

AGENDA
REGULAR PLANNING COMMISSION MEETING
December 8, 2020 - 7:00 P.M.
9180 Lexington Avenue, Lexington, MN

1. CALL TO ORDER
 - A. Roll Call: Chairperson VanderBloomer, Commissioners Bautch, Thorson, Koch and Murphy
2. CITIZENS FORUM
3. APPROVAL OF AGENDA WITH CHANGES AND CORRECTIONS
4. LETTERS AND COMMUNICATION
 - A. Building Permits for November 2020 **pg. 1-5**
5. APPROVAL OF PLANNING COMMISSION MINUTES
 - B. November 10, 2020 **pg. 6-7**
6. DISCUSSION ITEM:
 - A. Review Final Draft of Proposed Tree Management Ordinance **pg. 8-25**
 1. Tree City USA Municipal Tree Ordinance
7. NOTE COUNCIL MINUTES:
 - A. November 5, 2020 **pg.26-28**
 - B. November 19, 2020 **pg. 29-31**
8. PLANNING COMMISSION INPUT
9. ADJOURNMENT

**City of Lexington
Permits Issued & Fees Report - Detail by Address**

**Issued Date From: 11/1/2020 To: 11/30/2020
Permit Type: All Property Type: All Construction Type: All
Include YTD: Yes Status: Not Voided**

Permit#	Date Issued	Site Address	Permit Count	Dwell Units	Valuation	Revenue	Plan Check	State Surcharge	Park Fees	SAC Units	SAC Fees	WAC Fees	Total Fees
Permit Type: Building													
Permit Kind: Commercial Addition													
Permit Kind: Commercial Demoliton													
Permit Kind: Commercial New Construction													
Permit Kind: Commercial Remodel													
2020-00186	11/24/2020	9005 SOUTH HIGHWAY DRIVE		0	95,635.00	1,267.94	824.16	47.82					2,139.92
Permit Kind: Commercial Roofing													
2020-00189	11/10/2020	3832 BOSTON LN		0	14,200.00	329.94	214.46	7.10					551.50
Permit Kind: Commercial Sign - Permanent													
2020-00193	11/19/2020	9271 SOUTH HIGHWAY DRIVE		0									0.00
Permit Kind: Residential Accessory Building													
Permit Kind: Residential Addition													
Permit Kind: Residential Deck/Porch													
Permit Kind: Residential Demoliton													
Permit Kind: Residential MOVING A STRUCTURE													
Permit Kind: Residential OVER WEIGHT PERMIT													
Permit Kind: Residential Remodel													
Permit Kind: Residential Repair													
Permit Kind: Residential Roofing													
2020-00122	11/04/2020	9076 JACKSON AVE		0	15,000.00	145.00		1.00					146.00
2020-00123	11/03/2020	9313 RYAN PL		0	12,000.00	145.00		1.00					146.00
Permit Kind: Residential SET MOBILE HOME													
2020-00167	11/10/2020	3804 LIBERTY LN		0		100.00		1.00					101.00
2020-00171	11/10/2020	3809 LIBERTY LN		0		100.00		1.00					101.00

Permit#	Date Issued	Site Address	Permit Count	Dwell Units	Valuation	Revenue	Plan Check	State Surcharge	Park Fees	SAC Units	SAC Fees	WAC Fees	Total Fees
Permit Type: Building													
Permit Kind: Residential SET MOBILE HOME													
2020-00174	11/10/2020	3811 LIBERTY LN		0		100.00		1.00					101.00
2020-00177	11/10/2020	3815 LIBERTY LN		0		100.00		1.00					101.00
2020-00180	11/10/2020	3844 LIBERTY LN		0		100.00		1.00					101.00
2020-00183	11/10/2020	3847 LIBERTY LN		0		100.00		1.00					101.00
2020-00142	11/10/2020	3807 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00145	11/10/2020	3809 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00148	11/10/2020	3811 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00151	11/10/2020	3813 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00154	11/10/2020	3815 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00157	11/10/2020	3840 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00160	11/10/2020	3848 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00163	11/10/2020	3853 MINUTEMAN LN		0		100.00		1.00					101.00
2020-00124	11/10/2020	3811 PATRIOT LN		0		100.00		1.00					101.00
2020-00127	11/10/2020	3817 PATRIOT LN		0		100.00		1.00					101.00
2020-00130	11/10/2020	3821 PATRIOT LN		0		100.00		1.00					101.00
2020-00133	11/10/2020	3822 PATRIOT LN		0		100.00		1.00					101.00
2020-00136	11/10/2020	3826 PATRIOT LN		0		100.00		1.00					101.00
2020-00139	11/10/2020	3834 PATRIOT LN		0		100.00		1.00					101.00
Permit Kind: Residential Siding													
2020-00121	11/04/2020	9076 JACKSON AVE		0	15,000.00	145.00		1.00					146.00
Permit Kind: Residential WINDOW, EGRESS, DOOR SIZE CHANGE													
Permit Type: Building - Totals													
			Period	26	0	151,835.00	4,032.88	1,038.62	77.92				5,149.42
			YTD	90	0	12,878,988.21	77,528.68	45,412.03	2,184.98	90	223,650.00		532,300.69
Permit Type: Fire													
Permit Kind: Commercial Fire Suppression													
2020-00192	11/18/2020	9001 GRIGGS AVE		0		195.00	126.75	105.92					427.67
2020-00187	11/09/2020	9005 SOUTH HIGHWAY DRIVE		0		195.00	126.75	0.50					322.25
Permit Kind: Commercial Fire Suppression Main/Repair/Demo													
2020-00191	11/18/2020	9005 SOUTH HIGHWAY DRIVE		0		75.00		1.00					76.00

Permit#	Date Issued	Site Address	Permit Count	Dwell Units	Valuation	Revenue	Plan Check	State Surcharge	Park Fees	SAC Units	SAC Fees	WAC Fees	Total Fees
Permit Type: Fire - Totals													
			Period	3	0		465.00	253.50	107.42				825.92
			YTD	4	0		855.00	507.00	139.92				1,501.92

Permit Type: Mechanical

Permit Kind: Commercial New Construction

Permit Kind: Commercial Remodel

Permit Kind: Residential HVAC

2020-00194	11/23/2020	3565 RESTWOOD RD		0		40.00		1.00					41.00
2020-00190	11/10/2020	9233 SYNDICATE AVE		0		40.00		1.00					41.00

