

  
**REQUEST FOR COUNCIL ACTION**

Date: 5/23/2011  
Item No.: 9 . a

Department Approval

City Manager Approval



Item Description: Ordinance Amending Title 7 Chapter 706, Forestation Control (new Urban Forest Management) and Title 2 Chapter 203.04 O, Duties and Functions of the Parks and Recreation Commission

**BACKGROUND**

Part of the requirement of the Emerald Ash Borer Preparedness Grant that was received in 2010 is to update the City Forestation Control Ordinance to include Emerald Ash Borer (EAB) and other forest pests. In addition, the ordinance is in need of other language updates.

Attached is a proposed update to the current Forestation Control Ordinance Chapter 706. The proposed version is constructed with existing Chapter 706 language in black, new language in red and existing language that is suggested to be removed is struck.

Input has been received from the Minnesota Department of Agriculture and the Department of Natural Resources.

The proposed ordinance has been reviewed by the Parks and Recreation Commission (the City Tree Board), Public Works, Environment and Transportation Commission and all relevant City Departments.

Staff has worked with the City Attorney to develop and finalize appropriate language. The attached ordinance has been reviewed by the City Attorney and is recommended by staff.

A discussion took place at your meeting on April 25<sup>th</sup>, 2011 in preparation for final adoption.

**POLICY OBJECTIVE**

The proposed ordinance is consistent with related city ordinances and applicable state statutes.

**FINANCIAL IMPACTS**

The proposed ordinance does not have a direct financial impact.

**STAFF RECOMMENDATION**

Based on the review and input from the Department of Agriculture, Department of Natural

30 Resources, Public Works, Environment and Transportation Commission, relevant City  
31 Departments, City Attorney and a review and recommendation of the Parks and Recreation  
32 Commission (tree board), staff recommends the adoption of the attached Urban Forest  
33 Management Ordinance as outlined and approval of the ordinance summary.  
34

35 **REQUESTED COUNCIL ACTION**

36 Adopt an ordinance amending Title 7, Chapter 706 Forestation Control (Urban Forest  
37 Management) and Title 2 Chapter 203.04 O Duties and Function of the Parks and Recreation  
38 Commission.  
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40 Motion to approve a Summary of the ordinance amending Title 7, Chapter 706 Forestation  
41 Control (Urban Forest Management) and Title 2 Chapter 203.04 O Duties and Function of the  
42 Parks and Recreation Commission.

Prepared by: Lonnie Brokke, Parks and Recreation Director

Attachment: A. Ordinance  
                  B. Ordinance Summary

**City of Roseville  
ORDINANCE NO.**

**AN ORDINANCE AMENDING TITLE 7 CHAPTER 706, FORESTATION CONTROL  
(NOW URBAN FOREST MANAGEMENT) AND TITLE 2 SECTION 203.04 DUTIES  
AND FUNCTIONS OF THE PARKS AND RECREATION COMMISSION**

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Title 7, Section 706 of the Roseville City Code is amended to read  
as follows:

|                                                                                                   |
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| <p><b>CHAPTER 706</b></p> <p><b><u>Forestation Control</u> <u>URBAN FOREST MANAGEMENT</u></b></p> |
|---------------------------------------------------------------------------------------------------|

SECTION:

- 706.01: Purpose Declaration of Policy
- 706.02: Definitions Purpose
- 706.03: ~~Tree Board~~ Definitions
- 706.04: Applicability Tree Board
- 706.05: Forestation Management Jurisdiction
- 706.06: ~~Other Regulations for Planting Trees or Removing Herbaceous Plants and Shrubs~~ Designation and Duties of City Forester
- 706.07: ~~Duties of Private Owners~~ Public Tree Master Plan
- 706.08: ~~Order Procedure~~ Regulations for Planting or Removing Trees, Shrubs, and Herbaceous Plants on Public and Private Property
- 706.09: ~~Development or Redevelopment Tree Planting~~ Duties of Private Landowners
- 706.10: ~~Tree Ordinance Fees~~ Reporting Discovery of Shade Tree Pests
- 706.11: Interference Registration of Tree Care Firms
- 706.12: Emergencies Standard Abatement Order Procedure
- 706.13: Development or Redevelopment Tree Planting
- 706.14: Declaration of A Shade Tree Pest
- 706.15: Shade Tree Pest Nuisances are Unlawful
- 706.16: Declared Shade Tree Pests, Control Measures and Control Areas
- 706.17: Urban Forest Management Fees
- 706.18: Emergencies
- 706.19: Interference

**706.01: PURPOSE DECLARATION OF POLICY:**

The health of trees in the City of Roseville (City) is threatened by shade tree pests. The loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, environmental benefits, general welfare and convenience of the public. 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.

