

CHAPTER 16
NUISANCES, MISDEMEANORS & OTHER OFFENSES

SECTION 1

- 1601.000. **CONTROL AND PREVENTION OF DUTCH ELM DISEASE.**
- 1601.001. **DECLARATION OF POLICY.** The City Council of Winsted has determined that is necessary to establish, develop and administer a comprehensive community tree management program for the care of trees on public property. The City of Winsted further determines that it needs to recognize and effectively manage public tree resources, and encourage the implementation of community tree management. The City also has determined that it is necessary to maintain the City's urban forest (i.e. trees located on City owned real estate). The City has determined that trees infected with any spreading or contagious-type disease such as Dutch Elm, affects trees growing on public and private property and can 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 City to control and prevent the spread of diseases that threaten trees on private and public lands located in the City of Winsted. It is also the intention of this Ordinance to encourage good tree management on private property located within the City of Winsted.
- 1601.002. **TREE BOARD ESTABLISHED.** A Tree Board is hereby established. Said Tree Board consists of two members of the City Council, the City Clerk, the Supervisor of the City of Winsted's Maintenance Department and a citizen appointed by the Mayor. All such persons shall serve a one-year term of office or being appointed annually at the first meeting of the City Council in January, with approval of the City Council. Any vacancies shall be filled at the next regular scheduled Council meeting by appointment of the Mayor with approval of the City Council. Said Board shall meet at such times and with such frequency as it deems necessary to fulfill its duties and obligations herein.
- 1601.003. **POSITION OF FORESTER CREATED.** The powers and duties of the City Forester as set forth in this Section, are hereby conferred upon the City Maintenance Supervisor, whose duty is to coordinate, under the direction and control of the City Council, all activities of the City relating to the management of the City's urban forest including, but not limited to, the control and prevention of all diseases, including Dutch Elm disease. The Forester shall recommend to the Council the details of any program which he deems necessary for the control of any and all diseases, and perform the duties incident to any such programs adopted by the Council. The tree removal and maintenance program contained in 1601.004 shall be managed by the City Forester.
- 1601.004. **DISEASE CONTROL AND MANAGEMENT PROGRAM.** It is the intention of Council of Winsted to conduct a program of planned pest control pursuant to all powers of the City including the authority granted by Minnesota Statutes 1961, Section 18.022.

- A. NUISANCES DECLARED. The following things are public nuisances whenever they may be found within the City of Winsted:
1. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *ceratocystis Ulmi* (Eichh.) or *Hylungopinus Rufipes* (Marsh).
 2. Any dead elm tree, or part thereof, including legs, branches or other material from the tree.
 3. Any tree suffering from disease, windstorm, hail, tornado, fire, or other destruction that, in the opinion of the City Forester, renders it incapable of growing as a normal and aesthetically pleasing tree.
- B. ABATEMENT. It is unlawful for any person to permit any public nuisance as defined in Paragraph A. above and remain on any premises owned or controlled by said person within the City of Winsted. Such instances may be abated in the manner prescribed in this Section.
- C. INSPECTION AND INVESTIGATION.
1. ANNUAL INSPECTION. The City Forester shall inspect all premises and places within the City as often as practicable to determine whether any tree is in a condition previously described above. The City Forester shall investigate all reported incidents of any disease or damage to trees.
 2. ENTRY ON PRIVATE PREMISES. The City Forester or his duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned said City Forester under this Ordinance. The City Forester, however, shall only be required to take action on trees located on private property if they are infested with Dutch Elm disease or such other disease that is likely to spread to other trees and cause said other trees to die.
 3. DIAGNOSIS. The City Forester shall, upon finding conditions indicating Dutch Elm infestation, take such other steps necessary for diagnosis determination. Except as otherwise provided herein, no action to remove infested trees or wood shall be taken until positive diagnosis of the diseased tree has been made. The City Forester shall take similar action where any tree is suffering from a disease that is likely to spread to other trees and cause them to die.
- D. ABATEMENT OF NUISANCES. In abating the nuisances defined herein, the City Forester shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully possible, the spread of any disease or beetle, pest, insect, rodent or other thing causing the spread of such disease.

