



## Legislation Text

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**File #:** Ord 21-50, **Version:** 1

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Amending Chapter 175 of the Legislative Code in order to combine three chapters regarding the abatement of dangerous or diseased trees into one chapter, and to clarify hardship deferral language.

WHEREAS, Chapter 177 of the Legislative Code addresses the abatement of Dangerous Trees; and

WHEREAS, Chapter 175 of the Legislative Code addresses the abatement of trees with Dutch Elm Disease; and

WHEREAS, Chapter 175A of the Legislative Code addresses the abatement of trees infected with Emerald Ash Borer Pest Insect; and

WHEREAS, the city finds that Dutch Elm Disease and Emerald Ash Borer Pest Insect both fall within the more general category of Dangerous Trees; and

WHEREAS, similar procedures apply to the abatement of costs for removal of dangerous trees, including procedures for assessment of costs, and the three categories can be combined into one ordinance; and

WHEREAS, the city also wishes to authorize hardship deferral of assessments levied under this amended version of Chapter 175, as authorized under Minnesota Statutes, sections 435.193 to 435.195, in accordance with the procedures set forth in Administrative Code Section 64.07;

NOW, therefore, be it resolved that the Council of the City of St. Paul does ordain:

### SECTION 1

The title of Chapter 175 of the Legislative Code, Dutch Elm Disease, is hereby amended to read as follows:

Chapter 175, Dutch Elm Disease, Emerald Ash Borer, and Removal of Other Dangerous Trees

Chapter 175.01 of the Legislative Code, Dutch Elm Disease, is hereby amended to read as follows:

Sec. 175.01. - Policy.

The director will issue an order in writing to the owner or owners, agent or occupant of the property upon which such dangerous or unsafe tree is located, to cause such dangerous or unsafe tree, or portion thereof if the removal of a portion will remove the danger, to be taken down and removed; and will be mailed to the last known address of such owner, agent or occupant.

The council of the City of Saint Paul has determined that there are many elm trees and ash trees growing on public and private premises within the City of Saint Paul, the loss of which would substantially depreciate the value of public and private premises, and impair the safety, good order, general welfare and convenience of the public. The council has determined that the health and life of such trees is threatened by a fatal disease known as Dutch Elm Disease and Emerald Ash Borer. The council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such disease and declares

the Dutch Elm Disease and the elm bark beetles which carry such disease, and the Emerald Ash Borer Pest Insect and the trees infected with the same to be public nuisances.

Moreover, If the whole or any part of any tree, in the opinion of the director of the department of parks and recreation, is found, after proper investigation, to be dangerous or unsafe, the same will also be declared a public nuisance.

## SECTION 2

Section 175.02 is hereby amended to read as follows:

Sec. 175.02. - Nuisances.

The following things are public nuisances whenever they may be found within the City of Saint Paul:

(1) 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* (Eich.) or *Hylurgopinus rufipes* (Marsh.);

(2) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned;

(3) If the whole or any part of any tree shall, in the opinion of the director of the department of parks and recreation, be found, after proper investigation, to be dangerous or unsafe.;

(4) Any ash tree or stump found to harbor *Agrilus planipennis* Fairmaire, or Emerald Ash Borer Pest Insect.

(5) Any ash firewood or cut logs found to harbor *Agrilus planipennis* Fairmaire or Emerald Ash Borer Pest Insect.

## SECTION 3

Section 175.04 is hereby amended to read as follows:

Sec. 175.04. - Inspection.

(a) *City forester to inspect.* The city forester shall inspect all premises and places within the city of Saint Paul as often as practical to determine whether any condition described in section 175.02 exists thereon. The City forester shall investigate all reported incidents of infestation by Dutch Elm fungus, or elm bark beetles, Emerald Ash Borer Pest Insect or *Agrilus planipennis* Fairmaire. The city forester or his duly authorized officers, employees or agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this chapter.

(b) *Analysis of specimens.* Whenever necessary to determine the existence of Dutch Elm Disease, or elm bark beetles, Emerald Ash Borer Pest Insect, *Agrilus planipennis* Fairmaire, or any other dangerous condition in any tree, the person inspecting such tree may remove or cut specimens from the tree in such manner as to avoid permanent injury thereto and may forward such specimens to the Minnesota Department of Agriculture for analyses to determine the presence of such nuisances. No action to remove living trees or wood shall be taken until positive diagnosis of the nuisance has been made.

SECTION 4

Section 175.05 is hereby amended to read as follows:

Sec. 175.05. - Abatement, procedures.

