

New Ordinance City of Staples Minnesota Adopted May 28, 2013

This is the segment of Ordinance NO. 501, Section 9.9 relating to Shade Tree Disease.

ORDINANCE NO. 501

AN ORDINANCE AMENDING CHAPTER 9 OF THE STAPLES CITY CODE

The City Council of the City of Staples ordains:

ARTICLE 1. Chapter 9 of the City Code of the City of Staples is hereby deleted.

ARTICLE 2. A new Chapter 9 is hereby adopted as follows:

CHAPTER 9 – CRIMES, OFFENSES AND PUBLIC NUISANCES

Sec 9.9. Shade Tree Disease.

Subd. a. Declaration of Policy. The City Council has determined that the health of shade trees within the municipal limits is threatened by various Shade Tree pests and/or diseases, such as Dutch Elm, Oak Wilt, and Emerald Ash Borer, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. The City Council hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors that carry such disease and declares them a public nuisance. It is further determined that the loss of shade 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 City Council to control and prevent the spread of these pests and or diseases. 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 these shade tree pests.

Subd. b. Shade Tree Disease Control Program. This program is directed specifically at the control of Shade Tree pests and/or diseases. These regulations are directed specifically at the control and elimination of Dutch Elm Disease, Oak Wilt, and Emerald Ash Borer and other epidemic diseases and infestations of shade trees and is undertaken at the recommendation of the Commissioner of Agriculture. The City Administrator shall direct the shade tree disease control program and be the contact between the Commissioner of Agriculture and the City Council.

Subd. c. Nuisances Declared.

- (1). The following things are public nuisances whenever they may be found within the city:
 - (a) Any living or standing Elm tree or part thereof infected with the Dutch Elm disease fungus, *Ceratocystis Ulmi* (Buisam) Moreau; or which harbors any of the Elm Bark Beetles, *Scolytus Multistriatus* (Eich.) or *Hylurgopinus Rufipes* (Marsh.);
 - (b) Any living or standing Oak tree or part thereof infected to any degree with the Oak Wilt fungus, *Ceratocystis Fagacerarum*;
 - (c) Any dead Elm or Oak tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned; or
 - (d) Any living or dead *Fraxinus* spp tree or part thereof infested to any degree with the insect Emerald Ash Borer (*Agrilus Planipennis*).

Subd. d. Inspection and Investigation.

(1). The City Administrator shall inspect all premises and places within the city to determine whether any condition described in Subd. c. of this section exists thereon. This inspection shall be done in accordance with the Minnesota Department of Agriculture recommendations or as often as necessary. The City Administrator shall investigate all reports of the existence of nuisances described in Subd. c. The City Administrator shall be entitled to designate duly authorized agents to carry out inspections and abatements regarding the provisions of Subd. c. The purpose of this section is to allow the City Administrator to appoint agents to inspect and abate problems regarding public nuisances concerning diseased trees.

(2). Entry on Private Premises. Except in situations of imminent danger to human life and safety, the City Administrator shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident, or other person in control of the property, unless the tree inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3). Diagnosis. The City Administrator may, upon finding conditions indicating the existence of nuisances described in Subd. c., send appropriate samples to the State Shade Tree Disease Laboratory or other qualified laboratory for diagnosis or follow diagnostic recommendations of the Commissioner of Agriculture.

Subd. e. Abatement of Shade Tree Disease Nuisance

Abatement of shade tree disease nuisances shall be carried out in accordance with methods prescribed by Section 9.11.

Subd. f. Transporting Diseased Shade Tree Wood is Prohibited. It is unlawful for any person to transport within the city any bark-bearing diseased tree wood defined in Subd. c. without having obtained a permit from the City Administrator. The City Administrator shall grant such permits only in conformity with the State approved removal and wood disposal practices.

Subd. g. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the City Administrator or his agents while they are engaged in the performance of duties imposed by this code.

Subd. h. Penalty. Any person, firm or corporation who violates this section, upon conviction thereof, shall be guilty of a petty misdemeanor and shall be punished in accordance with the provision of this code. Each day of violation of this section shall constitute a separate offense.