- E. PROCEDURE FOR REMOVAL OF INFECTED TREES AND WOOD. Whenever the City Forester finds with reasonable certainty that the infestation of any disease (including Dutch Elm) previously defined hereinabove, said City Forester shall, in accordance with removal regulations set forth herein:
1. Send written or oral notice to the property owner requiring removal of the diseased tree within 15 days.
 2. Should the diseased tree not be removed as directed, within the specified time, the City Forester may remove the tree and advise the City Clerk of same who shall then have the cost of said removal assessed against the owner of the property.
- F. SPRAYING DISEASED TREES. Whenever the City Forester determines that any tree or wood within the City is infected with a disease that is treatable with chemicals, the City Forester may spray or treat same with an effective chemical. Activities authorized by this Paragraph shall be conducted in accordance with the supervision of the City Forester.
- G. TRANSPORTATION OR STORAGE. Bark bearing any wood infested with disease may be transported or stored for fire wood provided:
1. The wood is stored AT LEAST 50 FEET from any similar tree;
 2. The stored wood is sprayed with a chemical that is known to combat said disease (when stored between April 1 and October 1 of any given year); and
 3. It is not detrimental to other trees or vegetation.
- H. UTILIZATION OF WOOD. To fully utilize the diseased wood and to prevent undue financial hardship to the City, the City Forester may cause to fall any diseased tree, and:
1. The tree then may be sold to any interested party for One (\$1.00) Dollar providing:
 - a. There has been a receipt and waiver of liability signed by the interested party; and
 - b. All brush, debris and other particles are removed fully by the interested party from the felled site.
- I. INTERFERENCE PROHIBITED. It is unlawful for any person to prevent, delay or interfere with the City Forester or his agents while they are engaged in the performance of duties imposed by the Section.

1601.005. **ANNUAL PLAN.** It is the responsibility of the City Clerk to furnish the City Forester with an annual Community Forestry Work Plan which must be developed by the Tree Board annually.

1601.006. **PUBLIC TREE CARE POLICY.**

- A. The City shall be responsible for removal, replacement, planting and maintenance of trees on all public streets, parks, and dedicated land.
- B. The City shall provide to new developments, a variety of species of trees which shall be planted at locations the City desires.
- C. Planting and fertilizing of newly planted trees shall be the responsibility of the City. Watering of the trees shall be responsibility of the property owner where such tree is planted.
- D. The City shall serve notice to property owners regarding watering of new trees if there is a lack of moisture. Said notice shall be placed in the local newspaper.
- E. REMOVAL OF TREES. Any diseased or damaged trees as described in this Section shall be done in a timely manner and pursuant to the procedures as set forth hereinabove.
- F. The City Forester shall cause any trees in the urban forest to be trimmed according to normally accepted guidelines for said tree and for the location of said tree. The City Forester shall insure that all trees located on City property that are near City streets, be trimmed to a height that allows maintenance vehicles to properly maintain said street; the City Forester shall also make sure that all trees on said City streets are trimmed so as to allow all vehicle use of said street to not be inhibited by the growth of said tree, including any trees adjacent to any of the above and appropriate lines of sight for drivers of said vehicles on said streets.
- G. The City Forester is allowed to remove any trees, brush, bushes or plantings of any nature whatsoever located on boulevards (i.e. area between the private property line and the curb line of any street) if the same is necessary to accomplish the objectives contained herein, and/or is necessary to maintain any utility located in said boulevard, or in the event the boulevard is to be put to some other use which has been approved by the City Council of Winsted.

1601.006. **ARBOR DAY.** An Arbor Day observance will occur annually in the first week of May, and shall be declared as such by proclamation of the Mayor of the City of Winsted.

1601.007. **PENALTY.** Any person, firm or corporation who violates the provisions of this Section shall be guilty of a Misdemeanor and may be punished to the extent allowed by State Statute for a Misdemeanor pursuant to M.S. Section 609.02, Subd. 3.