands.
  - (f) Signature of the person preparing the plan.
4. Measures proposed to protect significant trees and significant woodlands shall include:
- (a) Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the drip line of significant trees and significant woodlands to be preserved.
  - (b) Identification of any oak trees requiring pruning between April 15 and July 1; any oak trees so pruned shall be required to have any cut areas sealed with an appropriate tree wound sealant.
5. Measures to protect significant trees and significant woodlands may include, but are not limited to:
- (a) Installation of retaining walls or tree wells to preserve trees.
  - (b) Placement of utilities in common trenches outside of the drip line of significant trees or use of tunneled installation.
  - (c) Prevention of changes in soil chemistry due to concrete washout and leakage or spillage of toxic materials such as fuels or paints.
  - (d) Use of tree root aeration, fertilization, and/or irrigation systems.
  - (e) Transplanting of Significant Trees into a protected area for late moving into permanent sites within the Construction Area.
  - (f) Therapeutic pruning.
6. The Tree Preservation Plan will be reviewed by city staff to assess the best available layout of buildings and driveways that will result in the fewest significant trees and significant woodlands being destroyed or damaged.
7. Significant tree and significant woodlands removal shall be in accordance with the city-approved Tree Preservation Plan for the lot. The plan should remove no more than 20% of the total number of significant trees and significant woodlands that existed upon the lot prior to the issuance of the building permit. Where practical difficulties or practical hardships result from strict compliance with the provisions of this paragraph, the city staff may permit the removal of up to an additional 5% of the significant tree and significant woodlands without requiring a variance approval by the City Council.
8. At least three (3) working days prior to construction or grading, builders shall be required to request approval of on-site (installed) tree protection measures by the city.
9. The city will continue to monitor the tree protection measures at the time of routine inspections.
10. The tree protection measures shall remain in place until all grading and construction activity is terminated.
11. If any significant tree indicated to be saved on the Tree Preservation Plan is destroyed or damaged the Tree Replacement Schedule will be enforced by the city (see attachment for guidelines on tree replacement).

12. The city will inspect the building site in order to determine compliance with the approved Tree Preservation Plan. The city will determine that:
- (a) Compliance has been met, or
  - (b) Alternative mitigation measures have been implemented, or
  - (c) Appropriate tree replacement measures have been approved by the city.
13. The builder shall provide the required performance guarantee outlined in Section 22-07 following approval of the Tree Preservation Plan and prior to any construction and/or grading. The performance guarantee may be included as part of any "performance guarantee" required in conjunction with design standards, site plans, grading, and landscape plans of the City Code.

**ARTICLE IV. TREE REPLACEMENT SCHEDULE**

**Sec. 22-05. General Requirements.** Developers and builders will be required to replace all significant tree and significant woodlands that were indicated on the Tree Preservation Plan to:

- (a) Be saved, but which were ultimately destroyed or damaged and,
- (b) Be replaced, in accordance with the tree preservation requirements.

These replacement trees shall be in conjunction with any other landscape requirements of the city.

**Sec. 22-06. Significant Tree Replacement.** Where replacement of a significant tree is required, the developer or builder shall be responsible for furnishing and installing the number and size of tree(s) identified in Category A, Category B, or Category C of the following schedule:

<b>Tree Replacement Schedule</b>				
<b>Size of Tree Damaged or Destroyed</b>		<b>Number of Replacement Trees</b>		
		<b>Category A</b>	<b>Category B</b>	<b>Category C</b>
1	Coniferous - 12' to 24' high	1	2	4
2	Coniferous - 24' or higher	2	4	8
3	Hardwood deciduous 8" - 20" diameter	1	2	4
4	Hardwood deciduous greater than 20" diameter	2	4	8
5	Softwood deciduous 12 - 24" diameter	1	2	4
6	Softwood deciduous greater than 24" diameter	2	4	8
		<b>Size of Replacement Trees</b>		
	Deciduous Trees	Not less than 3" in diameter	Not less than 2.5" in diameter	Not less than 2" in diameter
	Coniferous Trees	Not less than 10' in height	Not less than 8' in heights	Not less than 6' in height
	<b>Type of Replacement Trees</b> Replacement trees shall be of a species similar to the trees which are lost or removed and shall include those species and diversity as determined by City Council resolution.			
	<b>Source of Replacement Trees</b> Replacement trees shall consist of "certified nursery stock" or state inspected transplant stock as defined by Minnesota Statutes 18.46.			

