CHAPTER III.
STREETS, PARKS, AND PUBLIC PROPERTY AND IMPROVEMENTS

PART 1. Street Excavations

301.01 Permit Required. No person, except an authorized city employee or a contractor performing work under a contract with the city, shall make any excavation in a street, alley, sidewalk, or public ground without first having secured a permit therefor from the city clerk. The fee for such permit shall be $5 for each location covered by the permit, but no fee shall be required for an excavation made pursuant to a permit for sewer or water construction.

301.02 Application And Regulations. The city clerk shall prepare the necessary application forms and permits required under section 301.01. He shall also prepare such rules and regulations with respect to excavations as he finds necessary to protect the public form injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks, and public grounds. Any person making an excavation covered by this section shall comply with such rules and regulations.

301.03 Bond. Any permittee except a public utility corporation or a bonded plumber shall file with the city clerk a corporate surety bond in the amount of $5,000 conditioned that the permittee will:

(1) Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
(2) Indemnify the city and hold it harmless from all damage caused in the execution of such work; and
(3) Pay all costs and damages suffered by the city by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work.

The city attorney shall approve the bond as to form and legality.

Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting him from liability to the public, including the city, to an amount equal to the maximum claim the city might be required to pay under Minnesota Statutes, Chapter 466.

301.04 General Regulations For Excavations. Street openings shall be made in a manner that will cause the least inconvenience to the public. Provisions shall be made for the passage of water along the gutters and at least one-half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be

guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent

301.04 General Regulations For Excavations (cont.)

freezing. Any person responsible for exposing a city main or pipe so that it might be damaged by freezing shall be liable to the city for all damages caused by such freezing and all damages sustained by others by such freezing for which the city may be liable.

301.05 Refilling Excavations. Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the street commissioner. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley, or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

301.06 Map Of Subsurface Installations. The city clerk shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds or right of way. The information on the map shall be sufficiently complete and accurate to permit anyone making an excavation in a public place having any underground installation to avoid damage to any existing underground facilities shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of a contract for the installation of city underground installations.

PART 2. Local Improvement Policy

302.01 Cut-off Date For Petitions. No petition for construction of local improvements shall be accepted or acted upon by the council unless it is filed with the city clerk on or before October 1 of the year prior to the year of requested construction.

302.02 Classification Of Projects.

Subdivision 1. In General. Public improvements are divided into three classes specified in the following subdivision according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practice.

Subdivision 2. Class A. Class A improvements are those which are a general benefit to the city at large, including 1) public buildings, except a building which is part of an improvement described in one of the following subdivisions; 2) any public park, playground, or recreational facility; 3) the installation and maintenance of street lighting systems; and 4) any improvement not described in Minnesota Statutes, Section 429,021, Subdivision 1. Any such improvement shall be financed from general city funds and not from special assessments.

Subdivision 3. Class B. Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include: 1) trunk water mains larger than five inches; 2) trunk sanitary sewer mains larger than twelve (12) inches; 3) permanently surfacing arterial streets; 4) storm sewers; 5) the construction of off-street parking facilities.

Subdivision 4. Class C. Class C improvements are those which are primarily, if not exclusively, of benefit to property abutting or in the area of the improvement, including 1) the construction of sidewalks; 2) the construction of water mains no larger than five (5) inches in diameter; 3) the construction of sanitary sewer mains no larger than (12) inches in diameter; 4) the construction of curbs and gutters; 5) grading, graveling, oiling, and applying non-permanent surfacing to streets; 6) permanently surfacing residential streets; 7) the abatement of nuisances and the draining of swamps, marshes and ponds on public or private property and filling the same.

302.03 Financing Class B And C Improvements. It is the policy of the city to finance Class B and C improvements by the methods prescribed in Sections 302.04, 302.05, and 302.06. The apportionment of the cost between benefited property and the city at large and the method of levying assessments prescribed in those sections shall be followed in each case unless the council,

by resolution, finds that because of special circumstances states in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement

302.03 Financing Class B And C Improvements (cont.)

described in Minnesota Statutes, Section 429.02 and not placed in Class A, B, or C by Section 302.02 shall be financed as the council determines to be most feasible and equitable in each case.