Permit Kind: Residential MECHANICAL NEW MOBILE HOME

2020-00168	11/10/2020	3804 LIBERTY LN		0		40.00		1.00					41.00
2020-00172	11/10/2020	3809 LIBERTY LN		0		40.00		1.00					41.00
2020-00175	11/10/2020	3811 LIBERTY LN		0		40.00		1.00					41.00
2020-00178	11/10/2020	3815 LIBERTY LN		0		40.00		1.00					41.00
2020-00181	11/10/2020	3844 LIBERTY LN		0		40.00		1.00					41.00
2020-00184	11/10/2020	3847 LIBERTY LN		0		40.00		1.00					41.00
2020-00143	11/10/2020	3807 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00146	11/10/2020	3809 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00149	11/10/2020	3811 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00152	11/10/2020	3813 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00155	11/10/2020	3815 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00158	11/10/2020	3840 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00161	11/10/2020	3848 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00164	11/10/2020	3853 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00126	11/10/2020	3811 PATRIOT LN		0		40.00		1.00					41.00
2020-00128	11/10/2020	3817 PATRIOT LN		0		40.00		1.00					41.00
2020-00131	11/10/2020	3821 PATRIOT LN		0		40.00		1.00					41.00
2020-00135	11/10/2020	3822 PATRIOT LN		0		40.00		1.00					41.00
2020-00138	11/10/2020	3826 PATRIOT LN		0		40.00		1.00					41.00
2020-00141	11/10/2020	3834 PATRIOT LN		0		40.00		1.00					41.00

Permit Type: Mechanical - Totals

			Period	22	0		880.00		22.00				902.00
			YTD	37	0	503,500.00	11,509.00	6,545.50	286.75				18,341.25

Permit#	Date Issued	Site Address	Permit Count	Dwell Units	Valuation	Revenue	Plan Check	State Surcharge	Park Fees	SAC Units	SAC Fees	WAC Fees	Total Fees
Permit Type: Plumbing													
Permit Kind: Commercial New Construction													
2020-00188	11/10/2020	9001 GRIGGS AVE		0	640,000.00	12,800.00	8,320.00	320.00					21,440.00
Permit Kind: Commercial NEW UTILITY LINE W&S													
Permit Kind: Commercial Remodel													
Permit Kind: Commercial RPZ Installation													
Permit Kind: Residential Alteration/Repair/Extention													
Permit Kind: Residential MOBILE HOME NEW CONNECTION													
2020-00170	11/10/2020	3804 LIBERTY LN		0		40.00		1.00					41.00
2020-00173	11/10/2020	3809 LIBERTY LN		0		40.00		1.00					41.00
2020-00176	11/10/2020	3811 LIBERTY LN		0		40.00		1.00					41.00
2020-00179	11/10/2020	3815 LIBERTY LN		0		40.00		1.00					41.00
2020-00182	11/10/2020	3844 LIBERTY LN		0		40.00		1.00					41.00
2020-00185	11/10/2020	3847 LIBERTY LN		0		40.00		1.00					41.00
2020-00144	11/10/2020	3807 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00147	11/10/2020	3809 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00150	11/10/2020	3811 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00153	11/10/2020	3813 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00156	11/10/2020	3815 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00159	11/10/2020	3840 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00162	11/10/2020	3848 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00165	11/10/2020	3853 MINUTEMAN LN		0		40.00		1.00					41.00
2020-00125	11/10/2020	3811 PATRIOT LN		0		40.00		1.00					41.00
2020-00129	11/10/2020	3817 PATRIOT LN		0		40.00		1.00					41.00
2020-00132	11/10/2020	3821 PATRIOT LN		0		40.00		1.00					41.00
2020-00134	11/10/2020	3822 PATRIOT LN		0		40.00		1.00					41.00
2020-00137	11/10/2020	3826 PATRIOT LN		0		40.00		1.00					41.00
2020-00140	11/10/2020	3834 PATRIOT LN		0		40.00		1.00					41.00
Permit Kind: Residential Remodel													
Permit Kind: Residential Water Heater													
Permit Type: Plumbing - Totals													
			Period	21	0	640,000.00	13,600.00	8,320.00	340.00				22,260.00

Permit#	Date Issued	Site Address	Permit Count	Dwell Units	Valuation	Revenue	Plan Check	State Surcharge	Park Fees	SAC Units	SAC Fees	WAC Fees	Total Fees
			YTD	35	0	720,331.66	16,011.23	8,440.25	381.84				25,150.63

Permit Type: Zoning

Permit Kind: Commercial ADDITIONAL OUTDOOR SEATING

Permit Kind: Commercial Driveway

2020-00112	11/06/2020	3800 RESTWOOD RD		0		60.00							60.00
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Permit Kind: Commercial PATIO - PARKING LOT

Permit Kind: Residential Accessory Building 200 sq ft or <

Permit Kind: Residential Driveway

Permit Kind: Residential Fence/Wall < 6 FT

Permit Kind: Residential Free Standing Deck

Permit Type: Zoning - Totals

Period	1	0			60.00								60.00
YTD	23	0	500.00		1,195.00	35.75	1.00						1,231.75

Report Total	Period	73	0	\$791,835.00	19,037.88	9,612.12	547.34						29,197.34
	YTD	189	0	\$14,103,319.87	107,098.91	60,940.53	2,994.49		90	223,650.00			578,526.24

MINUTES
REGULAR PLANNING COMMISSION MEETING
November 10, 2020 - 7:00 P.M.
9180 Lexington Avenue, Lexington, MN

1. CALL TO ORDER

- A. Roll Call: Chairperson VanderBloomer, Commissioners Bautch, Thorson, Koch and Murphy

Chairperson Vanderbloomer called to order the Regular Planning Commission meeting on November 10, 2020 at 7:00 p.m. Commissioners Present: John Bautch, Michelle Koch, Gloria Murphy, and Ron Thorson. Also present: John Hughes, City Councilmember; Bill Petracek, City Administrator; Kurt Glaser, City Attorney.

2. CITIZENS FORUM

No citizens were present to address the Planning Commission on items not on the agenda

3. APPROVAL OF AGENDA WITH CHANGES AND CORRECTIONS

Bautch made a motion to approve the agenda as typewritten. Murphy seconded the motion. Motion carried 5-0.

4. LETTERS AND COMMUNICATION

- A. Building Permits for October 2020

Councilmember Hughes asked about Parkview building permits. Petracek stated that permits have been issued for 21 homes. He added that the permits will more than likely be on the next report.

5. APPROVAL OF PLANNING COMMISSION MINUTES

- B. October 13, 2020

Koch made a motion to approve the October 13, 2020 minutes as typewritten. Thorson seconded the motion. Motion carried 5-0.

6. DISCUSSION ITEM:

- A. Review Final Draft of Proposed Tree Management Ordinance

Attorney Glaser reviewed the final draft of the tree management ordinance. He stated that other than some typo changes and a change to the language for the firewood definition, it is the same draft as last meeting.

