

706. Diseased or Dying Trees

§706.010 DISEASED OR DYING TREES; PURPOSE. The City Council of the City of White Bear Lake has determined that the health of the trees within the municipal limits are threatened by tree diseases. It is further determined that the loss of the 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 control and prevent the spread of diseases and this chapter is enacted for that purpose.

It is the intention of the City Council of the City of White Bear Lake to conduct a program of disease control pursuant to the authority granted by Minnesota Statutes section 18.023. This program is directed specifically at the control and elimination of Dutch Elm Disease Fungus, Elm Bark Beetles, Oak Wilt Fungus and any other tree diseases or pests which may be considered public nuisances. (Ref. Ord. Nos. 458, 6/11/68; 571, 4/8/75)

§706.020 DISEASED OR DYING TREES: ADMINISTRATION. It is the duty of the Public Works Department to coordinate all activities of the City relating to the control and prevention of tree diseases covered by this chapter.

§706.030 DISEASED OR DYING TREES: PUBLIC NUISANCE, DEFINED. The following are considered public nuisances whenever they are found within the City of White Bear Lake:

1. Any living or standing elm tree or part thereof infected to any degree with Dutch Elm Disease Fungus Ceratocystis Ulmi (Buisman) Noreau or which harbors any of the Elm Bark Beetles Scoivtus Multistriatus (Eichh.) or Hylurgopinus Rufipes (Marsh).

2. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material, the bark of which has not been removed.

3. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt Disease Fungus Ceratocyrstris Fagacearum.

4. Any tree, living, dead, or parts thereof, infected to any degree with disease or infestation (bugs, beetles, worms or fungus) or which may be considered a threat to the public welfare.

(Ref. Ord. Nos. 485, 6/11/68; 571, 4/8/75)

§706.040 DISEASED OR DYING TREES; PUBLIC NUISANCE, ABATEMENT AND ASSESSMENT. It is unlawful for any person or persons to permit any public nuisance as defined in this chapter to remain on any premise owned or controlled by him within the City of White Bear Lake. Such nuisances must be abated in the manner prescribed by this chapter.

Pursuant to the authority granted by Minnesota Statutes §18.022, Subd. 6, the City Council by this ordinance authorizes the Director of Public Works and his/her agents to enter and inspect any public or private place which might harbor plant pests.

The City shall give to the owner or controller of the premises, where the public nuisance is described in §706.030 above are found, a written notice of the existing nuisance requiring the removal, burying or burning (if permitted) of same within twenty (20) days following the delivery or sending of such notice. A notice shall also notify the owner or controller of said premises that unless such nuisances are abated in compliance with this chapter within the specified time period, the City will proceed with the removal and abatement of such nuisances and assess all costs, authorized by this Chapter, thereon against the said property owner. When the condition of a tree is indeterminable by City Staff an expert tree consultant will be hired to determine the condition of the tree. The cost of said consultant will be paid by the City.

Service of such notice shall be by personal delivery or sent by regular U.S. mail to the person or persons to whom was sent the tax bill for the general taxes for the last preceding year on the property. It shall thereupon become the duty of the owner or owners of said premises to cause such diseased tree or trees or nuisances to be abated.

In the case of removing or treating of trees located on street terraces or boulevards, the owner or controller of abutting property may remove, or have removed, according to specifications established by the Director of Public Works, the subject tree at his or her expense. An alternative treatment regime of fungicide may be authorized the Director of Public Works. Trees which are not removed or treated within the specified time shall be declared a public nuisance and removed or treated by the City which may assess one half (1/2) the total cost, including reasonable administrative expenses, thereof to the property, which expense shall become a lien on the property. (Ref. Ord. Nos. 485, 6/11/68; 571, 4/8/75; 701, 10/8/85)

§706.050 DISEASED OR DYING TREES; PUBLIC NUISANCE ASSESSMENT, DEFERRAL. Pursuant to Minnesota Statutes §435.193 to §535.195, the City Council may, at its discretion, defer payment of a special assessment for the cost of removal of diseased trees.