302.04 Assessment Regulations For Class B Improvements.

Subdivision 1. Trunk Water Mains and Sanitary Sewers. When a water or sewer main is laid across or adjacent to unplatted property, the city shall not defer the assessment against the unplatted property if the assessment would be made for such an improvement in the case of platted property, but the city shall make the assessment at the time the assessment against other property is made, apportioning the assessment against the unplatted property on the basis of area. When a trunk sewer or water main is constructed and is to serve also as a lateral sewer or water main for abutting property, the abutting property shall be assessed for the cost of a lateral sewer or water main of six (6) inches plus its proportionate share of the cost of the excess capacity. Other property benefited by the trunk sewer or water main but unable to utilize it until a lateral connected to the trunk sewer or water main has been built to serve the property shall not be assessed for its share of the cost of the trunk sewer or water main until the lateral is built. The assessments for the lateral shall then include the property's share of the cost of the trunk sewer or water main. The cost of the trunk sewer or water main in excess of the lateral assessment shall be assessed on the basis of frontage against all other properties benefited. The cost of a lift station shall be assessed on the basis of frontage against the property actually benefited by the lift station.

Subdivision 2. Arterial Street Surfacing. The following are arterial streets: Grant Street, West of Main Street; Main Street, South of Fourth Street; Mill Street East of Renville Street; Renville Street, between Mill Street and Fourth Street; First Street; Second Street, east of T.H. 15; Sixth Street, West of Brown Street; Fourth Street. When an arterial street is paved with concrete, bituminous mat, or other permanent surface, the cost of the pavement on a 36-foot roadway shall be assessed against the benefited property on the basis of frontage on the abutting street. When the standards for such paving are higher than those the city would use for a residential street, the cost to be assessed shall be based on the cost of paving a residential street of the same width. The rest of the cost shall be paid from general funds.

Subdivision 3. Storm Sewers. Forty (40%) per cent of the cost of constructing storm sewers shall be paid by the city from genera funds. The remainder of the cost shall be assessed against the property in the area served

by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

302.05 Assessment Rules For Class C Improvements.

Subdivision 1. Sidewalks. The cost of the construction of sidewalks shall be assessed on the basis of frontage against property abutting the side of the street on which the sidewalk is located.

Subdivision 2. Water And Sewer. The cost of lateral water mains not exceeding five (5) inches in diameter and of lateral sanitary sewer mains not exceeding twelve (12) inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines if furnished, hydrants, and valves. The cost of sewer mains included lines, if furnished.

Subdivision 3. Streets. The cost of construction of curbs and gutters on any street, of grading, oiling, and applying non-permanent surfacing to any street, or of applying permanent surfaces to residential streets shall be assessed on the basis of frontage.

Subdivision 4. Nuisances. The cost of abating nuisances and draining of swamps, marshes and ponds on public or private property and filling the same shall be assessed in a manner determined by the council in each case to measure most equitably the benefit received by property to be assessed. The assessment in any such case may be made against nonabutting property to the extent the property is benefited by the improvement.

302.06 Special Rules.

Subdivision 1. Corner Lots. In any assessment made on the basis of frontage, except one for water or sanitary sewer, corner lots shall be assessed for footage along the front of the lot plus one-third of the side footage; the other two-thirds of the side footage shall be spread among all assessed properties. In the case of an assessment for a lateral water or sewer main, Class C, corner lots shall be assessed for the footage along the front side lot and shall be assessed for footage along the front side of the street abutting the lot unless the lot is large enough to accommodate another building which would benefit by construction of the second main. ***As amended January 2nd, 1985.***

Subdivision 2. Intersections. The cost of water and sewer improvements in the street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement intersection costs shall be paid by the city.

Subdivision 3. Adjusted Frontage. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined

according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment:

302.06 Special Rules (cont.)

a. Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.

b. Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.

c. Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, determined on the basis of an irregularly shaped lot.

d. Where a lot consists of a combination of rectangular and pie-shaped or irregular portions, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

302.07 Federal, State, And County Aid Use. If the city receives financial assistance from the federal government, the state, or the county to defray a portion of the cost of a street improvement project, such aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula contained in this ordinance. If such aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

302.08 Deferment Of Special Assessments For Senior Citizens.

Subdivision 1. When Deferred. The council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older and has an annual income of $3,500 or less. The deferment shall be granted upon a certification by the owner on a form prescribed by the county assessor supplemented by the city clerk to establish the qualification of the owner for such deferment. The application shall be made within thirty (30) days after the second adoption of the assessment roll by the council and shall be renewed each following year upon the filing of a similar application not later than September 30. The council shall either grant or deny the deferment and, if it grants the deferment, it may require the payment of the interest due each year. If the council grants the deferment, the clerk shall notify the county auditor and the county assessor who shall, in accordance with Minnesota Statutes, Section 444.23, record a notice of deferment with the register of deeds setting forth the amount of the assessment.