**Sec. 22-07. Location of Replacement Trees.** Replacement trees shall be planted on the subject property in appropriate soil types and in a space large enough to accommodate the natural growth of the planted species. If the site can not accommodate the required replacement trees, those remaining to be planted shall be located other property owned by the developer/builder located within the city, or on property owned by the city. The city shall determine the location of the placement of trees on city property.

**Sec. 22-08. Agreement to Replace Trees - Security.** The builder, developer, owner shall be responsible to remove and restore any replacement tree which is not alive or healthy, one (1) year after the date that the last replacement tree has been planted. Any tree removed shall be replaced with a new healthy tree of the same size and species in place of the removed tree within eight months of removal. The builder, developer, owner shall provide security to the city for the performance of its obligations pursuant to this article as follows:

- (a) **Form.** The security may consist of a bond, letter of credit, cash, or escrow deposit, all in such form and substance as shall be approved by the City Council.
- (b) **Amount of Security.** The amount of security, unless modified by the City Council, shall be as follows:

**Developers:** A \$1,000 security for each lot with at least one significant tree plus 125% of the estimated cost to furnish and plant the replacement trees ("estimated cost"). The estimated cost shall be at least as much as the reasonable amount charged by nurseries for the furnishing and planting of the replacement trees. The estimated cost shall be subject to approval by the city. In the event the estimated cost submitted by the applicant is not approved by the city, the city shall have the right in its sole discretion to determine the estimated cost.

**Builders:** A \$1,000 security for tree replacement requirements.

- (c) **Release of Security.** The \$1000 per lot developer security will be released for the lots that have secured a builders security on a quarterly basis. The tree replacement security shall be retained for at least one (1) year after the date that the last replacement tree has been planted or, if no replacement trees were required, six months after the certificate of occupancy has been issued. The city may release the security at that time unless the city, upon inspection, finds that any of the replacement trees have died or are unhealthy or if there was any encroachment upon the protective fencing surrounding any tree to be saved. The city may retain that portion of the security equal to the cost of:

- 1 - Removing dead or unhealthy trees and planting replacement trees, or
- 2 - Replacing a tree which protective fencing had been encroached upon.

## ARTICLE V. INCENTIVES FOR TREE PRESERVATION

**Sec. 22-09. Incentives for Tree Preservation.** The City Council declares it necessary and appropriate to provide incentives to assist the developer or builder in meeting or exceeding the tree preservation requirements. The available incentives include:

- (a) **Front and/or Rear Yard Setbacks** - City staff may approve administrative variances to the front or rear yard set back on individual lots to conserve significant trees and/or significant



woodlands provided the amount of the variance does not exceed a five foot deviation from the minimum setback requirements for the lot.

- (b) **Development Density Credits** - A bonus of up to ten (10) percent in the development density or lot coverage of portions of a site may be allowed by the City Council to conserve significant trees and/or significant woodlands. The City Council, in determining the reasonableness of the increase in the density or intensity of land use, shall consider the following factors:
- (1) The location, amount, and proposed use of open space,
  - (2) The location, design and type of dwelling units,
  - (3) The physical characteristics of the site, and
  - (4) The relationship of the proposed dwelling units to nearby developments.
- (c) **Wetland mitigation banking credits** - The City Council to conserve significant trees and/or significant woodlands may provide wetland mitigation banking credits in relation to the number, percentage, or acreage of trees preserved.

