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**Sec. 18-209. Abatement required; abatement by city.**

- (a) Any person or any company licensed by the city to perform tree trimming or removal work who discovers or suspects oak wilt infestation or an infected oak tree shall report that information to the city administrator by the next business day. The city will confirm oak wilt, and if confirmed, the owner of the property shall be notified of the nuisance tree. It is unlawful for any person within the city to permit any nuisance tree as defined in section 22-208 to remain on their property within the city, and any such person must, within 30 calendar days after being notified of the presence of a nuisance tree on their property, remove and properly dispose of the tree or provide treatment to control the disease afflicting the tree that constitutes a public nuisance. If any person, after notice given under section 22-216, fails to remove and properly dispose of any tree that constitutes a public nuisance, the city may do the work necessary to abate the nuisance, or may pay for the work to be done, and may charge the expenses to the owner of the property. These charges will be a personal liability of the owner. In addition, the city council may assess all expenses incurred by the city against the real property on which the work is done.
- (b) If any work mentioned in subsection (a) of this section is done by the city, a statement of the expenses incurred in doing the work will be completed, certified and filed with the county clerk, stating the description of the property upon which such work was done, the character of work and the name of the owners of the property, whereupon the city shall have a lien upon the land or premises upon which the work was done for the amount of the expenditures, together with interest on that amount at the rate of ten percent per annum from the date the expenses were incurred until paid.
- (c) To recover these expenditures and interest, suit may be instituted and a personal judgment obtained against the owner of the property and recovery and foreclosure may be had in the name of the city against the owner in any court having jurisdiction. The statement of expenditures made and filed, or a certified copy, will be prima facie proof of the amount expended.

(Code 1987, ch. 5, subch. K, § 4; Code 1995, § 8.06.004; Ord. No. 2021-04-21-16 , § 1, 4-21-2021)

**Sec. 18-210. Payment of costs of testing, tree removal, and trenching.**

- (a) *Laboratory analysis.* The property owner must pay for the cost of any laboratory analysis necessary to determine the presence of disease.
- (b) *Removal and disposal.* The cost of removing and disposing of any tree or wood determined to be a public nuisance will be borne by the property owner.
- (c) *Trenching.* It shall be the responsibility of the property owner to pay any monies necessary to allow for the execution of a state forest service (TFS) cost sharing program. If any person, after notice given under section 22-216, fails to meet cost sharing requirements set forth by the TFS cost sharing program, the city shall pay the necessary monies and recover the expenditures as outlined in section 22-209.

(Code 1987, ch. 5, subch. K, § 5; Code 1995, § 8.06.005)

**Sec. 18-211. Trimming or cutting of trees susceptible to oak wilt.**

- (a) The trimming or cutting of oak trees susceptible to oak wilt disease for purposes other than protecting the public or protecting property from imminent damage shall be conducted only outside of the period February 1 through June 30 of each year (the "proscribed period"). The surface of the cut must be treated immediately with an acceptable paint to mask the exposed wound from contamination.

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- (b) Any wounds, whether made by trimming, construction or accident, shall be treated immediately with an acceptable paint.
  - (c) Except in exigent circumstances to protect the public from imminent danger, advance written approval must be obtained to trim or cut an oak tree during the proscribed period to protect the public or to protect property from imminent damage. Written approval maybe provided by electronic mail or any other means, as authorized by the city administrator, the building official, or the mayor.

(Code 1995, § 8.06.006)

#### **Sec. 18-212. Storage of firewood.**

All firewood shall be stored under clear plastic, and shall not be stored next to healthy trees.

(Code 1987, ch. 5, subch. K, § 7; Code 1995, § 8.06.007)

#### **Sec. 18-213. Sterilization of equipment used for trimming or cutting oak trees.**

Equipment used for trimming or cutting of oak trees in public projects shall be sterilized after each tree is completely cut and before proceeding to the next tree.

(Code 1987, ch. 5, subch. K, § 8; Code 1995, § 8.06.008)

#### **Sec. 18-214. Enforcement.**

The city administrator, in cooperation with the city police department and the state forest service (TFS), will be responsible for the enforcement of this article.