Chairperson Vanderbloomer questioned the building official and the city forester. He asked if the building official has the expertise to be the city forester and enforce rules. Petracek stated that the city forester and building official will work together to enforce

the rules. The building official will have a better understanding of enforcement than the appointed city forester. Discussion ensued.

Vanderbloomer stated he is also concerned about some of the language regarding tree preservation, and if it will create problems of enforcement, and possibly problems down the road with developer's. Vanderbloomer recommended removing Subdivision 1, Subdivision 3, and the tree standards under Subdivision 2. Discussion ensued.

The Planning Commission discussed tree standards and its definition, and who sets those standards – city staff or the City Council.

Petracek recommended looking at Tree City USA or Greenstep tree standards and ordinances to possibly give ideas for tree standards. Discussion ensued. Petracek said he would look into those types of organizations and their standards for next meeting.

Bautch made a motion to table the final draft of the proposed tree management ordinance. Thorson seconded the motion. Motion carried 5-0

7. NOTE COUNCIL MINUTES:

- A. October 1, 2020
- B. October 15, 2020

No discussion was had on Council minutes.

8. PLANNING COMMISSION INPUT

Bautch stated that there is another street light out on Albert Drive.

Vanderbloomer asked if public works was still putting down the pretreatment on roads before a snow fall. Petracek stated they haven't for a couple of years due to the City of Circle Pines no longer mixing the brine for the roads. Discussion ensued.

Koch asked about the discussion that Lino Lakes Planning and Zoning was having about metal roofs. Discussion ensued.

9. ADJOURNMENT

Bautch made a motion to adjourn at 8:37 p.m. Koch seconded the motion. Motion carried 5-0.

MEMORANDUM

TO: PLANNING & ZONING COMMISSION

FROM: KURT GLASER, CITY ATTORNEY

SUBJECT: PROPOSED TREE ORDINANCE

DATE: DECEMBER 3, 2020

Please find attached, the proposed Tree Ordinance from the November Planning & Zoning Meeting. In short, I have not proposed any changes to the ordinance.

After thinking about the conversation during the last P&Z meeting, the central questions from the Committee surrounded tree standards. To help answer those questions I have attached parts of Minnesota Statutes Chapter 89 governing Forest Land. This is the law referenced in our proposed ordinance as the tree standards to guide City staff when implementing this ordinance. While Chapter 89 is filled with legalese, it leads the State to create standards which define tree diseases and pests that the City can reference when it wants to remove a tree on private property. Overall, the list of diseases and pests is amazingly long. Therefore, having the State pay its experts to create that list makes more sense than having the City do so. The shorthand way to list the primary diseases and pests is to reference the DNR website <https://www.dnr.state.mn.us/treecare/diseasespests.html>). Keep in mind that this list was developed as a result of Chapter 89.

Also attached is a Sample Tree Ordinance from the Arbor Day Foundation. The language in this ordinance is helpful for the lay person but is not enforceable in Minnesota for removing trees from private property without referencing a standard which defines which tree diseases and pests allow a City to remove a tree from private property. Accordingly, this brings us back to using a standard like the standard developed from Minnesota Statutes Chapter 89.

NOTES:

- Section 10.30 is not enforceable section of this law. This “Findings and purpose” section is used if a court needs help interpreting the enforceable sections during the course of litigation.

PROPOSED ORDINANCE

I propose replacing the existing Section 10.30 with the following.

SECTION 10.30. SHADE TREE DISEASE CONTROL AND PREVENTION

Subd. 1. - Findings and purpose.

The city desires to protect the trees and woodlands in the City of Lexington. Trees and woodlands provide numerous environmental, economic, and scenic benefits. They help filter air pollutants, absorb stormwater runoff, provide wildlife habitat, moderate temperatures, reduce cooling costs, increase property values, provide scenic beauty, provide sound and visual buffers, and provide screening for privacy. It is therefore the city's intent to protect, preserve, and enhance the trees and woodlands of Lexington and to encourage a resourceful and prudent approach to development in the city thereby promoting and protecting public health, safety, and welfare of the citizens of Lexington. The purpose of this Section is to establish tree preservation and protection regulations which apply to public and private property to assure the continuance of significant and specimen trees and woodlands for present and future generations which:

- (1) Preserve the natural character of neighborhoods (in developed and undeveloped areas).
- (2) Ensure the health and wellbeing of Lexington's urban forest.
- (3) Protect the health and safety of residents.
- (4) Protect water quality and minimize stormwater runoff.
- (5) Help prevent erosion or flooding.
- (6) Assure orderly development within wooded areas to minimize tree loss and environmental degradation.
- (7) Establish a minimum standard for tree preservation and mitigation of environmental impacts resulting from tree removal.
- (8) Ensure the city's urban forest has a good age distribution, from young trees through large old specimen trees.

Subd. 2. - Definitions.

- a.) The following words, terms and phrases, as used in this Section, shall have the meanings ascribed to them in this Section:

Applicant means developer, builder, contractor, or owner who applies for a woodlot alteration, land use, grading, or building permit.

Certified arborist means an arborist with up-to-date certification by the International Society of Arborists.

City forester means a forester who is employed by the city or appropriate agent or independent contractor designated by the city administrator.

Conifer tree means a woody plant that is a member of the division Pinophyta and at maturity is at least 12 feet or more in height. Conifers are cone bearing and most in our climate keep their leaves (also called needles) year-round. Tamarack (also called larch) is the one conifer in our climate that drops its needles in the fall.

Control includes measures to prevent, slow the spread, suppress, eradicate, or destroy a shade tree disease or pests.

Deciduous tree means a woody plant, which sheds leaves annually, having a defined crown and at maturity is at least 15 feet or more in height.

Hardwood deciduous tree means all deciduous tree species except those listed as softwood deciduous trees below.

Hazard tree means a tree that has structural defects that may cause the tree or tree part to fail, and the city forester determines that such failure could cause property damage or personal injury.

Invasive species means species that are not native to Minnesota and cause economic or environmental harm or harm to human health.

Shade tree means a woody perennial that at maturity is at least 15 feet in height and grown primarily for aesthetic or environmental purposes.

Shade tree pest means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the city council to be harmful, injurious, or destructive to shade trees or community forests.

Softwood deciduous tree means the following tree species: box elder, cottonwood, elm, poplar/aspens, silver maple, and willow.

Tree standards mean a separate document authorized through this Section to help achieve the goals of the city's tree ordinance and living streets policy. The standards highlight important aspects of the requirements for tree preservation, removal, replacement, and shade tree pest management. The standards do not replace or supersede city ordinances.

- b.) Any tree or part of tree declared a diseased or hazardous tree when abated pursuant to this section is not considered firewood and shall be removed as part of any abatement.