Subd. 1. Standards and Guidelines. No property shall be considered for deferral of a special assessment for the cost of removal of diseased trees except when all of the following qualifications exist:

1. Affected property is homestead property owned by at least one (1) person who is sixty-five (65) years of age or older.

2. The City orders the abatement of a public nuisance pursuant to this chapter and the applicant, on forms supplied by the City, authorizes the City to abate same within the prescribed time.

3. Payment of special assessments would create a hardship for the applicant. A hardship shall be considered to exist if the household income of the owner does not exceed eighty (80) percent of the most recent published median household income data. Amended 11/9/04

The applicant shall provide the City with such other information as may be required to make a proper determination as to eligibility.

Subd. 2. Procedure. A person seeking a deferment shall make application to the City on forms prescribed by the County Auditor together with such other information as may be required by the City. The application shall be filed with the City Clerk within thirty (30) days from the adoption of the assessment roll. To remain eligible for the term of the deferment, annually, before August thirty-first (31st), the applicant shall file a renewal application with the City Clerk. The City Council shall review each application and either grant or deny the deferment, provided that nothing herein shall be construed to prohibit the determination of hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines, where the determination is made in a non-discriminatory manner and does not give the applicant an unreasonable preference or advantage over other applicants. Deferments shall be subject to the terms and conditions of subdivision 3.

Subd. 3. Terms and Conditions. The granting of a deferment shall entitle the property owner to pay the special assessment with interest, if any, accrued to December thirty-first (31st) of the year in which payment is made in a single, installment payable on or before May thirty-first (31st) of the year following the certification of the assessment or in lieu thereof, to pay such assessment with interest, if any, accrued to December thirty-first (31st) of the year in which payment is made in equal installments extending over a period of five (5) years, the first (1st) of the installments to be payable on or before May thirty-first (31st) of the year following certification of the assessment. The property owner may, at any time prior to the certification of the assessment to the County Auditor, pay to the City Treasurer the whole of the assessment with interest accrued, if any, to the date of payment, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption of the assessment and, the property owner may, at any time thereafter, pay to the County Treasurer the entire amount of the assessment remaining unpaid with interest, if any, accrued to December thirty-first (31st) of the year in which payment is made.

The City Council shall at the time of the adoption of the assessment, determine the interest rate, if any, which shall be charged for deferral.

The option to defer the payment of special assessments in equal annual installments extending over a period of five (5) years shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events:

1. The death of the property owner when there is no spouse who is eligible for deferment;
2. The sale, transfer or subdivision of all or any part of the property;
3. Loss of homestead status on the property;
4. Determination by the City Council for any reason that there would be no hardship to require immediate or partial payment; or,
5. Failure to file a renewal application. (Ref. Ord. No. 607, 3/21/78)

§706.060 DISEASED OR DYING TREES; TRIMMING TREES. It is the responsibility of the property owner or controller to trim any branch or branches (dead or dying) that could be a place for the Elm or Oak Bark Beetles to harbor and propagate. Trees must not be trimmed in the late spring season (sap time, April and May) to prevent the infection of the fungi spores through the fresh wound and infecting any otherwise healthy tree. (Ref. Ord. No. 571, 4/8/75)

§706.070 DISEASED OR DYING TREES; SPRAYING TREES. Whenever the City determines that any tree or part thereof within the City is infected with a disease or insect, it may spray all nearby trees with an effective destroying concentrate. (Ref. Ord. Nos. 458, 6/11/68; 571, 4/8/75)

§706.080 DISEASED OR DYING TREES; TRANSPORTATION OF DISEASED WOOD PROHIBITED. It is unlawful for any person to transport within the City any bark bearing elm or oak wood, known to have Dutch Elm or Oak Wilt diseases or infestation or a suspect of either or both, without having obtained a permit from the City Clerk or his authorized representative who shall grant such permit only when the purposes of this chapter will be served thereby. (Ref. Ord. Nos. 458, 6/11/68; 571, 4/8/75)

§706.090 DISEASED OR DYING TREES; REFORESTATION. Boulevard trees may be replaced on a one for one basis by the City at City expense. The site and the species of the replacement tree will be determined by the City. (Ref. Ord. No. 571, 4/8/75)