

**CITY OF ST. FRANCIS
ST. FRANCIS MN
ANOKA COUNTY**

ORDINANCE 232, SECOND SERIES

AN ORDINANCE TO MAKE DISEASED OR UNSOUND TREES A PUBLIC NUISANCE

SUMMARY OF SECTIONS AMENDED OR CREATED:

- *7-2-6 Regulation of Grass, Weeds, and Trees*
- *8-2-8 Diseased or Unsound Trees*

THE CITY OF SAINT FRANCIS ORDAINS:

Section 1. The City Council of the City of St. Francis hereby amends City Code Chapter 7 (Right-of-Way/Traffic/Parking/Streets), Section 2 (Obstructions and Usage) as follows:

Existing sections 7-2-1 through 7-2-5 are restated and incorporated herein unchanged.

Existing section 7-2-6 is amended as follows:

7 - 2 - 6 REGULATION OF GRASS, WEEDS, AND TREES.

- A. City to Control Tree Planting and Landscaping (Standards).** City shall have control and supervision of the placement of Landscaping materials and the planting of shrubs and trees upon, or overhanging, all the streets or other public property. Landscaping materials include but are not limited to; landscaping timbers, landscaping blocks or bricks, fencing, trees, shrubs, etc. The City may establish and enforce additional uniform standards relating to the kinds and types of trees to be planted and the placement thereof. Such standards shall be kept on file in the office of the City Clerk/~~Treasurer~~ and may be revised from time to time by action of the Council.

- B. Permit Required.** It is a misdemeanor for any person to ~~plant, spray, trim or remove trees or other plants which are upon City property, including rights-of-way, plant trees, remove trees, or plant/place anything upon City right-of-way boulevards—other than lawn grass—~~without first procuring from the City a permit in writing to do so. Such permits shall only be granted when in conformance with a Council approved plan for public property plantings.
- C. Duty of Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs.** ~~Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provisions herein required a permit therefore, trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.~~
1. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prima facie evidence of a failure to comply with this Subdivision.
 2. Every owner of property abutting on any street shall trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.
 - a. All trees and shrubs shall be maintained in the manner required by Section 10-16-7 (Traffic Sight Visibility).
 - b. No trees or shrubs shall project over trails and sidewalks at a height less than 8 feet.
 - c. No trees or shrubs shall project over streets at a height less than 12 feet.
 - d. No tree, shrub, or other vegetation may obscure a traffic sign.
 - e. No tree or shrub on public or private property shall become, or threaten to become, a hazard which adversely affects the public safety.

- D. City May Order Work Done.** ~~The City may, in cases of failure to comply with this Section, perform such work with employees of the City, keeping accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.~~ The City may request a private property owner to maintain or remove grass, trees, shrubs, or other plantings in violation of this Section.
- a. For violations of Section 7-2-6(C)(1), enforcement shall follow the process outlined in Section 8-2-3(B);
 - b. For violations of Section 7-2-6(C)(2), enforcement shall follow the process outlined in Section 8-2-2(F).
 - c. The City may, in cases of failure to comply with this Section, perform such work with employees or contractors of the City, keeping accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.
- E. Assessment.** If such maintenance work is performed by the City as set forth in the foregoing Subdivision, the City Clerk/Treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk/Treasurer shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

Section 2. The City Council of the City of St. Francis hereby amends City Code Chapter 8 (Public Protection), Section 2 (Refuse, Junk and Nuisances) as follows:

Existing sections 8-2-1 through 8-2-7 are restated and incorporated herein unchanged.

The following new section 8-2-8 is added in its entirety:

8 - 2 - 8 SHADE TREE PEST CONTROL.

- A. Findings.** The City Council finds that the health of trees in the city is threatened by shade tree pests, and that diseased or unsound trees within the community shall be deemed a nuisance in recognition of the following:
1. A healthy urban and rural forest is necessary and desirable for preserving the character of St. Francis; and
 2. The loss of large numbers of oak, elm and ash trees (and other species in the future as new diseases arise) would depreciate the value of property in the City of St. Francis and impair the safety, good order, general welfare and convenience of the public; and
 3. Loss of oak, elm and ash trees (and other species in the future as new diseases arise) over a short time period would impose financial hardship on property owners to replace them all at once; and
 4. In addition to and in accordance with Minn. Stat. §§ 89.001, 89.01, and 89.51-.64, the provisions of this section are adopted as an effort to control and prevent the spread of shade tree pests.
- B. Diseased Tree Program.** It is the intention of the City of St. Francis to conduct a program of plant pest control pursuant to authority granted by Minnesota Statutes, Section 18G.12. This program is directed specifically at the control and elimination within the city of any diseases, infestations, or pests deemed to be causing economic or environmental harm to trees, and is undertaken at the recommendation of the Commissioner of Agriculture and Minnesota State Statutes.
- C. Declaration of a shade tree pest.** The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or the community forest, as defined by Minn. Stat. § 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action.
- D. Declared Shade Tree Pests**
1. **Oak Wilt.** Any living or standing Oak tree or part thereof infected to any degree with the Oak Wilt fungus, *Ceratocystis Fagacerarum*.