Subd. 3. - Standards.

The Building official or city forester shall have the authority to develop tree standards concerning the management of trees. These standards shall not be contrary to this Section.

Subd. 4. - Diseased and hazardous trees.

- (a) *Findings and declaration of purpose.* The health of trees in the city is threatened by epidemic shade tree pests. Hazardous trees can cause property damage or personal injury. The loss of trees, ill health of trees, or presence of hazardous trees on public and private property depreciates the value of property within the city and impairs the safety and general welfare of the public. In addition to, and in accordance with, Minn. Stats. §§ 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.
- (b) *Declaration of a shade tree pest.* The Building official or city forester may declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest as defined by Minn. Stats. § 89.001.
- (c) *Public nuisances.* Public nuisances relating to trees include all hazard trees and trees otherwise are outlined in the tree standards.

(d) *Inspection.*

- (1) The Building official or city forester shall have the ability and authority to inspect all premises and places within the city for public nuisances relating to trees. Inspection shall be of living or dead trees, parts of trees, stumps, and firewood.
- (2) The Building official or city forester may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this ordinance.

(e) *Abatement of nuisance trees.*

- (1) The Building official or city forester shall notify in writing the owner of record or occupant of the premise that a public nuisance exists. The notice shall specify the measures to be taken to abate the nuisance and shall specify that the nuisance shall be abated within a reasonable amount of time, not less than ten days from the date of mailing.
- (2) If the owner fails to comply with the removal or control measures specified for the hazard tree, infested tree, or wood on his/her property as outlined in this Section and the tree standards, and within the time specified, the Building official or city forester may order the work done either by city employees or by contractor. The cost of this work shall be billed to the owner. If the bill is not paid within 30 days, the city shall assess the costs to the property.

- (f) *Emergency abatement.* Nothing in this Section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 5. - Transporting Wood Prohibited.

It is unlawful for any person to transport firewood into or through the City unless it has been subjected to a state-certified process to reduce the risk of it carrying a regulated pest or disease, and the firewood bears proof or a written certification that it has been subjected to that process.

Subd. 6. - Enforcement.

The city shall be responsible for the enforcement of this Section. Any person who fails to comply with or violates this Section shall be deemed guilty of a misdemeanor. In addition to criminal prosecution, the City shall suspend all land use, building, and grading permits until the applicant or owner has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

The city reserves the right to inspect the site or property at any reasonable time for compliance with tree standards. If the city finds the site or property in violation, the city may issue a stop work order until conditions are corrected.

If the property owner failed to pay the City for services rendered pursuant to this Section, the City shall collect its costs pursuant to assessment against a parcel where services have been rendered pursuant to Minn. Stat. Sec. 429.101.

EXISTING LEXINGTON CODE – TO BE SUPERSEDED BY NEW SECTION 10/30 SECTION 10.30. SHADE TREE DISEASE CONTROL AND PREVENTION.

Subd. 1. Policy and Purpose. The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of property and impair the 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 provide for the removal of dead or diseased trees, as nuisances.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- A. **“Shade Tree Disease”** – [NEEDED TO ADD MORE DISEASES] - Dutch elm disease or oak wilt disease.
- B. **“Tree Inspector”** –The Clerk, or such other employee of the City as the Council may designate and who shall thereafter qualify, together with his/her duly designated assistants.
- C. **ADD HAZARDOUS TREES / PUBLIC SAFETY (NEEDED EXPAND SCOPE TO INCLUDE TREES THAT MIGHT FALL DOWN) “Nuisance”** - (1) any living or standing tree infected to any degree with a shade tree disease; or (2) any logs, branches, stumps or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the Tree Inspector.

Subd. 3. Scope and Adoption by Reference. [OUTDATED STANDARD] Minnesota Statutes, Section 18.023, is hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided that this Section shall supersede such Statutes, Rules and Regulations, only to the extent of inconsistencies.

Subd. 4. Unlawful Act. It is unlawful for any person to keep, maintain or permit upon premises owned by him/her or upon public property where he/she has the duty of tree maintenance, any nuisance as herein defined.

Subd. 5. Inspection and Diagnosis. It is the power and duty of the Tree Inspector to enter upon public or private property, at any reasonable time, for the purpose of inspecting for, and diagnosing, shade tree disease. In cases of suspected shade tree disease, and in performance of his/her duties, the Tree Inspector may remove such specimens, samples and biopsies as may be necessary or desirable for diagnosis.

Subd. 6. Abatement of Nuisance. Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease. Such abatement procedures shall be carried

out in accordance with current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

Subd. 7. Procedure for Removal of Infected Trees and Wood.

- A. Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, he/she shall proceed as follows:
 - 1) If the Tree Inspector finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease, he/she shall make a written report of his/her finding to the Council which shall proceed by (a) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (b) abating the nuisance as provided in Subparagraph B of this Subdivision.
 - 2) If the Tree Inspector finds that the danger of infection of other trees is imminent, he/she shall notify the owner of the property, or the abutting property, as the case may be, by certified mail that the nuisance will be abated within a specific time, not less than five (5) days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice he/she may abate the nuisance.
 - 3) If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, he/she may proceed to abate the nuisance forthwith. He/she shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.
- B. Upon receipt of the Tree Inspector's report required by Subparagraph A, Item 1, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.
- C. The Tree Inspector shall keep a record of the costs of abatements done under this Subdivision and shall report monthly to the Council all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

- D. On or before September 1 of each year the Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.
- E. No damage shall be awarded the owner for destruction of any tree, wood or part thereof pursuant to this Section.

Subd. 8. Spraying Trees. [OUTDATED STANDARD]

- A. Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, he/she may spray or treat all nearby high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his/her agents whenever possible.
- B. The notice and assessment provisions of Subdivision 7 apply to spraying and treatment operations conducted under this Subdivision.

Subd. 9. Transporting Wood Prohibited. [OUTDATED STANDARD] It is unlawful for any person to transport elm wood, including elm firewood, with bark intact into or through the City, or into or through any designated “disease control area” as defined by Minnesota Statutes, Section 18.023. This prohibition shall not apply to movement of such wood pursuant to an approved wood disposal or utilization program authorized by Minnesota Statutes, Section 18.023, or to transportation of elm wood intended for industrial use not to include firewood, provided such transportation of elm logs for industrial use continues without interruption through the City of “disease control area” to their intended destination lying outside the City and “disease control area”.

Subd. 10. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Tree Inspector while he/she is engaged in the performance of duties imposed by this Section.

Subd. 11. Additional Duties of Tree Inspector. It is the additional duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of shade tree disease. He/she shall recommend to the Council the details of a program for the control of the diseases, and perform the duties incident to such a program adopted by the Council.

