

ORDINANCE NO. 1366

AN ORDINANCE AMENDING FRIDLEY CITY CODE CHAPTER 104 PERTAINING TO TREE MANAGEMENT

The Fridley City Council hereby finds after review, examination and recommendation of staff that Chapter 104 related to tree management be hereby amended and ordained as follows:

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FRIDLEY CITY CODE CHAPTER 104. ~~DISEASED-TREE MANAGERMENTS~~ (Ref. 481, 568, 639, 931, 1214)

104.01. DECLARATION OF POLICY

The City Council of Fridley has determined that trees provide a public benefit including cleaner air, cleaner water, decreased soil erosion, and increased property values ~~the health of the trees within the municipal limits is threatened by fatal tree diseases~~. It is further determined that ~~the loss of nuisance~~ trees growing upon public and private property ~~would substantially depreciate the value of property within the City and~~ impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to maintain a resilient urban forest control and prevent the spread of tree diseases pests and this Chapter is enacted for that purpose. (Ref. 481)

104.02. FORESTER POSITION CREATED

The powers and duties of the City Forester as set forth in this Chapter are hereby conferred upon the ~~Superintendent~~ Director of Public Works and all designated representatives. It is the duty of the Forester to coordinate under the direction and control of the City Manager all activities of the City relating to the management of trees on City property, the control and prevention of tree diseases pests that would threaten the integrity of the City's urban forest, and the elimination of nuisance trees. The Forester shall recommend to the City Manager the details of the program for the ~~control of tree diseases~~ maintenance of a resilient urban forest and perform the duties incident to such a program adopted by the City Council. (Ref. 931)

104.03. PROGRAM

It is the intention of the Council of Fridley to conduct a Management Program ~~of directed at the maintenance of a resilient urban forest. plant pest control pursuant to the authority granted by Minnesota Statutes, Section 18.023, as amended. This program is directed specifically at the control and elimination of tree diseases and is undertaken in accordance with Chapter 4: 3 MCAR 1.0109–1.0113 of the Rules and Regulations of the Minnesota Department of Agriculture. The City shall have the right to plant, prune, maintain, remove and replace all trees, shrubs, and other plantings now or hereafter on~~

~~properties controlled by the City including in any street, park, boulevard, public right-of-way or easement as may be necessary to ensure public safety or to preserve and enhance the city's urban forest. The City shall also have the right to require the abatement of any trees on public or private property deemed to be public nuisances as outlined in the Chapter. The City Forester shall act as coordinator between the Commissioner of Agriculture and the Council in conducting this program.~~

104.04. NUISANCES DECLARED

The following are public nuisances whenever they may be found within the City of Fridley:

- ~~1. — Any living or standing Elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (March).~~
- ~~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 the Oak Wilt disease fungus *Ceratocystis fagacearum*.~~
- ~~4. — Any dead Oak tree, or part thereof, including logs, branches, stumps, firewood, or other oak material which has not been debarked or free of hazard as determined by the Forester. (Ref. 931)~~
1. ~~5.~~ — Any diseased or infested tree ~~, dead tree,~~ or part thereof, including logs, branches, stumps, firewood, or other wooden material which has been determined to present a condition which endangers the safety or health of the public or urban forest and has not been ~~treated~~ abated according to the prescription of the City Forester. (Ref. 931).
2. Any hazardous tree which is determined to have structural defects in the roots, stem, or branches that may cause the tree or part thereof to fail, where such failure may cause personal injury or property damage to a "target". A "target" includes, but is not limited to, people, vehicles, buildings, and property, etc. Trees without targets are not considered hazards even if they are likely to fail and can be considered beneficial in habitat protection.

104.05. ABATEMENT

It is unlawful for any person to allow a public nuisance as defined in Section 104.04 to remain on any premises owned within, or controlled by, the City of Fridley. Such nuisances may be abated in the manner prescribed by this Chapter.

104.06. INVENTORY, INSPECTION AND INVESTIGATION

1. The Forester or an agent thereof may inspect all premises and places within the City as often as deemed appropriate to determine any condition described in ~~either~~

Section 104.04 ~~or 104.05~~ of this Chapter ~~exists thereon~~. The Forester shall investigate all reported incidents of ~~diseased~~ nuisance trees. (Ref. 931)

2. The Forester or an agent thereof may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this Chapter.

33. The Forester or an agent thereof shall make a field diagnosis according to generally accepted field diagnosis procedures. ~~to 3 MCAR 1.0111 and laboratory confirmation by the Minnesota Department of Agriculture shall only be necessary when those definitive symptoms are not present.~~

104.07. ABATEMENT OF ~~TREE DISEASE~~ NUISANCES

In abating the nuisances defined in Section 104.04, the Forester or an agent thereof shall prescribe the ~~infected~~ nuisance tree or wood to be evaluated, monitored, sprayed, root barriered, removed, burned or otherwise effectively treated so as to ~~destroy eliminate and the causative organism or vector and~~ prevent, as fully as possible, the nuisancespread of tree diseases. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and procedures.

104.08. PROCEDURES FOR REMOVAL OF INFECTED TREES OR WOODS

When the Forester or designee thereof finds that a public nuisance as defined in Section 104.04 exists in any tree or wood in any public or private place in the City, the Forester shall:

1. On private property, notify the property owner in writing with a ~~Diseased/Hazardous Nuisance~~ Tree Abatement Notice. The property owner shall carry out any recommended abatement procedure(s) within thirty (30) days from the date of receipt of the notification unless a written extension is granted by the Forester.

