

CHAPTER 5**ENVIRONMENT****500. TREES AND TREE DISEASE.**

Section 500.01. Declaration of Policy. It is the purpose of this section to carry out Minnesota Statutes Chapter 18.023 and Regulations, Chapter 4, AGR 101-120 of the Minnesota Department of Agriculture, adopted pursuant thereto, in order to control diseases which threaten trees that contribute to the health and welfare of the community.

Section 500.03. Definitions. As used herein, the following terms shall have the meaning ascribed to them by this section.

Subd. 1. Tree disease shall mean Dutch Elm disease caused by *Ceratocystis ulmi* and oak wilt disease caused by *Ceratocystis fagacearum*.

Subd. 2. Disease control area shall mean an area designated by resolution of the City Council and approved by the Minnesota Department of Agriculture for intensive surveillance of the tree disease.

Subd. 3. Tree inspector shall mean a person appointed annually by the City Council and approved by the Minnesota Department of Agriculture to be the primary enforcement agent of this section.

Subd. 4. Public nuisance shall mean, for purposes of this Ordinance, any living or standing tree or part thereof infected to any degree by tree disease, or any dead elm or oak tree or part thereof, including logs, branches, stumps, or firewood, provided, however, that it shall not be deemed a "public nuisance" for the owner or owners of a homestead to store or stockpile such dead elm or oak tree or part thereof in or upon said homestead from September 16 of a given year until March 31st of the following year upon the condition that a permit for such storage or stockpiling be obtained from the "Tree Inspector".

Section 500.05. Public Nuisances Prohibited. It shall be unlawful for the owner of any parcel of land to permit or maintain on any such parcel of land or upon abutting street right of way any public nuisance as defined by Section 500.03, Subd. 4. It shall be the duty of any such owner to abate promptly the nuisance in a manner authorized by this section.

Section 500.07. Notice to Abate Nuisance. If the tree inspector determines that a public nuisance as defined by Section 500.05 exists on a parcel of land or abutting street right of way, he shall cause to be served upon the owner of the parcel a written notice requiring the owner of said parcel to abate the nuisance. Written notice shall be served personally or by registered mail addressed to the owner of the parcel at his last known address. If the owner upon whom such notice is served fails, neglects, or refuses to abate the nuisance within ten (10) days after the mailing of such notice or serving of such notice, the tree inspector or his duly authorized representatives may proceed to abate the nuisance and charge the cost thereof against the owner of the property.

Section 500.09. Appeal from Determination. Except in cases where disease is diagnosed by laboratory testing, a property owner may appeal to the City Council the determination of the tree inspector that a public nuisance exists. Such appeal must be filed in writing with the tree inspector within ten (10) days of the mailing or serving of notice of a public nuisance. If an appeal is filed, the tree inspector shall not enforce abatement until his determination is affirmed by the City Council.

Section 500.11. Abatement. Abatement of a public nuisance as defined by Section 500.03, Subd. 4 shall be achieved by the following methods:

Subd. 1. Destruction of diseased trees by removal to a chipping station; removal and destruction of all bark; or burning pursuant to Ordinance No. 140, in which case the tree inspector rather than the fire chief shall issue the burning permit. No trees, logs or parts thereof shall be buried within the City of Medina, except in a licensed sanitary landfill.

Subd. 2. Debarking of elm tree stumps to the ground line.

Subd. 3. Root graft control according to University of Minnesota Extension Folder 211, Revised, 1974, "The Dutch Elm Disease," or Plant Pathology Fact Sheet No. 5, Revised, 1973, "Oak Wilt and Its Control."

Subd. 4. Girdling diseased oak trees as soon as possible, and avoiding pruning or other damage to oak trees during the months of May and June.

Section 500.13. Assessment of Unpaid Charges. Each year the city clerk-treasurer shall list the total unpaid charges for each nuisance abatement attributable to respective parcels of land pursuant to the provisions of Minnesota Statutes Chapter 429. The City Council shall levy such unpaid charges as special assessments against the respective parcels of land, certifying such special assessments to the county auditor. The special assessment of such unpaid charges shall be in addition to any penalties imposed against the owner of a parcel of land for violation of the provisions of this section.

Section 500.15. Inspections Authorized. In order to carry out the provisions of this section, the tree inspector and his duly authorized representatives are hereby empowered to enter upon any parcel of land at all reasonable hours for the purposes of inspecting any trees or wood, removing specimens therefrom for laboratory analysis, and carrying out enforcement of this section.

Section 500.17. Interference Prohibited. It shall be unlawful for any person to prevent or interfere with the tree inspector or his duly authorized representatives in the performance of any duties provided for in this section.