Subd. 12. Diseased Trees in Streets. The rights, duties and responsibilities of property owners set forth in this Section shall be equally applicable to, and binding upon, abutting property owners with tree maintenance responsibilities under the Section of the City Code entitled “Regulation of Grass, Weeds and Trees”.

Subd. 13. Subsidies. The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the City for the treatment or removal of trees infected with shade tree disease.

MINNESOTA STATUTES CHAPTER 89 – FOREST LANDS

89.001 DEFINITIONS.

Subdivision 1. Applicability.

Unless the language or context clearly indicates that a different meaning is intended, the following terms for the purpose of this chapter shall have the meanings ascribed to them.

Subd. 2. Department.

"Department" means the Department of Natural Resources of the state of Minnesota.

Subd. 3. Commissioner.

"Commissioner" means the commissioner of natural resources or agent of the commissioner.

Subd. 4. Forest land.

"Forest land" means land which is at least ten percent stocked by trees of any size and capable of producing timber, or of exerting an influence on the climate or on the water regime; land from which the trees described above have been removed to less than ten percent stocking and which has not been developed for other use; and afforested areas.

Subd. 5. Timber.

"Timber" means trees that will produce forest products of value, whether standing or down, and including but not limited to logs, bolts, pulpwood, posts, poles, cordwood, lumber and decorative material.

Subd. 6. State forest lands.

"State forest lands" means all land and waters owned by the state within state forests, including all lands set apart under the Constitution of the state of Minnesota, article XI, section 11, and laws enacted pursuant thereto, but excepting lands acquired by the state for other specific purposes or tax-forfeited lands held in trust for the taxing districts unless incorporated into state forests as otherwise provided by law.

Subd. 7. Reproduction.

"Reproduction" means young stands of commercial tree species ranging from one foot high to 4.9 inches diameter at 4-1/2 feet above the ground and at least ten percent stocked.

Subd. 8. Forest resources.

"Forest resources" means those natural assets of forest lands, including timber and other forest crops; biological diversity; recreation; fish and wildlife habitat; wilderness; rare and distinctive flora and fauna; air; water; soil; climate; and educational, aesthetic, and historic values.

Subd. 9. Multiple use.

"Multiple use" means the principle of forest management by which forest resources are utilized in the combinations that will best meet the needs of the people of the state; including the harmonious and coordinated management of the forest resources, each with the other, without impairment of the productivity of the land and with consideration of the relative values of the resources, and not necessarily the combination of uses resulting in the greatest economic return or unit output.

Subd. 10. Sustained yield.

"Sustained yield" means the principle of forest management for the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of forest resources without impairment of the productivity of the land; allowing for periods of intensification of management to enhance the current or anticipated output of one or more of the resources.

Subd. 11. Reforestation.

"Reforestation" means the process of natural or artificial forest regeneration, including securing seed, growing seedlings, preparing sites, planting seed, planting trees, removing deleterious growth and underbrush and other activities related to forest regeneration.

Subd. 12. Extractive use.

"Extractive use" means the removal of sand, gravel, peat or any mineral from beneath the surface of the land.

Subd. 13. Forest lands under the authority of the commissioner.

"Forest lands under the authority of the commissioner" means state forest lands and other forest lands managed by the commissioner outside of state forests, except for tax-forfeited lands held in trust for the taxing districts and for the following units of the outdoor recreation system as defined in section [86A.04](#): state parks, state trails, state wildlife management areas, state scientific and natural areas, state water-access sites, state historic sites, state rest areas, and state wilderness areas.

Subd. 14.State forest road.

"State forest road" means a road constructed, acquired, maintained, or administered by the commissioner for the purpose of carrying out forest resource management policy as set forth in section [89.002](#).

Subd. 15.Forest pest.

"Forest pest" means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the commissioner to be harmful, injurious, or destructive to forests or timber.

Subd. 16.Shade tree pest.

"Shade tree pest" means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the commissioner to be harmful, injurious, or destructive to shade trees or community forests.

Subd. 17.Community forest.

"Community forest" has the meaning given under section [88.01, subdivision 27](#).

Subd. 18.Shade tree.

"Shade tree" means a woody perennial grown primarily for aesthetic or environmental purposes.

COMMISSIONER; POWERS AND DUTIES.

Subdivision 1.Best methods.

The commissioner shall ascertain and observe the best methods of reforestation, cutover and denuded lands, foresting waste lands, minimizing loss or damage of forest resources by fire, forest pests, or shade tree pests, administering forests on forestry principles, encouraging private owners to preserve and grow trees or timber for commercial or other purposes, and conserving the forests around the head waters of streams and on the watersheds of the state.

Subd. 2.General duties.

The commissioner shall execute all rules pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire, forest pests, and shade tree pests; shall investigate the origin of all forest fires; and prosecute all violators as provided by law; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules as may be formulated.

The commissioner shall prepare printed notices calling attention to the dangers from forest fires and cause them to be posted in conspicuous places.

FOREST AND SHADE TREE PESTS; CONTROL

89.51 DEFINITIONS.

Subdivision 1. Applicability.

For the purposes of sections [89.51](#) to [89.64](#) the terms described in this section have the meanings ascribed to them.

Subd. 2. Person.

"Person" shall include any individual, firm, partnership, corporation, public or private, association or any other business entity whether or not incorporated.

Subd. 3. Commissioner.

"Commissioner" shall mean the commissioner of natural resources.

Subd. 4. Director, Division of Lands and Forestry.

"Director, Division of Lands and Forestry" shall include Department of Natural Resources and Department of Agriculture personnel deputized by the director, Division of Lands and Forestry.

Subd. 5. Control.

"Control" includes prevent, retard, suppress, eradicate or destroy.

Subd. 6. Infestation.

"Infestation" includes actual, potential, incipient, or emergent infestation or infection by forest pests or shade tree pests.

Subd. 7. Cooperators.

"Cooperators" shall include state, federal, county, municipal and private governmental and business organizations and their legal representatives.

Subd. 8.

[Repealed, [2007 c 57 art 1 s 170](#)]

Subd. 9. Forest land or forest.

"Forest land" or "forest" means land on which occurs a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses,

community forest benefits, or other purposes, and shall include lands owned or controlled by the state of Minnesota.

Subd. 10. Timber.

"Timber" includes forest trees standing or down, alive or dead.

89.52 SURVEYS AND INVESTIGATIONS.

The commissioner shall make surveys and investigations to determine the presence of infestations of forest pests or shade tree pests. For this purpose, duly designated representatives of the commissioner may enter at reasonable times on public and private lands to conduct the surveys and investigations.

89.53 CONTROL OF FOREST PESTS AND SHADE TREE PESTS.

Subdivision 1. Commissioner's duties; notice of control measures.