## ARTICLE VI. DISEASE CONTROL/TREE TRIMMING

**Sec. 22-10. Findings of Fact, Declaration of Purpose.** The city has determined that there are many trees growing on public and private premises within the city, the loss of which would substantially depreciate the value of public and private premises, and impair the safety, good order, general welfare and convenience of the public. The City Council has determined that the health and life of such trees is threatened by fatal diseases and insects such as Dutch Elm, Oak Wilt, and Emerald Ash Borer. The City Council hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors that carry such disease and declares them a public nuisance.

**Sec. 22-11. Intent Declared; Authority; Coordination of Program.** It is the intention of the City Council to adopt and enforce regulations to control and prevent the spread of plant pests and diseases pursuant to the authority granted by Minnesota Statutes Section 18G.13. These regulations are directed specifically at the control and elimination of Dutch Elm Disease, Oak Wilt, and Emerald Ash Borer and other epidemic diseases and infestations of shade trees and is undertaken at the recommendation of the Commissioner of Agriculture. The City Forester shall act as coordinator between the Commissioner of Agriculture and the City Council in the enforcement of these regulations.

**Sec. 22-12. Position of Forester Created; General Duties.** The position of City Forester is hereby created. It is the duty of the City Forester to coordinate, under the direction and control of the City Council, all duties of the city relating to the control and prevention of Dutch Elm disease, Oak Wilt disease, Emerald Ash Borer infestation and other epidemic diseases and insect infestations of shade trees, and perform the duties incident to such a program adopted by the City Council.

**Sec. 22-13. Nuisances Declared.** The following things are public nuisances whenever they may be found within the city:

- (a) Any living or standing Elm tree or part thereof infected with the Dutch Elm disease fungus, *Ceratocystis Ulmi* (Buisson) Moreau; or which harbors any of the Elm Bark Beetles, *Scolytus Multistriatus* (Eich.) or *Hylurgopinus Rufipes* (Marsh.);

- (b) Any living or standing Oak tree or part thereof infected to any degree with the Oak Wilt fungus, *Ceratocystis Fagacerarum*.
- (c) Any dead Elm or Oak tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned.
- (d) Any living or dead *Fraxinus* spp tree or part thereof infested to any degree with the insect Emerald Ash Borer (*Agrilus Planipennis*).

**Sec. 22-14. Inspections Required; Right to Enter.** The City Forester, or authorized agent, shall inspect all premises and places within the city as often as practical to determine whether any condition described in Section 22-13 exists thereon. The City Forester shall investigate all reported incidents of infection and infestation by Dutch Elm fungus, Elm Bark Beetles, Oak Wilt disease and Emerald Ash Borer. The City Forester or authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this Chapter.

**Sec. 22-15. Authority to Take Specimens.** Whenever necessary to determine the existence of Dutch Elm Disease, Elm Bark Beetles, Oak Wilt, or Emerald Ash Borer in any tree, the City Forester or authorized agent may remove or cut specimens from the tree as may be necessary or desirable for diagnosis. The City Forester or authorized agent may forward such specimens to a lab approved by the Minnesota Department of Agriculture for analysis to determine the presence of such disease or infestation. No action to remove living trees or wood shall be taken by the City until diagnosis of the disease or infestation has been made by detection by the City Forester or authorized agent of commonly recognized symptoms, by lab tests, or written consent to the action is obtained from the property owner.

**Sec. 22-16. Abatement Generally.**

- (a) No action to remove, destroy, dispose or require the removal, destruction and disposal of Elm trees, wood infested with Dutch Elm Disease fungus, Oak trees infected by Oak Wilt fungus or *Fraxinus* spp (Ash) trees or wood harboring Emerald Ash Borer will be taken by the city until a diagnosis of the disease or infestation has been made by detection by the City Forester or agent of commonly recognized symptoms, by lab tests or written consent to the action is obtained from the property owner. When such diagnosis has been made or consent is obtained, the infected or infested tree or wood must be removed, destroyed and disposed of in a manner that will effectively destroy and prevent as completely as possible the spread of the disease or insect infestation.
- (b) When the presence of Elm Bark Beetles has been discovered in or upon any living Elm tree but the presence of Dutch Elm Disease fungus is not then or thereafter diagnosed, the city will require that the tree be treated in a manner that will effectively destroy and prevent the spread of the insect as much as possible. If the City Forester or authorized agent deems that such treatment is not, or because of the extent of the infestation, cannot be effective, the tree must be removed and destroyed.
- (c) When the presence of Emerald Ash Borer has been discovered in or upon a living *Fraxinus* (Ash) tree, the city will require that the tree be treated in a manner which will effectively destroy and prevent the spread of the insect as much as possible. If the City Forester or authorized agent deems that such treatment is not or, because of the extent of infestation, cannot be effective, the tree must be removed and destroyed.
- (d) Standing dead Elm and Ash trees and Elm and Ash logs, branches, stumps, firewood or other raw material from which the bark has not been removed and which are not infected