Subdivision 2. When Deferment Ends. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events:

302.08 Deferment Of Special Assessments For Senior Citizens (cont.)

1) the death of the 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 council for any reason that there would be no hardship to require immediate or partial payment; or 5) failure to file a renewal application within the time prescribed by Subdivision1.

Subdivision 3. Procedure for Termination. Upon the occurrence of one of the events specified in Subdivision 2, the council shall terminate the deferment. Thereupon, the city clerk shall notify the county assessor and the county auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall become due and payable as a result of the termination.

302.09 Branch Service Lines. Water and sewer lines shall be installed from the main to the front property line of property to be served before any permanent street surfacing is constructed in the street. If any property owner fails to put in such water and sewer service lines within thirty (30) days after notice from the city clerk, the city council shall proceed to have water and sewer service installed and to assess the cost against the property.

302.10 Partial Prepayment. After the adoption by the city council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment or the first installment to the county auditor, pay to the city treasurer any portion of the assessment in increments of $100. The remaining unpaid balance shall be extended on the proper tax lists of the county.

302.11 Permanent Improvement Revolving Fund.

Subdivision 1. Establishment. There is hereby established a permanent improvement revolving fund of the city to be held and a permanent improvement revolving fund of the city to be held and administered by the city treasurer, separate and apart from all other funds of the city, for the purpose of financing local improvements.

Subdivision 2. Source Of Funds. The fund shall be a permanent fund of the city and the moneys necessary for its maintenance shall be provided by taxation, by the appropriation of available moneys from other funds of the

city, and/or by the issuance and sale of permanent improvement revolving fund bonds of the city as deemed necessary from time to time by the council.

Subdivision 3. Disposition Of Funds. Moneys in the fund shall be used only as directed by resolution of the council for the purpose of advancing to local improvement funds the cost of improvements for which assessments are to be levied. All such moneys so advanced to an improvement fund shall be restored as

302.11 Permanent Improvement Revolving Fund (cont.)

soon as sufficient moneys are received in the improvement fund, together with interest at a rate fixed by the council at not less than six (6%) per cent per annum during the time for which such moneys have been so furnished.

Subdivision 4. Investment. Whenever there are moneys in the fund not immediately needed for local improvements, such moneys shall be invested by the city clerk under direction of the council in any securities authorized for investment of municipal sinking funds by law.

Subdivision 5. Transfer Of Surplus. When the fund accumulates encumbered moneys in excess of any amounts reasonably anticipated to be needed for local improvement fund advances, the council may be resolution adopted by four-fifths vote, declare any part of such excess to be surplus and transfer it to the general fund.

302.13 Assessment Manual. The city clerk shall prepare an administrative manual specifying more detailed procedures for the conduct of local improvements and the levy of special assessments in supplementation of this ordinance and consistent therewith. Upon approval of the council by resolution, such manual shall be used with this ordinance in the conduct of all local improvement proceedings to which they apply by their terms.

PART 3. Alleys

303.01 Duty to Repair. All alleys located within the City limits shall be kept in repair and maintained by the City of Winthrop.
As amended June 27th, 1995.
As amended March 18th, 2004.
As amended June 7th, 2004.

PART 4. Sidewalks

304.01 Duty to Repair. The owner of any private property within the City abutting a sidewalk shall keep the sidewalk in repair and safe. When an owner replaces the sidewalk, the City will pay for 50% of the cost of replacing the sidewalk, as long as it is done to the City's specifications. The owner's portion may be assessed to their owner's property taxes if it is done in accordance with policies and procedures for such assessments as adopted by the City Council.

As amended June 27h, 1995.
As amended October 2nd, 2017.

304.02

Subdivision1. Building allowing under certain circumstances: The building of pedestrian ramps or any other types of ramps upon City Sidewalks or other property owned by the City will be considered by the City Council on a case-by-case basis.

No building of said ramps, however, is allowed until approval is given by the City Council.