Whenever the commissioner finds that an area in the state is infested or threatened to be infested with forest pests or shade tree pests, the commissioner shall determine whether measures of control are needed, what control measures are to be applied, and the area over which the control measures shall be applied. The commissioner shall prescribe a proposed zone of infestation covering the area in which control measures are to be applied and shall publish notice of the proposal once a week, for two successive weeks in a newspaper having a general circulation in each county located in whole or in part in the proposed zone of infestation. Prescribing zones of infestation and prescribing measures of control are exempt from the rulemaking provisions of chapter 14 and section [14.386](#) does not apply.

Subd. 2. Notice requirements; public comment.

The notice shall include a description of the boundaries of the proposed zone of infestation, the control measures to be applied, and a time and place where municipalities and owners of forest lands or shade trees in the zone may show cause orally or in writing why the zone and control measures should or should not be established. The commissioner shall consider any statements received in determining whether the zone shall be established and the control measures applied.

Subd. 3. Experimental programs.

The commissioner may establish experimental programs for the control of forest pests or shade tree pests and for municipal reforestation.

89.54 ZONES OF INFESTATION; ESTABLISHMENT.

Upon the decision by the commissioner that the establishment of a zone of infestation is necessary, the commissioner shall make a written order establishing the zone, and upon making the order, the zone shall be established. Notice of the establishment of the zone shall thereupon be published in a newspaper having a general circulation in each county located in whole or in part in the proposed zone and posted on the Department of Natural Resources website.

89.55 INFESTATION CONTROL; COSTS.

Upon the establishment of the zone of infestation, the commissioner may apply measures of infestation prevention and control on public and private forest and other lands within an infected zone and to any trees, plants, wood or wood products, or contaminated soil harboring or which may harbor the forest pests or shade tree pests. For this purpose, the duly authorized representatives of the commissioner are authorized to enter upon any lands, public or private within the zone. The commissioner may enter into agreements with owners of the lands in the zone covering the control work on their lands, and fixing the pro rata basis on which the cost of the work will be shared between the commissioner and the owner.

89.551 APPROVED FIREWOOD REQUIRED.

(a) After the commissioner issues an order under paragraph (b), a person may not possess firewood on land administered by the commissioner of natural resources unless the firewood:

(1) was obtained from a firewood distribution facility located on land administered by the commissioner;

(2) was obtained from a firewood dealer who is selling firewood that is approved by the commissioner under paragraph (b); or

(3) has been approved by the commissioner of natural resources under paragraph (b).

(b) The commissioner of natural resources shall, by written order published in the State Register, approve firewood for possession on lands administered by the commissioner. The order is not subject to the rulemaking provisions of chapter 14 and section [14.386](#) does not apply.

(c) A violation under this section is subject to confiscation of firewood and after May 1, 2008, confiscation and a \$100 penalty. A firewood dealer shall be subject to confiscation and assessed a \$100 penalty for each sale of firewood not approved under the provisions of this section and sold for use on land administered by the commissioner.

(d) For the purposes of this section, "firewood" means any wood that is intended for use in a campfire, as defined in section [88.01, subdivision 25](#).

89.56 EXPENSES.

Subdivision 1. Statement of expenses; cost to owners.

At the end of each fiscal year and upon completion of the infestation control measures in any zone of infestation, the commissioner shall prepare a certified statement of expenses incurred in carrying out the measures, including expenses of owners covered by agreements entered into pursuant to section [89.55](#). The statement shall show the amount that the commissioner determines to be the commissioner's share of the expenses. The share of the commissioner may include funds and the value of other contributions made available by the federal government and other

cooperators. The balance of the costs shall constitute a charge on an acreage basis as provided herein against the owners of lands in the zone containing trees affected or likely to be affected by the forest pests or shade tree pests for which control measures were conducted. In fixing the rates at which charges shall be made against each owner, the commissioner shall consider the present commercial value of the trees on the land, the present and potential benefits to the owner from the application of the control measures, the cost of applying the measures to the land, and such other factors as in the discretion of the commissioner will enable determination of an equitable distribution of the cost to all owners. No charge shall be made against owners to the extent that they have individually or as members of a cooperative association contributed funds, supplies, or services pursuant to agreement under this section.

Subd. 2. Notice of costs; review.

Notice of said charge and the amount thereof shall be given to the owner by delivery or by depositing the same in the United States mails in an envelope properly addressed to the owner and bearing sufficient postage. The owner shall have the right to protest such charge to the commissioner within 60 days from the date of such notice, and shall also have the same right to review of such charge as is provided with respect to ad valorem property assessments. Application for such review shall be made within 60 days from the date of action by the commissioner on any protest.

Subd. 3. Collection.

The unpaid charges assessed under sections [89.51](#) to [89.64](#) and the actions of the commissioner on any protests filed pursuant to subdivision 2, shall be reported to the tax levying authority for the county in which the lands for which the charges are assessed are situated and shall be made a public record. Any charges finally determined to be due shall become a special assessment and shall be payable in the same manner and with the same interest and penalty charges and with the same procedure for collection as apply to ad valorem property taxes. Upon collection of the charges, the county treasurer shall forthwith cause the amounts thereof to be paid to the forest pest and shade tree pest control account created by section [89.58](#). Any unpaid charge or lien against the lands shall not be affected by the sale thereof or by dissolution of the zone of infestation.

89.57 DISSOLUTION OF INFESTATION ZONE.

Whenever the commissioner shall determine that forest pest or shade tree pest control work within an established zone of infestation is no longer necessary or feasible, the commissioner shall dissolve the zone.

89.58 FOREST PEST AND SHADE TREE PEST CONTROL ACCOUNT.

All money collected under the provisions of sections [89.51](#) to [89.64](#), together with such money as may be appropriated by the legislature or allocated by the Legislative Advisory Commission for the purposes of sections [89.51](#) to [89.64](#), and such money as may be contributed or paid by the federal government, or any other public or private agency, organization or individual, shall be deposited in the state treasury, to the credit of the forest pest and shade tree pest control account, which

account is hereby created, and any moneys therein are appropriated to the commissioner for use in carrying out the purposes of sections [89.51](#) to [89.64](#).

89.59 COOPERATION.

The commissioner may cooperate with the United States or agencies thereof, other agencies of the state, county or municipal governments, agencies of neighboring states, or other public or private organizations or individuals and may accept such funds, equipment, supplies, or services from cooperators and others as the commissioner may provide in agreements with the United States or its agencies for matching of federal funds as required under laws of the United States relating to forest pests and shade tree pests.