or infested with Dutch Elm Disease fungus or Emerald Ash Borer must have their bark removed or destroyed or must be treated in a manner which will effectively destroy and prevent as much as possible the spread of the Elm Bark Beetle or the Emerald Ash Borer. If such treatment is not effective, or, because of the extent of infection or infestation, cannot be effective, the trees, logs, branches, stumps, firewood or other raw material must be removed and destroyed.

- (e) The City Forester shall establish a policy with specifications and procedures that are consistent with the specifications and procedures designated or approved by the Commissioner of Agriculture for the treatment, removal, destruction and disposal of trees logs, branches, stumps, firewood and other raw material infected or infested with Dutch Elm Disease fungus, Elm Bark Beetles, Oak Wilt fungus and Emerald Ash Borer.

**Sec. 22-17. Abatement Procedure; Collection of Costs.**

- (a) Whenever the City Forester or authorized agent has reason to believe that a nuisance as defined in Section 22-13 exists on any private property in the city, the City Forester or authorized agent shall report all findings to the City Council. If the City Council determines that a nuisance exists, the owner or person in control of such property on which the nuisance is found shall be notified by certified mail of the nuisance and the notice shall direct that the nuisance be removed or otherwise effectively treated in an approved manner by such owner or person in charge within 20 days of the date of such notice, or provision for the abatement made. The notice shall also state that if such nuisance is not abated within the time provided, nor provision for the abatement satisfactorily made, the city may abate the nuisance at the expense of the owner and that the unpaid charge or a portion thereof for such work will be made a special assessment against the property concerned.
- (b) If the owner or person in control of any private premises fails to have the nuisance removed or otherwise effectively treated within 20 days after the date of notification by mail, the City Forester or authorized agent may proceed to have the nuisance abated and any expense incurred by the city in so doing shall be specially assessed against the property concerned.
- (c) As soon as the abatement has been completed and the cost determined, the City Forester or authorized agent shall prepare an invoice and mail it to the owner, and thereupon the amount shall be due and payable at the City Hall within 30 days of the date of the invoice.
- (d) If the invoice is not paid within 30 days, the City Council may specially assess the costs against the property by following the procedure set forth in Minnesota Statutes Section 429.061.

**Sec. 22-18. Transporting Diseased or Infested Wood.** It shall be unlawful for any person to transport within the city any diseased or infested bark-bearing Elm wood, Oak wood, or Ash wood known to be diseased or infested, without having obtained a written permit from the City Forester or authorized agent. The City Forester or authorized agent shall grant such permits only when the purpose of this article shall be served thereby.

**Sec. 22-19. Treatment of Nearby Trees.** Whenever the City Forester or authorized agent determines that any tree or wood within the city is infected or infested with Dutch Elm Disease fungus, Oak Wilt, or Emerald Ash Borer, upon obtaining the consent of the property owner, the City Forester or authorized agent may treat all nearby high value trees with an effective destroying insecticide. Activities authorized by this section shall be conducted in accordance with technical

and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and agents whenever possible.

**Sec. 22-20. Interfering with Enforcement.** It is unlawful for any person to prevent, delay or interfere with the City Forester or authorized agent while he or she is engaged in the performance of duties imposed.