Subdivision 2. Procedure for approval: A person seeking to build a ramp upon City property must apply to the City Council for approval. An application for approval must be made in writing by the filling out and submission of a ramp building request form approved by the city council. Upon submission of the request form to the City Administrator, the request will be added to the agenda of the next regular or special city council meeting. At that meeting, the city council will address the issue. The council may approve or deny the request at that meeting or may schedule a public hearing on the issue. If the council determines to hold a public hearing, notice of the hearing must be posted in the official city paper at least two weeks before the meeting. After the public hearing, the council must approve or deny the request within two (2) weeks of the date of the public hearing.

Subdivision 3. Criteria for Granting Approval: In determining whether to grant approval for the building of a ramp upon City property, the City Council must consider and make written findings regarding the following factors:

(1) How the public interest will be served by allowing public property to be used for such purpose

(2) How the public will benefit from such use of City Property

(3) What liability the City may potentially face from the presence and use of the ramp

(4) What detriment may be suffered by the person/entity/property involved in requesting approval if the ramp is not allowed by the City Council

(5) Whether approval has been given or denied in previous similar circumstances

(6) Whether the ramp will be built in accordance with applicable building codes and laws.

(7) What purpose the ramp will be used for.

(8) How other property owners will be affected by the presence of the ramp.

(9) What general effect the presence of the ramp will have on the general public and the city in conducting its normal affairs.

If the Council determines after considering the above factors that the building of the ramp is in the public interest, the council shall grant approval.

Subdivision 4. Approval: A variance shall be by majority vote of those City Council members present at the meeting, provided there is a quorum of members present.

Subdivision 5. Lapse of Approval: If within one (1) year after granting approval, the work permitted is not started, such approval will become null and void unless a petition for an extension has been approved by the city council. ***As amended Feb 3rd, 2003.***

304.03 Use of Bicycles, Roller or In-line Skates, and Skateboards in Central Business District.

Subdivision 1. Definitions.

For purposes of this section, the following terms are defined:

(1) "Bicycle" means a vehicle propelled through pedaling;
(2) "Roller/In-Line Skates" means a skate with wheels for movement across a hard surface;

(3) "Skateboard" means a hard board or frame with wheels attached for movement; propelled through leg movement;
(4) "Central Business District: means all C-1 zoned areas within the City of Winthrop as indicated on the Official Zoning map. This includes all areas commonly referred to as the downtown business area of the City of Winthrop.

Subdivision 2. Unlawful Acts.

No person shall ride a bicycle, or use roller skates or in-line skates or skateboard upon a sidewalk within the Central Business District, provided, however, that bicycles, roller skates, in-line skates or skateboards may b walked or carried on said sidewalks. Nothing herein shall be construed to prohibit or in any way limit bicycles operated by peace officers or agents working under their direction while performing official duties.

Subdivision 3. Penalties.

Any person found in violation of this section will be subject to a fine as stated in the City Fine Schedule. Violations of this section may be enforced through the City's Administrative Citation Procedures as outlined within City Code.
As amended June 2nd, 2003.

PART 5. TREES

305.01. Regulations.

Minnesota Statutes Chapter 89, Minnesota Statute 17.86, and all other state laws and Department of Agriculture regulations regarding the use, management, protection and disposal of shade trees, together with amendments thereof to date, are hereby adopted by reference and made a part of this ordinance as if set out hereat in full, except as hereinafter provided.

305.02. Administration.

Subd. 1. Shade Tree Board. The City of Winthrop does hereby establish a Shade Tree Board that will consist of five memebers, citizens and residents of this city, who shall be appointed by the mayor with the approval of the city council. This Board shall have general supervision of shade tree management within the City of Winthrop. The Board shall make recommendations to the City Council regarding the conduct and regulation of the city shade tree program, propose an annual budget for said program and make periodic reports to the City Council on the status of the shade tree inventory of the city. The City Council shall have final authority to regulate and budget for the shade tree program.

Subd. 2. City Forester. The position of City Forester is hereby created in the City of Winthrop. It shall be the duty of the Forester to coordinate, under the direction and control of the Shade Tree Board, and under the general authority of the City Council, all activities of the municipality relating to the protection, management, and removal and replacement of shade trees within city limits. The City Forester shall act as an advisor to the shade tree board to effectively implement the terms of this ordinance.

Subd. 3. Permits for Planting Trees in Boulevards and Utility Corridors. Private parties must secure a permit from the City before planting any tree in any boulevard or utility corridor in the City. City approved trees may be purchased and planted by the property owner of the land abutting the boulevard, or by a person retained by the property owner. Varieties of trees approved shall be trees of the hardwood variety, with good mature appearance, adaptability to the climate, long lived and generally resistant to injurious insects and diseases. Varieties selected for planting in boulevards should be capable of attaining the height and general appearance of existing boulevard trees in the same block. Approved varieties shall be recommended by the City Forester each year and approved by the Shade Tree Board.