A. If the owner fails to follow the recommendation of the Nuisance Tree Abatement Notice within the designated time period, the Forester shall notify the property owner by mail in writing that the City will contract for the abatement of the public nuisance. The Forester shall then proceed to contract for the abatement procedures as soon as possible and shall report to the City Clerk all costs resulting from the abatement procedures carried out on such private property. The City Clerk shall list all such charges related to the City abatement administrative costs against each separate lot or parcel by September 15th of each year as special assessments to be collected commencing with the following year's taxes. All assessments ~~related costs~~ shall be added to each assessment. (Ref 1214)

2. In the case of boulevard trees, defined as a tree growing within an improved a street or alley right-of-way or an street-easement that has been acquired for an existing improved street or alley, notices will be mailed to the owner of the abutting property as previously described in Section 104.08.1. However, the City shall abate any ~~diseased~~ nuisance boulevard tree at no cost to the property owner. If the property owner desires,

the City will replace the tree with a ~~bare root selection tree~~ on the owner's property in the vicinity of the removed tree. (Ref. 931)

3. All assessments levied for the repayment of tree disease abatement costs may be repaid over a ~~five-year~~ period designated by the City Council. Such assessments shall be levied ~~under authority granted by Minnesota Statutes 429.101 in accordance with the assessment procedures established in City Code Chapter 128.~~

4. If the ~~infected- nuisance~~ tree is located on public land, the Forester shall transmit a similar notification including prescription to the ~~city, county, or school administration agency~~ responsible for ~~grounds~~ maintenance of said property. Such ~~infestations- nuisances on~~ public property shall be abated by the respective agent, according to the prescriptions ~~and regulations of 3 MCAR 1.0111 of the Minnesota Department of Agriculture, of the City Forester~~ within ~~twenty-thirty (320)~~ days of notification unless a written extension is granted by the Forester.

104.09. PROGRAM RECORDS

~~The Forester shall keep accurate records of the Pr-Tree-Disease-Control-Management Program including and the costs of abatements ordered under this program. The Forester shall report to the Council all 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. submit any required reports to the Minnesota Commissioner of Agriculture.~~ (Ref. 931)

~~104.10. SPRAYING TREES~~

~~Whenever the Forester determines that any tree or wood within the City is infected with disease, he/she may spray all nearby high value trees with an effective disease destroying concentrate. Spraying 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 thereof whenever possible.~~

~~104.11. TRANSPORTING WOOD PROHIBITED~~

~~It is unlawful for any person to transport within the City any diseased wood without having obtained a permit from the Forester or an agent thereof. The Forester shall grant such permits only when the purpose of this Chapter will be served thereby.~~

104.102. INTERFERENCE PROHIBITED

It is unlawful for any person to prevent, delay or interfere with the Forester or agent thereof while they are engaged in the performance of duties imposed by this Chapter.

104.113. LICENSE REQUIRED

It shall be unlawful for any individual, partnership or corporation to conduct as a business the cutting, trimming, pruning, removing, spraying or otherwise treating of trees, shrubs

or vines in the City without first having secured a license from a City to conduct such business.

104.12. LICENSE REQUIREMENTS

1. Application.

Application for a license under this Chapter shall be made at the office of the City Clerk of the City.

2. Application Form.

The application for a license shall be made on a form approved by the City which ~~shows, among other things, the name and address of the applicant, the number and names of the employees of the applicant, the number of vehicles of the applicant, together with a description and license number of each, and the type of equipment proposed to be used~~ includes:

Business name and address;

Name and address of applicant;

Business phone number;

Number and type of vehicles;

Type of state licenses and/or certifications applicant or employees have; and

Any other information deemed necessary by the City Clerk for the license.

3. Liability Insurance.

No license or renewal of a license shall be granted, nor shall the same be effective, until the applicant has filed with the City Clerk proof of a ~~public-general~~ liability insurance policy covering all operations of such applicant under this Chapter for the sum of at least one ~~hundred thousand~~ million dollars (~~\$1,00,000,000~~) per occurrence and two million dollars (~~\$2,000,000~~) annual aggregate against liability for bodily injuries or death for each person, for the sum of at least three hundred thousand dollars (\$300,000) against liability for bodily injuries or death to more than one person from one accident and for at least ~~fifty one hundred~~ thousand dollars (~~\$5100,000~~) against liability for damage or destruction of property. The City shall be named and the insurance provided shall include the City as an additional party insured. Said policy shall provide that it may not be cancelled by the insurer except after ten (10) days written notice to the City, and if such insurance is so cancelled and licensee shall fail to replace the same with another policy conforming to the provisions of this Chapter said license shall be automatically suspended until such insurance shall have been replaced.

4. Worker's Compensation Insurance.

Each license applicant shall file with the City Clerk a Certificate of Insurance of Worker's Compensation when such insurance is required by State Statute.

5. Chemical Treatment Requirements.

Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees, shrubs or vines shall file with the City Clerk proof that the applicant or an employee of the applicant administering such treatment has been certified by the Agronomy Division of the Minnesota Department of Agriculture as a "commercial pesticide applicator". Such certification shall include knowledge of tree disease chemical treatment.

6. Minnesota Tree Care Registry

All applicants must be registered with the Minnesota Department of Agriculture Tree Care Registry.

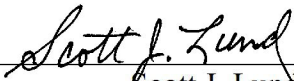
104.135. FEES

The annual license fee and expiration date shall be as provided in Chapter 11 of this Code.

104.146. PENALTIES


Any violation of this Chapter is a misdemeanor and is subject to penalties provided for such violations under the provisions of Chapter 901 of this Code.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRIDLEY THIS 10TH DAY OF DECEMBER 2018.



Scott J. Lund, Mayor

ATTEST:



Debra A. Skogen, City Clerk

First Reading: April 23, 2018
Second Reading: December 10, 2018
Publication: December 21, 2018