**Sec. 22-21. License Required for Commercial Tree Cutting, Trimming, Pruning, Removal, or Spraying.**

- (a) **License Required.** It shall be unlawful for any individual, partnership or corporation to conduct as a business the cutting, trimming, pruning, removal, spraying or otherwise treating of trees in the city without having first secured a license from the city to conduct such a business. Licenses issued under this section shall expire on December 31 of each year.
- (b) **Application.** An application for a license shall be made at the City's Licensing Division on a form which has been approved by the city, which shows, among other things, the name and address of the applicant, the number of vehicles, together with a description and license number of each vehicle and type of equipment that will be used in providing this service.
- (c) **Fee.** The annual fee for the license shall be set by City Council resolution.
- (d) **Proof of Insurance.** All applicants for a license must file with the city proof of a public liability insurance policy covering all operations of the applicant under this article, during the full term of the license for the sum of \$300,000 combined single limit coverage. The city shall be named as an additional insured. Such policy shall provide that it may not be cancelled by the insurer except after 30 days written notice to the city, and if such insurance is cancelled and the licensee fails to replace it within another policy that conforms to the provisions of this article, the license shall be automatically suspended until the liability insurance is replaced. All applicants for a license must file with the city a certificate of workers' compensation insurance if such insurance is required by state law.
- (e) **Chemical Treatment Requirements.** Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees shall file with the city proof that the applicant or the employee of the applicant administering such treatment has been licensed by the Minnesota Department of Agriculture as a Commercial Pesticide Applicator for the current year of operation.
- (f) **License Revocation.** Failure to comply with any provision of this article may result in the revocation of the license by the City Council, following a public hearing. Written notice of the public hearing shall be mailed at least 10 days prior to the hearing to the current holder of the license. Such notice should outline the violation(s) considered by the city to be grounds for revocation and inform the license holder of the opportunity to be heard at the public hearing.
- (g) **Penalty.** In addition to the revocation or suspension of the license, any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

## ARTICLE VII. TREE BOARD

**Sec. 22-25. Board Established.** A Tree Board for the City of Oakdale was established in 1995 in association with the city's participation in the Tree City USA program. The board serves as an advisory board for the City Council. All conclusions reached by the board shall serve as recommendations and powers of execution shall be vested in the City Council. The Tree Board shall adopt its own rules of order and bylaws for the purpose of governmental procedure.

**Sec. 22-26. Functions and Duties of Board.** The Tree Board shall act in an advisory capacity in all matters pertaining to trees. Specific responsibilities of the Board shall be:

- (a) City Tree Program: Annual program/report that may include taking inventory of trees, species, locations, and condition; annual work plan for tree maintenance, care, removal, and development; a plan for new plantings; priorities relating to trees; and any other activities to promote, maintain, or develop trees in the city.
- (b) Tree Preservation: Develop policy recommendations for amendments to the city's tree preservation ordinance, Article III of this Chapter.
- (c) Other: develop tree program in conjunction with the annual Arbor Day celebration; maintain diseased tree and public tree care policies; implement community forestry program; submit Tree City USA recertification applications; and work on other programs as assigned by the City Council.

**Sec. 22-27. Composition of Board.** The Tree Board shall consist of seven members, appointed by the City Council for three years. Terms begin July 1. A majority of all of the members shall constitute a quorum for any regular or special meeting. If a quorum is not established or maintained during the course of the meeting, no board or commission business may be transacted except a motion to adjourn or recess. (Ord. 857, 11/10/20).

**Sec. 22-28. Organization of Board.** The Tree Board shall elect from its membership, a Chairperson and Vice-Chairperson annually at its first meeting of the year.

**Sec. 22-29. Board Meetings and Records.** The Tree Board shall hold regular meetings as established in the bylaws. These meetings shall be open to the public. The Tree Board shall submit approved copies of its meeting minutes to the City Council and shall submit periodic reports when requested by the City Council.

**Sec. 22-30. Removal of Board Members.** Board members may be removed, at will, by action supported by a majority of the City Council.

**Sec. 22-31. Residency Requirement.** To the extent possible, persons appointed to serve on the board shall hold residence within the corporate limits of Oakdale. (Ord. 852, 10/08/2019).