89.60 COMMISSIONER'S AUTHORITY.

The commissioner is authorized to employ personnel in accordance with the laws of this state, to procure necessary equipment, supplies, and service, to enter into contracts, to provide funds to any agency of the United States for work or services under sections [89.51](#) to [89.64](#), and to designate or appoint, as the commissioner's representatives, employees of cooperators, including employees of the United States or any agency thereof. The commissioner may prescribe rules for carrying out the purposes of this section.

89.61 ACT SUPPLEMENTAL.

Provisions of sections [89.51](#) to [89.64](#) are supplementary to and not to be construed to repeal existing legislation.

89.62 SHADE TREE PEST CONTROL; GRANT PROGRAM.

Subdivision 1.Grants.

The commissioner may make grants to aid in the control of a shade tree pest. To be eligible, a grantee must have a pest control program approved by the commissioner that:

(1) defines tree ownership and who is responsible for the costs associated with control measures;

(2) defines the zone of infestation within which the control measures are to be applied;

(3) includes a tree inspector certified under section [89.63](#) and having the authority to enter and inspect private lands;

(4) has the means to enforce measures needed to limit the spread of shade tree pests; and

(5) provides that grant money received will be deposited in a separate fund to be spent only for the purposes authorized by this section.

Subd. 2.Grant eligibility.

The following are eligible for grants under this section:

- (1) a home rule charter or statutory city or a town that exercises municipal powers under section [368.01](#) or any general or special law;
- (2) a special park district organized under chapter 398;
- (3) a special-purpose park and recreation board;
- (4) a soil and water conservation district;
- (5) a county; or
- (6) any other organization with the legal authority to enter into contractual agreements.

Subd. 3. Rules; applicability to municipalities.

The rules and procedures adopted under this section by the commissioner apply in a municipality unless the municipality adopts an ordinance determined by the commissioner to be more stringent than the rules and procedures of the commissioner. The rules and procedures of the commissioner or the municipality apply to all state agencies, special purpose districts, and metropolitan commissions as defined in section [473.121, subdivision 5a](#), that own or control land adjacent to or within a zone of infestation.

89.63 CERTIFICATION OF TREE INSPECTORS.

(a) The governing body of a municipality may appoint a qualified tree inspector. Two or more municipalities may jointly appoint a tree inspector for the purpose of administering their respective pest control programs.

(b) Upon a determination by the commissioner that a candidate for the position of tree inspector is qualified, the commissioner shall issue a certificate of qualification to the tree inspector. The certificate is valid for one year. A person certified as a tree inspector by the commissioner may enter and inspect any public or private property that might harbor forest pests or shade tree pests. The commissioner shall offer an annual tree inspector certification workshop, upon completion of which participants are qualified as tree inspectors.

(c) The commissioner may suspend and, upon notice and hearing, decertify a tree inspector if the tree inspector fails to act competently or in the public interest in the performance of duties.

89.64 EXEMPTIONS.

This chapter does not supersede the authority of the Department of Agriculture under chapter 18G.

SAMPLE MUNICIPAL TREE ORDINANCE

Be it ordained by the City Council of the City of:

(City) _____

(State) _____

Section 1. Purpose.

To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

Section 2. Definitions.

As used in this Article, the following words and phrases shall have the meanings indicated:

Damage – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

Nuisance – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.

Parkway – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

Public property – all grounds and rights-of-way (ROWs) owned or maintained by the City.

Public tree – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

Top or Topping – the non-standard practice of cutting back of limbs to stubs within a tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

Section 3. Authority and power.

- (a) *Delegation of authority and responsibility.* The Director of the _____ Department and/or his designee, hereinafter referred to as the “Director”, shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- (b) *Coordination among city departments.* All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the Director.
- (c) *Interference.* No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

Section 4. Tree planting and care standards.

- (a) *Standards.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 “Standards for Tree Care Operations” and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- (b) *Requirements of franchise utility companies.* The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.
- (c) *Tree species list.* The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the Director.
- (d) *Planting distances.* The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.
- (e) *Planting trees under electric utility lines.* Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.
- (f) *Protection of public trees during construction.* Any person, firm, corporation, or city department performing construction near any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent damage.

Section 5. Prohibition against harming public trees.

- (a) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.
- (b) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree.
- (c) It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

Section 6. Adjacent owner responsibility.

- (a) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent parkway area.

- (b) No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

Section 7. Certain trees declared a nuisance.

- (a) **Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal.**
- (b) Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period.

Section 8. Violations and penalty.

Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense.

Section 9. Appeals.

All appeals to a violation shall be heard by City Council.

**MINUTES
CITY OF LEXINGTON
PUBLIC HEARING
&
REGULAR COUNCIL MEETING
NOVEMBER 5, 2020 – 7:00 P.M.
9180 LEXINGTON AVENUE**

PUBLIC HEARING

1. CALL TO ORDER: – Mayor Murphy

- A. Roll Call - Council Members: DeVries, Harris, Hughes and Winge

Mayor Murphy called to order the Public Hearing for November 5, 2020 at 7:00 p.m. Councilmember's present: Devries, Harris, Hughes, and Winge. Also Present: Bill Petracek, City Administrator; Kurt Glaser, City Attorney; Chris Galiov, Finance Director; Steve Winter, City Engineer; Citizens for the public hearing

- A. **PUBLIC HEARING: THE CITY COUNCIL WILL TAKE COMMENTS ON SPECIAL ASSESSMENT PROJECT - JACKSON AVENUE BETWEEN RESTWOOD ROAD AND WOODLAND ROAD**

Steve Winter, City Engineer, provided a PowerPoint presentation breaking down the Jackson Ave. street project, and explained the special assessments for the projects. Discussion ensued.

Public Comments:

*Shawn Wahlstrom
9115 Jackson Ave.
Lexington Ave.*

Mr. Wahlstrom explained that since the project has been completed on Jackson Ave., storm water has been pooling on the side of the road. He is concerned that this water pooling will wreck the road. Winter responded by saying that he believes that this will be normal wear and tear on the road like any other road in the City. Discussion ensued

Attorney Glaser explained that if anyone wants to object to their special assessment to please file a written objection before the end of the meeting.

2. ADJOURN PUBLIC HEARING

Councilmember Hughes made a motion to adjourn the public hearing at 7:11 p.m. Councilmember Devries seconded the motion. Motion carried 5-0.

3. CALL TO ORDER: – Mayor Murphy

- A. Roll Call - Council Members: DeVries, Harris, Hughes and Winge

Mayor Murphy called to order the Regular City Council meeting for November 5, 2020 at 7:00 p.m. Councilmember's present: Devries, Harris, Hughes, and Winge. Also Present: Bill Petracek, City Administrator; Kurt Glaser, City Attorney; Chris Galiov, Finance Director; Steve Winter, City Engineer; Citizens for the public hearing.