Subd. 4. Permits for Tree Trimming and Removal. Private parties must secure a permit from the City before cutting, trimming, pruning, removing, spraying or otherwise treating trees, shrubs or other vegetation within the city rights of way or city parks or other city property.

305.03. Tree Pruning Guidelines.

Subd. 1. Any public utility company must notify the City Administrator before any trees are pruned in a utility corridor, and any such pruning done by or for a utility and regulated in this section shall be done in accordance with the current ANSI Tree Care Performance Standards.

Subd. 2. Tree limbs within the right of way will be pruned by the City if they create a potential threat to public safety. As a general guideline, limbs wil be trimmed to provide 10 feet clearance above sidewalks and 14 feet clearance over the street.

Subd. 3. Private parties may trim or prune trees, shrubs or other woody vegetation in the right of way if City guidelines are followed. Private parties should contact the City to review the guidelines regarding accepted methods for pruning and optimal time of the year for pruning.

305.04. Regulations for Planting Trees on Boulevards and Utility Corridors:

Subd. 1. Tree plantings shall conform to the minimum standards of ANSI Z60, the American Standard of Nursery Stock. Tree calipers shall be measured six inches above the root ball per ANSI Z60.

Subd. 2. No trees shall be placed so as in the opinion of the City to cause a traffic hazard. Some specific measurement regulations are as follows:

(1) The spacing of shade trees will be in accordance with the three species size classes defined as follows:

Small Trees – any plant material that will grow to a height of 30 feet or less. Small trees are to be planted no closer than 10 feet apart.

Medium Trees – any plant material that will grow to a height of 50 feet or less. Medium trees shall be planted no closer than 25 feet apart.

Large Trees – any plant material that will grow to a height of over 50 feet. Large trees shall be planted no closer than 45 feet apart.

These spacing requirements may be ignored in special plantings designed or approved by the Shade Tree Board.

(2) Trees, shrubs and hedges with a mature height greater than 30 inches shall not be planted within the sight triangle at intersections measuring 25 feet along the boundary of each of the intersecting roadways, measured from the point of intersecting curb lines, or in the case of a

curved curb corner, measuring 25 feet parallel to each street side from the center point of the radius of such curve.

(3) Trees shall be planted at least 10 feet from the street openings of driveways and alleyways. No tree or shrub shall be planted in such a manner that its eventual growth cannot be reasonably controlled so as to avert interference with or obstruction to any improvements installed for public benefit.

Subd. 3. No tree shall be planted on any boulevard where the distance between the nearest edge of the sidewalk and/or curb is less than 5 feet.

Subd. 4. All trees shall be planted equi-distant from the nearest edge of the proposed or existing sidewalk and curb, except when the City may direct otherwise.

Subd. 5. The City will assist in staking out the location of the tree planting.

Subd. 6. In all utility corridors where overhead transmission lines are used or may be used in the future, trees or shrubs planted must be of a variety and must be placed in a manner so that the height or circumference of the tree or shrub at maturity will not interfere with said transmission line.

Subd. 7. In all utility corridors where buried transmission lines and/or surface transformers or other equipment are used or may be used in the future, trees or shrubs planted must be of a variety and must be placed in a manner so that the root system of the tree or shrub at maturity will not interfere with said utility lines or equipment.

Subd. 8. The City must be contacted for approval prior to planting trees near fire hydrants.

305.05. Removal of Trees on Public Property.

Subd. 1. The City will remove, prune, or trim trees and shrubs on public property or rights of way that are determined by the City to be diseased, dead, hazardous or a public nuisance, at city cost.

Subd. 2. The City will remove the stump of any tree or shrub disposed of under Subsection 5.1 above, at the city's cost. The City shall also provide fill and grass seeding to fill the hole left by the stump removal, at city cost. The watering and maintenance of the replacement grass planting shall be the responsibility of the adjoining property owner for any stump removal sites on any residential neighborhood boulevards.

Subd. 3. No removal of healthy trees shall be done on city boulevards without first obtaining the express written permission of the city. In such case, the removal of any

such healthy tree approved by the city shall be at the cost of the private property owner requesting such removal, including the cost of stump removal, fill for the stump hole, and grass seeding at the private property owner's cost, all said work to be done to the reasonable satisfaction of the city.

