

ORDINANCE NO. 18-09

CITY OF FALCON HEIGHTS
RAMSEY COUNTY, MINNESOTA

**AN ORDINANCE AMENDING THE FALCON HEIGHTS
CITY CODE CONCERNING THE REMOVAL OF TREES, SHRUBS
AND OTHER PLANTS**

THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS ORDAINS:

SECTION 1: Section 54-34 of the Falcon Heights City Code is amended to read:

Sec. 54-34. - Purpose.

- (a) *Purpose.* It is the purpose of this article to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City.
- (b) *Plant Protection.* It is the intent of the Council to conduct a plant protection and export program pursuant to the authority granted by Minn. Stat. § 18G.
- (c) The provisions of this section are adopted as an effort to control and prevent the spread of shade tree pests and to maintain a healthy urban forest, in addition to and in accordance with Minn. Stat. §§ 89.001, 89.01 and 89.51-64.

SECTION 2: Section 54-36 of the Falcon Heights City Code is amended to read:

Sec. 54-36. - City Forester.

The City Forester shall be under the direction of the City Administrator at all times. The authority and duties of the City Forester are as follows:

- (1) The Forester shall have jurisdiction and supervision over all trees, shrubs, and other plants growing within the City.
- (2) The Forester may order the trimming, treatment or removal of any trees or plants on public or private property that constitute a nuisance or hazard, or whenever necessary to prevent the spread of disease or harmful insects.
- (3) The Forester shall act as the City tree inspector and shall coordinate all activities between the state Department of Agriculture and the Council.

SECTION 3: Section 54-38, paragraph (6)c of the Falcon Heights City Code is amended to read:

- c. *Abatement of disease.* The Forester shall order the removal of any infected tree or wood constituting a nuisance as described in subsection (3) of this section. Removal and abatement shall be in accordance with the technical opinion of the Forester or the Department of Agriculture. Trees impacted by a shade tree pest shall be removed or effectively treated so as to destroy and prevent as fully possible the spread of the shade tree pest.

SECTION 4: Chapter 54, Article II of the Falcon Heights City Code is amended by adding Section 54-41 to read:

Sec. 54-41. – Declared Shade Tree Pests, Control Measures, and Control Areas.

Declaration of a shade tree pest. The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community tree, as defined by Minn. Stat. § 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action.

- (1) Oak wilt disease is a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump, or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three (3) inches in diameter or ten (10) inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum*.

- a. Control Measures.

Installation of a root graft barrier. A root graft barrier can be ordered installed to prevent the underground spread of oak wilt disease. The City will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root drafted trees. The barrier is created by excavating or vibratory plowing a line at least forty two (42) inches deep between any oak tree infected with oak wilt disease and each nearby and apparently healthy oak tree within fifty (50) feet of the infected tree.

- b. Removal and disposal of trees.

- 1. On Property zoned for residential and commercial use.

On property that is zoned residential and commercial the City may mark for removal of trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum*. After, and in no case before, the installation of the root graft barrier and no later than May 1 of the year following infection, all marked trees must be felled. The stump from such felled trees must no

extend more than three inches above the ground or, if taller, must be completely debarked.

If, however, after the City prescribes the location for a root graft barrier, the City determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the City may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

2. On all other property.

On all other property, the City may mark for removal all oak trees whether living or infected or not and located between an infected tree and marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

All wood more than three (3) inches in diameter or ten (10) inches in circumference from such felled trees must be disposed of by burying, debarking, chipping or sawing into wane-free lumber, or by splitting into firewood, stacking the firewood, and immediately covering the woodpile with unbroken four (4)-mill or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled, or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

- c. Control Area. The control area for oak wilt disease is defined as all lands within the boundaries of the City.

(2) Emerald Ash Borer

- a. Emerald Ash Borer is a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub – or worm-like and live underneath the bark of ash trees.
- b. Control Measures that may be taken to abate emerald ash borer are those state statute.
- c. Definition of control area. The control area for emerald ash borer is defined as all lands within the boundaries of the City.

(3) Dutch elm disease

- a. Dutch elm disease is a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma nova-ulmi*, and includes any living dead tree, log, firewood, limb branch, stump, or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three (3) inches in diameter or ten (10) inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi*.
- b. Control Measures that may be taken to abate Dutch elm disease are:
 - 1. Use of fungicide. Fungicides may be effective in prevent Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense. Treating with fungicide on public lands requires the approval of the City Administrator or their designee.
 - 2. Removal and disposal of trees. Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be moved by April 1 of the following year. Diseased trees not promptly removed will be removed by the City at the landowner's expense. Wood may be retained for use as firewood or saw logs if it is debarked or covered from April 15 to October 15 with four mill plastic. The edges of the cover must be buried and sealed to the ground.
- c. Control Area. The control area for oak wilt disease is defined as all lands within the boundaries of the City.

SECTION 5. This ordinance is effective immediately upon its passage and publication.

ADOPTED this 26th day of September 2018 by the City Council of Falcon Heights, Minnesota.

Moved by: Leehy

Approved by: Peter Lindstrom
Peter Lindstrom
Mayor

LINDSTROM
GUSTAFSON
HARRIS
LEEHY
MIAZGA

5 In Favor

0 Against

Attested by: Sack Thongvanh
Sack Thongvanh
City Administrator