2. **Dutch Elm Disease.** Any living or standing Elm tree or part thereof infected with the Dutch Elm disease fungus, *Ceratocystis Ulmi* (Buisson) Moreau; or which harbors any of the Elm Bark Beetles, *Scolytus Multistriatus* (Eich.) or *Hylurgopinus Rufipes* (Marsh.).
 3. **Emerald Ash Borer.** Any living or dead *Fraxinus* spp tree or part thereof infested to any degree with the insect Emerald Ash Borer (*Agrilus Planipennis*)
 4. **Gypsy Moth.** Any living or dead tree or part thereof infested to any degree with the insect Gypsy Moth (*Lymantria dispar*)
 5. **Asian Long-horned Beetle.** Any living or dead tree or part thereof infested to any degree with the insect Asian Long-horned Beetle (*Anoplophora glabripennis*)
- E. **Control Areas for Declared Shade Tree Pests.** The control area for all declared shade tree pests shall be all lands within the boundaries of the city.
- F. **Dead Tree Nuisance.** Any dead, diseased, or dangerous tree that endangers or potentially endangers neighboring property or a public right-of-way or easement shall be considered a public nuisance affecting the peace and safety of the community.
- G. **Shade Tree Pest Nuisances are Unlawful.** It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.
- H. **Enforcement.** The Public Works Director or other person or party designated by the Public Works Director, may enforce the provisions of this section.
- I. **Inspection and Investigation.** In order to carry out the provisions of this section, the Public Works Director or other designated City official(s) 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.

- J. Interference Prohibited.** It shall be unlawful for any person to prevent, delay or interfere with the Public Works Director or other designated City official while they are engaged in the performance of duties imposed by this Section.
- K. Standard abatement procedure.** Except as otherwise provided in subdivisions (K) and (L), whenever the Public Works Director or other designated City official determines with reasonable certainty that a public nuisance, as described by in this Section, is being maintained or exists on a premises in the city, they are authorized to abate the public nuisance according to the procedures in this subdivision.
1. The Public Works Director or other designated City official will notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the city clerk.
 2. The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the city clerk within seven (7) days after service of the notice, or before the date by which abatement must be completed, whichever comes first.
 - a. The appeal request shall state the reasons for the appeal and include any such evidence that contradicts the diagnosis by the tree inspector.
 - b. If an appeal is filed, the tree inspector shall not enforce the abatement until the appeal process is complete.
 - c. The City may utilize laboratory testing in order to confirm a diagnosis of a tree disease diagnosed by the City official via field testing methods. Such laboratory testing may be done at the expense of the property owner if it confirms the presence of the disease

3. If no timely appeal is submitted and the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the Public Works Director or other designated City official shall have the authority to obtain permission or an administrative search warrant, enter the property, and carry out abatement in accordance with the notice of abatement. Methods of abatement may include but are not limited to:
 - a. Destruction of diseased trees by removal to a chipping station; removal and destruction of all bark; or burning pursuant to all relevant codes and with any necessary permits. No trees, logs or parts thereof shall be buried.
 - b. Debarking of elm tree stumps to the ground line.
 - c. Root graft control.
 - d. Girdling diseased oak trees and avoiding pruning or other damage to oak trees during the months of May and June.
 - e. Other methods deemed acceptable by the Public Works Director.
- L. High-cost abatement.** If the Public Works Director or other designated City official determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the written notice referred to in subdivision (J) must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.
- M. Abatement Procedure in Event of Imminent Danger.**
1. If the Public Works Director or other designated City official determines that the danger of infestation to other shade trees is imminent; and delay in control measures may put public health, safety, or welfare in immediate danger; the tree inspector may provide for abatement without following subdivisions (J) or (K). The Public Works Director or other designated City official must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

2. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.


N. Recovery of cost of abatement; liability and assessment.

1. The owner of the premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.
2. After notice and hearing, as provided in Minn. Stat. § 429.061 (which may be amended from time to time), the city clerk shall, on or before Sept. 1 following abatement of the nuisance, list the total unpaid charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The city council may then certify the charges against the property to the county auditor for collection along with current taxes the following year or in annual installments as the city council may determine in each case.

Section 2. Effective Date. This Ordinance shall take effect on the later of 30 days after its publication.


PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS
THIS 18th DAY OF SEPTEMBER, 2017.

APPROVED:



Steven D. Feldman
Mayor of St. Francis

ATTEST:



Barbara I. Held
City Clerk

