

CITY OF COON RAPIDS, MINNESOTA

CHAPTER 8-800

CONTROL OF EPIDEMIC DISEASES IN SHADE TREES

8-801 Declaration of Policy. The City Council of the City of Coon Rapids has determined that the health of elm and oak trees within the City limits is threatened by fatal tree diseases, commonly known as Dutch elm and oak wilt diseases. It has further been determined that the loss of elm and oak trees growing upon public and private property would 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 other epidemic diseases of shade trees, and this Chapter is enacted for that purpose.

8-802 Forester.

(1) Position Created. The position of Forester is hereby created. The City Manager may, at his discretion with approval of the Council, contract with third parties for the furnishing of all services of the Forester as contained in this Chapter and set the rate of compensation therefor.

(2) Duties of Forester. 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 control and prevention of Dutch elm disease, oak wilt disease, and other epidemic diseases of shade trees. He shall recommend to the Council the details of a program for the control of said diseases and shall perform the duties incident to such a program adopted by the Council.

8-803 Epidemic Disease Program.

(1) Intent. It is the intention of the Council to conduct a program of plant pest control pursuant to the authority granted by Minnesota Statutes 1961, Section 18.022, as amended. This program is directed specifically at the control and elimination of the Dutch elm disease fungus, elm bark beetles, and the oak wilt fungus, and it is undertaken at the recommendation of the Commissioner of Agriculture for the State of Minnesota. The City Forester shall act as coordinator between the Commissioner of Agriculture and the Council in the conduct of this program.

8-804 Nuisances Declared.

(1) Public Nuisances. The following things are public nuisances whenever they may be found within the City of Coon Rapids:

(a) 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* (Marsh).

(b) Any dead elm tree or part thereof, including, but not limited to, logs, branches, stumps, roots, firewood, or other material, which has not been stripped of its bark and burned or sprayed with an effective elm bark beetle insecticide.

(c) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*.

(d) Any dead oak tree or part thereof, which in the opinion of the forester constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood or other oak material, which has not been stripped of its bark and burned or sprayed with an effective

fungicide.

(e) Other shade trees with epidemic diseases.

(2) Abatement. It is unlawful for any person to permit any public nuisance, as defined in Section 8-804 to remain on any premises owned or controlled by him within the City of Coon Rapids. Such nuisances may be abated in the manner prescribed by this Chapter.

(3) Violations. Any owner of real estate in the City who is notified of the existence of diseased trees on his property as provided in Section 8-807(1) must, within the allotted time, cut down said diseased trees and remove all parts, branches, stumps, and brush to a place that may be designated from time to time by the Forester and there burn said parts, branches, stumps, and brush.

8-805 Inspection and Investigation.

(1) Annual Inspection. The Forester shall inspect all public and private places within the City which might harbor plant pests, as defined in Minnesota Statutes 18.46, Subdivision 13, as amended, as often as practicable to determine whether any condition described in Section 8-804 of this Chapter exists thereon. He shall investigate all reported incidents of infection or infestation by the Dutch Elm fungus, elm bark beetles, Oak Wilt fungus, or any other epidemic diseases of shade trees. The term "private place" means every place except the private home.

(2) Entry on Public and Private Places. The Forester or his duly authorized agents may enter upon all public and private places at any reasonable time for the purposes of carrying out any of the duties assigned him under this Chapter.

(3) Diagnosis. The Forester shall, upon finding conditions indicating Dutch Elm or Oak Wilt infestation, or other epidemic diseases of shade trees, immediately send appropriation specimens or samples to the Commissioner of Agriculture or to any qualified laboratory for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 8-807, no action to remove infected trees or wood shall be taken until positive diagnosis.

8-806 Abatement of Epidemic Tree Disease Nuisances. In abating the nuisances defined in Section 8-804, the Forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated as to destroy and prevent as fully as possible the spread of epidemic diseases of shade trees, including, but not limited to, the Dutch Elm disease and the associated elm bark beetles, and Oak Wilt disease. To prevent roof graft transmission of the diseases, a barrier shall be created between diseased and healthy trees, either by treating the soil surrounding the trees with a fumigant, sodium N-Methyldithiocarbamate (SMDC), presently sold under the trade names Vapam and VPM, or by digging a trench 30 inches deep in the soil surrounding the diseased trees. Such abatement procedure shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

8-807 Procedure for Removal of Infected Trees and Wood.

(1) Whenever the Forester finds with reasonable certainty that the infestation defined in Section 8-804 exists in any tree or wood in any public or private place in the City of Coon Rapids, he shall notify the affected property owner by certified mail that the nuisance must be abated within a specified time not less than 10 days from the date of mailing of the notice, except that if the Forester finds that the danger of infestation of other trees is imminent, the time period may be reduced to not less than five days. The Forester shall immediately report such action to

the City Manager. Upon expiration of the time limited by the notice, the Forester may abate the nuisance unless a request for a hearing had been filed as provided in 8-807(2).

(2) Any property owner who feels aggrieved by an order of the Forester issued pursuant to 8-807(1) may request a hearing before the City Council. Such request shall be filed with the City Manager, in writing, within five days after the date of the mailing of the notice by the Forester. Upon receipt of the request, the City Manager shall place the matter before the Council at its next meeting. He shall notify the property owner of the date, time, and place of the meeting. All action by the Forester shall be suspended until such hearing. The property owner may appear with counsel, if he so chooses, and present evidence in opposition to the order of the Forester. Following such hearing, the Council shall make a determination of the facts and shall, based upon such determination, affirm, repeal, or modify the Forester's order. The Council shall also establish a date for compliance of the order as affirmed or modified, which date shall be not less than five days thereafter. Upon expiration of the time limit, the Forester may abate the nuisance.

(3) The Forester shall keep a record of the costs of abatements done under this Chapter and shall report monthly to the City Clerk or other appropriate officer all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels, involved, and the amount assessable to each.

(4) On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Chapter. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under other pertinent statutes, for certification to the County Auditor and collection the following year along with current taxes. Such assessment shall be payable in no more than five annual installments, pursuant to Minnesota Statutes, Section 429.101, Subdivision 2.

8-808 Spraying Elm Trees.

(1) Whenever the Forester determines that any elm tree or elm wood within the City of Coon Rapids is infected with the Dutch elm fungus, he may spray any nearby elm trees with an effective elm bark beetle insecticide. Spraying activities authorized by this Chapter 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 his agents whenever possible.

(2) The notice provisions of Section 8-807(1) apply to spraying operations conducted under this Chapter.

8-809 Prohibiting Transportation of Wood. Whenever the Forester finds with reasonable certainty that wood being transported in the City is infested and constitutes a hazard to the public, he shall have the authority to prohibit such transporting.

8-810 Interference Prohibited. It is unlawful for any person to prevent, delay, or interfere with the Forester or his agents while they are engaged in the performance of duties set forth in this Chapter.

8-811 Pruning or Trimming. No person shall prune or trim any elm tree in the City of Coon Rapids during the months of April through August or any oak tree during the months of April through June without first receiving permission from the Parks Supervisor or designee. The Parks Supervisor shall grant such permission only upon a demonstration of good cause and shall prescribe appropriate procedures to be followed. Developers, contractors, builders and

utility companies shall not be required to obtain such permission but shall perform any tree trimming operations in accordance with accepted industry standards to reduce the spread of diseases. [Revised 7/28/92, Ordinance 1423]