(Code 1987, ch. 5, subch. K, § 9; Code 1995, § 8.06.009)

#### **Sec. 18-215. Inspections.**

The city administrator, the city arborist, and the agents of the TFS, as the city's representatives, are authorized to enter upon any property within the city for the purpose of inspecting any trees or firewood situated on the property. If the property is occupied, the city's representatives will make a reasonable effort to locate the owner or another person with control of the property to request permission to enter. If the city's representatives are denied permission to enter, and the city's representatives have probable cause to believe that a public nuisance, as defined in this article, exists on the property, the city's representatives may apply for a search warrant through the city's municipal court. The purpose of the warrant will be to determine the presence of a public nuisance and to obtain specimens necessary to confirm the presence of nuisance trees or firewood on the property.

(Code 1987, ch. 5, subch. K, § 10; Code 1995, § 8.06.010)

#### **Sec. 18-216. Notice to property owner.**

If a tree or firewood is determined to be a nuisance tree, and the city administrator, in cooperation with the TFS or city arborist, determines that the tree or wood is a public nuisance, the city will deliver written notice to the property owner, advising the owner of the determination and requiring the owner to comply with this article. This notice will be given:

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- (1) To such owner in person by an officer or employee of the city;
  - (2) By letter addressed to such owner at his known post office address; or
  - (3) If personal service cannot be obtained, or the owner's post office address is unknown, then notice may be given in the manner provided in V.T.C.A., Local Government Code § 54.005 by delivery to the address of the owner of such property shown in the real property records of the county, and the address listed for the owner of such property as shown in records maintained by the county central appraisal district. If notice is delivered pursuant to V.T.C.A., Local Government Code § 54.005, the procedures set forth in that section shall apply. In addition to the manner provided in this subsection, notice shall be given by:
    - a. Posting a notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings; or
    - b. Posting the notice on or near the front door of each building on the property to which the violation relates.

(Code 1995, § 8.06.011)

### **Sec. 18-217. Requirements for conduct of tree maintenance businesses.**

- (a) Any person engaged in the business of tree maintenance by pruning, trimming or removing of trees in the city shall comply with all applicable provisions of this article and shall secure an annual permit to do so from the city administrator or official.
- (b) The city administrator will issue a permit upon receipt of the following information:
  - (1) The name, telephone number and address of the applicant and, if the applicant is an association, partnership, company or corporation, the name of such entity together with the names of the persons who will be performing tree maintenance within the city;
  - (2) The names of other communities in which the applicant has performed tree maintenance in the previous twelve months and, if employed by a different company in the other communities, the names of those companies;
  - (3) A sworn acknowledgment of receipt and review of the city's forest protection ordinance; and
  - (4) Copies of any certifications or licenses possessed by the applicant or its employees, agents or representatives related to tree maintenance activities.
- (c) The applicant and the applicant's employees, agents and representatives must post the permit or a copy of the permit on a sign or company truck, and the permit or copy of the permit must be readily viewable from the street at all times while performing tree maintenance within the city.
- (d) The permit will be valid for one year from the date issued.

(Code 1995, § 8.06.012)

### **Sec. 18-218. Pruning of trees adjacent to public streets.**

- (a) Residential and commercial property owners shall be responsible for pruning the trees on their lots adjacent to public streets to provide a minimum of 14 feet of vertical clearance above the street. If, after 30 days of notice as outlined in section 22-216, the property owner fails to perform any work necessary to comply with this section, the city shall perform the work or pay for the work to be completed and the cost for the work shall be the liability of the property owner as outlined in section 22-209.

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- (b) Residential and commercial property owners shall be responsible for pruning the trees on their lots adjacent to public streets to provide line-of-sight clearance. If, after 30 days of notice as outlined in section 22-216, the property owner fails to perform any work necessary to comply with this section, the city shall perform the work or pay for the work to be completed and the cost for the work shall be the liability of the property owner as outlined in section 22-209.
  - (c) The city must prune all trees on public property to provide a minimum of 14 feet of vertical clearance above the street and line-of-sight clearance of 15 feet from intersections.

(Code 1987, ch. 5, subch. K, § 13; Code 1995, § 8.06.013)