

Ordinance 2016-3
AN ORDINANCE AMENDING THE STEWARTVILLE CODE OF ORDINANCES

Be it ordained by the City Council of the City of Stewartville MN as follows:

Section 630.00 shall be repealed in its entirety and the following shall be substituted in its place.

Section 630 - Trees

630.01 Declaration of Policy. The City Council has determined that the health oak, elm and ash trees are threatened by a fatal disease known as Oak Wilt and Dutch Elm and invasive pest infestation, as in Emerald Ash Borer. It has also been determined that the health of many tree species may be threatened by diseases and infestation of an epidemic nature. It has further been determined that the loss of oak, elm, ash and other trees threatened by epidemic diseases and/or infestation on public and private property would substantially depreciate the value of property and impair 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 infestations, and provide for the removal of dead, infested or diseased trees, as nuisances.

630.02 Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. "Shade Tree Disease" – Dutch elm disease, Oak Wilt disease, or any other tree disease of an epidemic nature as declared by the City Council.
- B. "Invasive Pest Infestation" – Emerald Ash Borer or any other tree infestation of an epidemic nature as declared by the City Council.
- C. "City Forester" – The Public Works Director, or such other employee of the City as the Council may designate and who shall thereafter qualify.
- D. "Nuisance"
 - a. Any living or standing tree infected to any degree with a shade tree disease or invasive pest infestation; or
 - b. Any logs, branches, stumps or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the City Forester.

630.03 Scope and Adoption by Reference. Minnesota Statutes, Section 18.023 is hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases and invasive pest infestation; provided, that this Section shall enlarge such Statutes, Rules and Regulations in such circumstances where the Code is more restrictive.

630.04 Unlawful Act. It is unlawful for any person to keep, maintain or permit, upon premises owned by him or upon public property where s/he has the duty of tree maintenance, any nuisance as herein defined.

630.05 Inspection, Diagnosis and Abatement. It is the power and duty of the City Forester to enter upon public or private property at any reasonable time for the purpose of inspecting for, and diagnosing, and if necessary, abating shade tree disease or invasive pest infestation. In the case of suspected shade tree disease or invasive pest infestation, and in performances of his duties, the City Forester may remove such specimens or samples as may be necessary or desirable for diagnosis.

630.06 Abatement of Nuisance. Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease or invasive pest infestation. Such abatement procedures shall be carried out in accordance with current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith. Such standards shall be kept on file in the office the City Clerk and shall be revised from time to time based on current research.

630.07 Procedure for Removal of Infected Trees and Wood.

- A. Whenever the City Forester finds, with reasonable certainty, that the infection or danger of infection, exists in any tree or wood on any public or private property, s/he shall proceed as follows:
 1. If the City Forester finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease or invasive pest infestation, s/he may choose to re-inspect said tree either later the same growing season or at the beginning of the following growing season. If at that time the tree has not recovered, the City Forester shall proceed by abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429.
 2. If the City Forester finds that danger of infection of other trees is imminent, s/he shall notify the owner of the property by certified mail that the nuisance will be abated by a specific time, nor more than twenty (20) days from the date of receipt of such notice. After the expiration of the notice the City Forester may abate the nuisance.
 3. If the City Forester finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease or invasive pest infestation, s/he may proceed to abate the nuisance forthwith. The City Forester shall upon the completion of the nuisance abatement, ascertain the

cost attributable to each lot. The City Administrator or City Clerk shall certify to the County Auditor/Treasurer of Olmsted County a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

4. The City Forester shall keep a record of the costs of abatements done under this Section and shall report monthly to the City Administrator or City Clerk all work done for which assessments are to be made starting and certifying the description of the land, lots, parcels involved and the amount chargeable to each.
5. On or before October 1 of each year, the City Administrator or City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. 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/Treasurer and collection the following year along with current taxes.

- B. No damage shall be awarded the owner for destruction of any tree, wood or part thereof pursuant to this Section.

630.08 Spraying Trees.

- A. Whenever the City Forester determines that any tree or wood is infected or threatened with infection, s/he may spray or treat all nearby high value trees with an effective pesticide or fungicide or both. Activities authorized by this Section shall be conducted in accordance with technical and expert specifications or, where appropriate, the plans of the Commissioner of Agriculture.
- B. The notice and assessment provisions 630.08 apply to spraying and treatment operations conducted under this Section.

630.09 Transporting Wood Prohibited. It shall be unlawful for any person to transport any tree or wood that is infected or infested with any invasive pest infestation into or through the City of Stewartville.

630.10 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the City Forester while s/he is engaged in the performance of duties imposed by this Section.

630.11 Subsidies. The duty of any property owner to bear the cost of removing or maintain trees, whether by private contract or assessment, may be subject to a subsidy policy, if any, established by the City for the treatment or removal of trees infected with shade tree disease.

Adopted by the City Council this 24th day of May, 2016.

Jimmie-John King, Mayor

Attest:

Cheryl Roeder, City Clerk