4. CITIZENS FORUM

No citizens were present to address the council on items not on the agenda

5. APPROVAL OF AGENDA WITH CHANGES AND CORRECTIONS

Councilmember Winge made a motion to approve the agenda as typewritten. Councilmember Hughes seconded the motion. Motion carried 5-0.

6. INFORMATIONAL REPORTS:

- A. Airport (Councilmember Devries) – *Councilmember Devries stated that it was difficult to attend the virtual meeting via phone. He would get a copy of the minutes.*
- B. Cable Commission (Councilmember Winge) – *Councilmember Winge stated that Northmetro T.V. filmed 40 local election candidate forums. He also stated that they have a tentative agreement for the franchise renewal. They are just waiting for a response from Comcast.*
- C. City Administrator (Bill Petracek) *Petracek stated that City Hall will be closed November 11th in observance of Veteran's Day*

Choose a building block.

7. LETTERS AND COMMUNICATIONS:

- A. Centennial Lakes Police Department Media Reports 10-7 through 10-27, 2020
- B. North Metro TV – September Update
- C. City Report – September 2020
- D. Council Workshop meeting minutes – October 15, 2020
- E. Planning & Zoning meeting minutes – October 13, 2020
- F. Public Notice – Special Council Workshop – November 5, 2020

No discussion on Letters and Communications

Consent Agenda:

8. CONSENT ITEMS:

- A. Recommendation to Approve Council Minutes:

Council Meeting – October 15, 2020

B. Recommendation to Approve Claims and Bills:

Check #'s 13707 through 13710
Check #'s 46911 through 46969
Check #'s 46909 through 46910
Check #'s 13434 through 13437
Check #'s 13452 through 13468
VOID # 46894

Councilmember Devries made a motion to approve the consent agenda items. Councilmember Harris seconded the motion. Motion carried 5-0.

9. ACTION ITEMS:

A. Recommendation to approve Resolution NO. 20-25 A Resolution Adopting Assessment

Councilmember Harris made a motion to approve Resolution NO. 20-25 A Resolution Adopting Assessment. Councilmember Devries seconded the motion. Motion carried 5-0.

B. Recommendation to approve Release of an Irrevocable Letter Of Credit in the Amount Of \$150,000.00 To 89 Lexington Lakes LLC (Ephesians Phase 1)

Councilmember Harris made a motion to approve the Release of an Irrevocable Letter Of Credit in the Amount Of \$150,000.00 To 89 Lexington Lakes LLC (Ephesians Phase 1). Councilmember Winge seconded the motion. Motion carried 5-0.

10. MAYOR AND COUNCIL INPUT

Councilmember Devries asked if there was a watermain break on Woodland ave. Petrack said that there was, and it has been repaired. He added that the water main had a small crack in it. Discussion ensued.

Councilmembers Harris and Winge, and Mayor Murphy each expressed their gratitude for being reelected and thanked everyone for voting for them.

11. ADJOURNMENT

Councilmember Hughes made motion to adjourn the meeting at 7:19 p.m. Councilmember Devries seconded the motion. Motion carried 5-0.

/mv

**MINUTES
CITY OF LEXINGTON
REGULAR COUNCIL MEETING
NOVEMBER 19, 2020– 7:00 P.M.
9180 LEXINGTON AVENUE**

1. CALL TO ORDER: – Mayor Murphy

- A. Roll Call - Council Members: DeVries, Harris, Hughes and Winge

Mayor Murphy called to order the Regular City Council meeting for November 19, 2020 at 7:00 p.m. Councilmember's present: Devries, Harris, Hughes, Winge. Also Present: Bill Petracek, City Administrator; Kurt Glaser, City Attorney; Chris Galiov, Finance Director; Steve Winter, City Engineer.

2. CITIZENS FORUM

No citizens were present to discuss items not on the agenda

3. APPROVAL OF AGENDA WITH CHANGES AND CORRECTIONS

Councilmember Devries made a motion to approve the agenda as typewritten. Councilmember Hughes seconded the motion. Motion carried 5-0.

4. LETTERS AND COMMUNICATIONS:

- A. November 5, 2020 Special Workshop Synopsis
- B. MN Department of Health – COVID 19 Update
- C. City Report – October 2020
- D. North Metro TV – October 2020 Update
- E. Centennial Lakes Police Department Media Report 10-28 through 11-3-2020

No discussion on Letters and Communications.

5. CONSENT ITEMS:

- A. Recommendation to Approve Council Minutes:
Council Meeting – November 5, 2020
- B. Recommendation to Approve Claims and Bills:
Check #'s 13711 through 13719
Check #'s 46970 through 46972
Check #'s 46973 through 47032

- Check #'s 13469 through 13478
Check #'s 13481 through 13497
- C. Financial Reports
- Cash Balances
 - Fund Summary – Budget to Actual

Councilmember Winge made a motion to approve the consent agenda items. Councilmember Devries seconded the motion. Motion carried 5-0.

6. ACTION ITEMS:

- A. Recommendation to approve expense allocation in the amount of \$9607.99 and \$79,224.23 to the CARES Act Fund.

Councilmember Harris made a motion to approve expense allocation in the amount of \$9607.99 and \$79,224.23 to the CARES Act Fund. Councilmember Devries seconded the motion. Motion carried 5-0.

- B. Resolution NO. 20-26 A Resolution Certifying Delinquent Water and Sewer Assessments Against Benefited Property

Councilmember Harris made a motion to approve Resolution NO. 20-26 A Resolution Certifying Delinquent Water and Sewer Assessments against Benefited Property. Councilmember Devries seconded the motion. Motion carried 5-0.

- C. Recommendation to approve Revision to O'Reilly's Development Agreement

Councilmember Devries made a motion to approve a Revision to O'Reilly's Development Agreement. Councilmember Winge seconded the motion. Motion carried 5-0.

- D. Recommendation to approve Anoka County 2021 Agreement for Residential Recycling Program

Councilmember Harris made a motion to approve Anoka County 2021 Agreement for Residential Recycling Program. Councilmember Hughes seconded the motion. Motion carried 5-0.

7. MAYOR AND COUNCIL INPUT

Councilmember Devries asked about the watermain break on Woodland Ave. Petracek stated public works was finishing up the asphaltting of the road today to complete the project.

Councilmember Harris stated that the tree trimmers were out trimming trees. Discussion ensued.

Mayor Murphy wished everyone well during the Governor's lockdown and hopes everyone gets through it.

8. ADMINISTRATOR INPUT

No input from the city administrator.

9. ADJOURNMENT

*Councilmember Devries made a motion to adjourn the meeting at 7:15 p.m.
Councilmember Harris seconded the motion. Motion carried 5-0.*