

ORDINANCE NO. 65

AN ORDINANCE RELATIVE TO THE PREVENTION AND CONTROL OF SHADE TREE DISEASES.

The City of Brownnton Does Ordain:

Section 1. All ordinances inconsistent herein or parts thereof inconsistent herewith are appealed upon passage and publication of this ordinance.

Sub. 1. The Council has determined that the health of the elm and oak trees within the municipal limits are threatened by fatal diseases known as Dutch Elm Disease and Oak Wilt, respectfully. It has further been determined that the loss of elm and oak trees growing upon private and public property would substantially depreciate the value of property within the City and impair 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 this section is enacted for that purpose.

Sub. 2. Shade tree disease program. It is the intention of the city to conduct a program of shade disease control. The designated control district includes area bonded by the city Limits.

Sub. 3. Certified Tree Inspector. The Council shall designate a tree inspector or tree inspectors, certified by the Minnesota commissioner of Agriculture, who shall administer the Dutch Elm Disease and/or Oak Wilt control programs for the City in accordance with tree disease ordinance and within the designated Dutch Elm Disease and/or Oak Wilt control areas of the City.

Sub. 4. Nuisance Declared. The following are declared to be public nuisances whenever and wherever they may be found within the designated Dutch Elm Disease and/or Oak Wilt control areas within the City.

- A. Any standing or living tree or part thereof infected to any degree with the Dutch Elm Disease fungus, *Ceratocystis ulmi* (Busiman) Moreau, or which harbors any of the Elm Bark Beetles, *Scolytus Multistriatus* (Eichh) or *Hylurgopinus Rufipes* (Marsch). And also any dead elm tree or part thereof with bark intact including logs, branches, stumps, or firewood which has not been disposed of properly.
- B. Any living or standing tree or part thereof in the Red Oak group (Red Oak, Pin Oak, Scarlet Oak, Black Oak) infected to any degree with the Oak Wilt fungus, *Ceratocystis Fagecearun* (Bretz) Hunt.
- C. Also, any living or standing tree in the White Oak group (White Oak, Bur Oak, Bicolor Oak) that poses a threat of transmission of the Oak Wilt fungus to other trees of the same species through interconnected root systems.

Sub. 5. Abatement. It is unlawful for any person to permit a public nuisance as defined in Sub. 4., to remain on any premises owned or controlled by that person within the designated control areas of the city. Suck nuisances may be abated in the manner prescribed by this section.

Sub. 6. Inspection and Investigation.

A. **Annual Inspection:**

1. Dutch Elm Disease: The tree inspector shall inspect all premises and places within the designated Dutch Elm Disease control area of the City at least three (3) times during the growing season, by June 15,

July 15, and August 15, to determine whether any condition described in Sub. 4A exists.

2. Elm Wood: The tree inspector shall inspect all premises and places within the designated Dutch Elm Disease control area of the City by April 1 of each year for Elm Wood or logs/stumps that meet any of the conditions described in Sub. 4A and require by April 1, removal or debarking of all wood logs, and stumps, to be retained.
 3. Oak Wilt: The tree inspector shall inspect all premises and places with the designated Oak Wilt control area of the City as many times as practical or necessary to determine whether any condition described in Sub. 4B or 4C exists.
- B. Entry on Private Premises: The tree inspector so designated by the Council may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned to him/her under this section. Before making any inspection on private property within the City, the tree inspector shall give notice of said inspection, oral or written notice, or by publishing said notice in a local newspaper.
- C. Diagnosis: The tree inspector shall, upon finding the indications of Oak Wilt or Dutch Elm Disease, take such steps for diagnosis as may be appropriate, including analysis of twig samples from actively wilting branches by the department of Agriculture tree disease laboratory, or other laboratories capable of performing such services approved by the Minnesota Commissioner of Agriculture. Whenever possible, diagnosis shall be based upon accepted field systems.

Sub. 7. Interference Prohibited. It is unlawful for any person to prevent, delay, or interfere with the City tree inspector his/her agents while they are engaged in the performance of duties imposed by this ordinance.

Sub. 8. Procedure for Abatement and Removal.