- (a) *Notification to owner, etc.* Whenever the city forester has reason to believe that a nuisance as defined in section 175.02 exists on any private property in the city, ~~he a notice and written be order will be mailed shall mail a written order~~ to the last known address of the owner of the real property involved. For the purpose of this chapter, "owners" and their addresses shall be those shown to be such on the records of the Ramsey County Department of Property Taxation, but other appropriate records may be used. The written order ~~shall will~~ notify the owner of the existence of the nuisance and direct that it be removed within twenty (20) days after receipt of such notice. The notice ~~shall will~~ also state that if such nuisance has not been abated within the time provided, the city, by and through its department of ~~parks community services~~ may abate the nuisance at the expense of the owner. ~~In the event that the nuisance is abated by the City, and that, if the costs of the abatement have not been prepaid by the owner at the time the abatement takes place, the and all charges~~ for such work and any administrative costs incurred by the real estate section of the office of financial services for processing the collection thereof ~~shall will~~ be made a special assessment against the property concerned.
- (b) *Failure to act; city may abate.* If the owner or person in control of any private premises fails to have such nuisance so removed and properly disposed of within twenty (20) days after receipt of notification by mail, or when the owner or person in control cannot be located, the department of ~~parks and recreation community services~~ may proceed to have the nuisance removed and disposed of, and any expense incurred by the city in so doing may be a charge and lien upon the property and shall be collected as a special assessment against the property concerned ~~in accordance with this Chapter~~. Included as part of the assessment shall be those administrative costs incurred by the real estate section of the office of financial services in processing the collection of the abatement.
- (c) *Costs to be assessed.* The city forester ~~shall must~~ keep a record of the cost of abatements done under this section and, on or before September 1 of each year, ~~shall will~~ report to the real estate section of the office of financial services all work done for which assessments are to be made, stating and certifying the description of the lots and parcels involved and the amount chargeable to each lot and parcel. The total costs of this abatement including the administrative costs incurred by the real estate section of the office of financial services in processing the abatement ~~shall will~~ then be assessed against the affected real property in the manner provided for in ~~chapter 14 of the City Charter~~ Minn. Stat. Chapter 429 and be collected in accordance with those applicable provisions contained in ~~chapter 61.03 4 of the St. Paul Administrative Code; with this Chapter; provided, however, that these assessments shall will be payable in not to exceed ten (10) annual installments.~~
- (d) *Subsidies.* Notwithstanding any other provision of this section to the contrary, the city may provide total or partial subsidies to owners of private residential property for the cost of removing diseased trees; provided, however, that the private residential property is used exclusively for residential purposes only; and provided further, that the property has located thereon a dwelling or dwellings which are exclusively designed for and used as single or multi-dwelling buildings with families living independent of each other.
- (e) Resolution approving total, setting date for public hearing. In the event that property services costs are not paid as ordered in the invoice, the matter will be referred to the real estate section. The real estate section will notify the city council of the amounts owed by individual properties for tree removal services including the addresses of the individual properties and the property services provided to each individual property, the property services provided, and the amount to be assessed. Upon receipt thereof, the council will by resolution fix a date for public hearing at which time the council will consider adopting and levying the tree removal costs. The date of the public hearing will be at least twenty (20) days after the adoption of said resolution. In addition to the report, the real estate section will prepare a proposed

assessment roll which sets forth the recommended amount to be assessed against each property, which proposed assessment roll will be maintained on file and be open to public inspection in the real estate section.

2. Upon receipt thereof, the council will by resolution fix a date for public hearing at which time the council will consider adopting and levying the tree removal costs. The date of the public hearing will be at least twenty (20) days after the adoption of said resolution.
- (b) Notice of council hearing. Following the adoption of the resolution provided in paragraph a. above, the real estate section will publish a notice of the hearing in an official newspaper of the city and to all property owners to be assessed at least two (2) weeks prior to the public hearing. The notice will state the following: date, time and place of hearing, the purpose of the hearing, and identify the tree removal services provided and the property to be assessed.
  1. The date, time, and place of the public hearing;
  2. The property to be assessed;
  3. The purpose of the hearing including the tree removal services provided that are subject to the proposed assessment and the amount of the proposed assessment for each individual property;
  4. That the full assessment roll is on file with the City Clerk;
  5. That adoption by the council of the proposed assessment may be taken at the hearing;
  6. That written or oral objections to the assessment by any property owner will be considered;
  7. A notice of the right to appeal the assessment to district court and the procedure that will apply to such appeal;
  8. That no appeal may be taken as to the amount of any assessment, unless a written objection signed by the affected property owner is filed with the City Clerk prior to the assessment hearing or presented to the Council at the hearing.
  9. A notice of the provisions for deferred assessments under Minnesota Statutes, Sections 435.193 to 435.195, and that the tree removal fees defined in this chapter are eligible for deferral pursuant to the requirements outlined in St. Paul Administrative Code Chapter 64.07; and
  10. A notice of the right to prepay the assessment, the person to whom prepayment must be made, whether partial prepayment is authorized, the time within which prepayment may be made without the assessment of interest, and the rate of interest to be accrued if the assessment is not prepaid within the required time period.
- (c) Notice to owner and interested parties, if applicable. At least ten (10) days before the hearing, notice thereof will be sent. Such notice will inform the recipient of the notice:
  1. Of the procedures a recipient must follow under the charter in order to appeal the assessments to the district court; and
  2. Of the provisions for deferred assessments under Minnesota Statutes, Sections 435.193 to 435.195, and that the tree removal costs defined in this chapter are eligible for deferral pursuant to the requirements outlined in St. Paul Administrative Code Chapter 64.07.
- (d) Public hearing; adoption of assessment roll. On the date of the public hearing, the council will consider the adoption of the proposed property services costs. The council will hear all interested parties concerning the proposed costs. At such meeting or at any adjournment thereof, the council may amend the proposed tree removal costs, and will, by resolution, adopt the property services costs as a special assessment against the properties which utilized the property services. Special assessments levied

hereunder are payable in not to exceed ten (10) annual installments.

- (e) An additional interest factor will be charged to cover the city's costs related to the assessment as determined by the real estate manager and treasury manager.
- (f) Certification to county for collection with taxes. After adoption by resolution of the property services costs and assessment rates therefore, the city clerk will transmit a certified copy of said resolution to the county department of property taxation to be extended on the proper tax list of the county and collected the following year along with current taxes.
- (g) Appeal. Within twenty (20) days after adoption of the resolution adopting the tree removal costs, any person aggrieved may appeal to the district court in the manner set forth in chapter 14 of the City Charter.

## SECTION 5

This Ordinance will take effect and be in force thirty (30) days following its passage, approval and publication.