305.06. Damage to Trees on Public Property.

No person shall do any of the following:

(1) Damage, cut, carve, top, kill or injure the bark of any tree or plant on public property.

(2) Attach any rope, wire or other contrivance to any tree or plant on public property, except to stabilize new plantings in a manner approved by the Shade Tree Board.

(3) Cause or permit any wire charged with electricity or any gaseous, liquid or solid substance harmful to tree or plants to come into contact with them.

(4) Attach any sign, poster or decoration to any tree or plant on public property without prior city permission.

305.07. Abatement of Shade Tree Disease Nuisances.

Any shade tree with an epidemic or contagious disease or pest, determined by the City, shall be sprayed, removed, burned, chipped or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of contagious shade tree diseases. Such abatement procedures shall be carried out in accordance with current technical or expert opinions and guidelines. Whenever the City Forester or Shade Tree Board finds with reasonable certainty that a contagious disease infestation exists in this municipality, the procedures in the following sections will pertain.

305.08. Abatement of Nuisances on Private Property.

It is unlawful for any person to permit any public nuisance as herein defined to remain on any premises owned, leased, occupied or controlled by that person. Such nuisance may be abated in the manner prescribed by this ordinance.

305.09. Inspection and Investigation.

Subd. 1. The City Forester, or the City's other agents or employees, shall inspect all premises and places within the City as often as practicable to enforce the terms of this ordinance. Any violation of this ordinance shall be reported to the Shade Tree Board.

Subd. 2. The City Forester, or the City's other agents or employees, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them hereunder.

Subd. 3. The City Forester, or the City's other agents or employees, upon finding conditions of a contagious disesase, such as Dutch elm, Oak wilt or other infestation, immediately shall take and send appropriate specimens or samples to the Commissioner of Agriculture (Bureau of Plant Industry), State of Minnesota, for analysis, or take such other steps for diagnosis as may be recommended by the Minnesota Department of Agriculture and/or University of Minnesota Plant Disease Clinic. Except as provided in Section 11, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

Subd. 4. Within 10 days of receipt of the diagnosis, the owner, lessee, occupant or person in control of the property from which the specimen was obtained shall be notified of the result by certified mail or personal service of written notice.

305.10. Abatement of Tree Disease Nuisance on Public Property.

In abating the nuisance defined herein on public property, the City Forester or the City's other agents or employees, shall at City cost cause the infected tree or wood to be removed and burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of epidemic diseases. City staff shall also take such steps as are necessary to prevent root graft transmission of the disease. Such abatement procedures shall be carried out in accordance with the 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.

305.11. Abatement of Tree Disease Nuisance on Private Property.

Whenever the City Forester, or the city's other agents or employees, finds with reasonable certainty that any infestation defined in Section 305.07 exists in tree or wood located on private property, they shall notify by certified mail or personal service of written notice, the owner of such property on which the nuisance is found, of the infestation and direct that the infestation shall be removed and burned, or otherwise effectively treated in an approved manner by such owner with 20 days after receipt of such notice. The notice shall also state that if the nuisance shall not be abated by the owner within the time provided, the owner, lessee, occupant or person in control may be charged with a violation of this Section for maintaining a nuisance and that the City by and through its Council may abate the nuisances and assess the costs against the property. If the owner of any private premises upon which such a tree is situated fails to have such tree so removed and burned or otherwise effectively treated, within 20 days after receipt of notification by mail or personal service, the City Forester, or the City's other agents or employees, shall proceed to have such tree removed and burned or otherwise effectively treated, and

any expense incurred by the City in so doing shall be a charge and lien upon the said property and shall be collected as a special assessment in the same manner as other special assessments.

305.12. Transporting Firewood.

Whenever the City finds with reasonable certainty that wood being transported in the City is infested and/or infected with a contagious disease, and constitutes a hazard to the public, the City shall have the authority to prohibit such transporting.

305.13 Interference Prohibited.

It is unlawful for any person to prevent, delay or interfere with the City Forester or other City agents or employees while they are engaged in the performance of duties imposed by this ordinance.

305.14. Penalty.

Any person, business entity or organization who violates this ordinance is guilty of a misdemeanor and may be punished by a penalty as set out for misdemeanors under Minnesota Statute 609.03 (3), or any laws amending or superseding said law. Each day the violation continues shall be considered a separate offense.
As amended October 6th, 2014.