- A. Whenever it is found with reasonable certainty that a tree has oak wilt or Dutch elm disease, the tree inspector shall proceed as follows: If the tree inspector finds that there is potential for infection or other oak or elm trees, he/she shall notify the owner of the property on which the nuisance is found, by certified mail, addressed to said owner at his/her last known address. The tree inspector will specify on the notice a reasonable date before which the nuisance must be abated (see subsections B, C, and D). The tree inspector shall immediately report said action to the Council and, after the expiration of the time limited by said notice, the tree inspector may proceed to abate the nuisance as herein provided. The cost of such abatement, plus a \$50.00 administrative fee, shall be assessed against the owner of the property involved, or against the property itself.
- B. High Risk Elm Trees: High risk elm trees shall be those trees that are dead, barren, or have extensive wilt (30 percent or more of the tree is wilted). Such trees shall be identified and marked prior to June 25. These high risk trees shall be moved within 20 days of notification of the property owner.
- C. Low Risk Elm Trees: Low risk elm trees shall be those trees that show early stages of infection in June or subsequently beyond the 30 percent wilting

point. Every reasonable effort shall be made to have low risk trees removed within 20 days of notification of the property owner, but in no case, shall it be later than April 1 of the year following the appearance of symptoms.

- D. Oak Trees: All oak trees within the designated oak wilt control area of the City diagnosed as having oak wilt should be isolated from neighboring healthy oak trees of the same species by chemical or mechanical disruption of common root systems to prevent root graft transmission of the oak wilt fungus.
1. To control the overland spread of oak wilt, the pruning of oaks shall be avoided during the most susceptible period of infection, from April 15 – July 1. If wounding is unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing shall be applied immediately.
 2. To prevent the oak wilt fungus from producing spores and to prevent overland spread of this fungus, any diseased material of the red oak group wilting in July and August of one year shall be declared hazardous the following spring from April 15 until July 1.
 3. Any hazardous oak wood to be used as fuel wood or to be salvaged for other purposes must be debarked or else completely covered by heavy plastic (4 mil or greater) from April 15 until July 1 of the year following the appearance of symptoms. After this time, there is no danger of spore production, and the wood does not need to be covered.
 4. Any branch greater than 3” in diameter of the red oak group determined to be hazardous and not to be salvaged shall be disposed of by burning, chipping, or removal to an authorized dump site prior to April 15 of the year following the appearance of symptoms. Dead standing red oaks that have advanced beyond the potential for spore production need not be removed except where they constitute a hazard to life and/or property. The City tree inspector will advise accordingly.
 5. Stumps of trees of the red oak group removed due to oak wilt shall be completely covered, removed, or debarked to the ground line to eliminate all possibilities of spore formation and overland disease spread.
- E. White Oaks: Trees of the white oak groups (ie. white oak, bur oak, bicolor oak) diagnosed as having oak wilt should be isolated by root graft disruption as previously stated. Diseased material originating from such trees will rarely ever support spore formation, and salvaged material therefore will not require special treatment to prevent overland spread. Standing trees of this group showing early symptoms of oak wilt may be saved by removing affected branches. The City tree inspector will advise accordingly.

Sub. 9. Root Graft Disruption (Barriers) at Property Boundaries.

- A. If the tree inspector finds that Dutch elm disease or oak wilt threatens to cross property boundaries or disease control area boundaries, the tree inspector may require root graft disruption to prevent the spread of disease in this manner. If plowing or trenching is not possible due to terrain, location, or buried utilities,

the tree inspector may require chemical root graft disruption. These barriers will be placed in accordance with current technology and plans as may be designated by the Commissioner of Agriculture, State of Minnesota.

- B. The charges, or any portion thereof, for any necessary root barriers, may be assessed against the property on which the root barriers are placed.
- C. Because oak wilt is a community problem and because oak wilt control may benefit an entire neighborhood, the tree inspector shall recommend and encourage neighborhood participation and cooperation, including cost sharing, in root graft disruption, and other control efforts, especially where oak wilt is in danger of spreading across property boundaries.

Sub. 10. Transporting Elm and Oak Wood Prohibited. It is unlawful for any person to transport within the City any bark intact elm wood, or wood from the red oak group that is determined to be hazardous, without having obtained a permit from the City tree inspector. The City tree inspector shall grant such permits only when such permission does not interfere with the provision of this ordinance.

Sub. 11. Boulevard Trees. The City Council shall approve the variety of trees planted on boulevard.

Section 2. Penalty. Any person, firm, or corporation who violates the conditions of this ordinance is guilty of a misdemeanor and may be punished by a fine not to exceed \$300.00 or imprisonment for 90 days.

Section 3. This ordinance shall take effect and be in force upon its passage, approval, and publication.

Passed by the City Council this 2nd day of May, 1989.

Carl Wachter
Mayor

Attest: **Carol Winterfeldt**
City Clerk