**706.02: ~~DEFINITIONS~~ PURPOSE:**

It is the purpose of this Chapter to protect and promote the public health, safety and general welfare of the people of the City by:

- A. Regulating the planting, maintenance and removal of trees, shrubs and herbaceous plants on all public spaces and rights of way.
  - B. Allowing the planting, maintenance, removal and trimming of trees, shrubs and herbaceous plants on public lands by written permission of the city.
  - C. Inspecting trees on public and private lands.
  - D. Controlling shade tree pests to protect the trees and to prevent and abate hazardous tree conditions and nuisances within the City on public and private lands.
  - E. Protecting and preserving existing healthy trees.
  - F. Encouraging the planting of trees for the protection and enhancement of the environment.
- (Ord. 1107, 12-9-91)

**706.03: ~~TREE BOARD~~ DEFINITIONS:**

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

BOULEVARD: That property between the edge of the street and the property line (right-of-way line).

EASEMENT: The right to use a defined part of real property held by others for a specific purpose.

HAZARDOUS TREE: Any tree, as determined by the City Forester, to cause or have the potential to cause harm to city or private property, following the guidelines set forth by the Minnesota Department of Natural Resources (MNDNR).

HERBACEOUS PLANTS: Non-woody plants.

PROPERTY LINE: The legal boundary of a parcel of land.

PUBLIC TREE MASTER PLAN: Official comprehensive tree management plan, including, but not limited to, a planting guide with regulations outlining acceptable tree species, planting locations, planting techniques and treatments to limit the spread of shade tree pests and maintain healthy trees.

PUBLIC TREE PERMIT: Written permission given by the City allowing a person(s) to plant, trim, treat or remove a tree, shrub, or herbaceous plant on city public land.

RIGHT OF WAY: The surface and space above and below a public roadway, highway, street, cartway, bicycle and public sidewalk in which the City has an interest, including other dedicated rights of way for travel purposes, utility easements and any other real property owned by or under the control of the City.

SHADE TREE PEST: Any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest, as defined by Minn. Stat. § 89.001.

SHRUB: A woody plant at maturity less than 20 feet tall with multiple stems at the ground or branching within a few feet above ground.

TREE: A woody plant at maturity 20+ feet tall with a single stem and unbranched for several feet above ground.

TREE TOPPING: Topping and tipping are pruning cuts made indiscriminately on limbs with no regard for placing the cuts near protection zones.

TREE TRIMMING: Recommended trimming and pruning techniques are outlined in the Public Tree Master Plan. Tree topping is not considered an appropriate tree trimming technique and is specifically prohibited on all public lands. (Ord. 1107, 12-9-91)

#### **706.04: APPLICABILITY TREE BOARD:**

The Parks and Recreation Commission shall act in all matters relating to the advisement of issues contained in this Chapter and all others relating to urban forest management within the City, pursuant to City Code Chapter 203. (Ord. 1107, 12-9-91)

#### **706.05: ~~FORESTATION MANAGEMENT~~ JURISDICTION:**

A. The city shall have the power to plant, care for, maintain, remove, and replace all trees, shrubs, and herbaceous plantings located within any street right of way, parks and public places within the City limits.

B. The city shall have control over the planting, care, maintenance, removal and replacement of all trees, shrubs, and herbaceous plants located on private property that constitute a hazard or threat to the public as set forth in this Chapter. (Ord. 1107, 12-9-91)

#### **706.06: ~~OTHER REGULATIONS FOR PLANTING TREES OR REMOVING HERBACEOUS PLANTS AND SHRUBS~~ DESIGNATION AND DUTIES OF CITY FORESTER:**

A. Appointment of City Forester: The Director of Parks and Recreation, or duly authorized employee, shall act as the City Forester to coordinate the activities within the city relating to urban forest management. (Ord. 1107, 12-9-91)

B. Authority of City Forester: The City Forester shall have jurisdiction and supervision over all trees, shrubs, and herbaceous plants located within street rights of way, parks and public places of the City, and trees, shrubs and herbaceous plants located on private property that constitute a hazard or threat to the public. (Ord. 1107, 12-9-91; amd. 1995 Code)

C. Duties of City Forester: The City Forester may direct the planting, care, maintenance, removal and replacement of any tree, shrub or herbaceous plant on public grounds and on private property where necessary to preserve or restore its condition or to protect the public from damage or injury. The cost of any such work may be assessed against the property on which the tree, shrub or herbaceous plant is located, pursuant to Section 706.12.

D. Public Tree Master Plan: In addition to the other responsibilities under this Chapter, the City Forester shall review the Public Tree Master Plan regarding all aspects of trees, shrubs and herbaceous plants on public property within the City and on private property where it may present a health or safety hazard. (Ord. 1107, 12-9-91)

## **706.07: ~~DUTIES OF PRIVATE OWNERS~~ PUBLIC TREE MASTER PLAN:**

The Public Tree Master Plan shall address the following matters:

1. List of acceptable varieties of plant material
2. Prohibited plantings of specific trees, shrubs and herbaceous plants
3. Minimum size of plant material
4. Grade and quality of plant material
5. Method/technique of planting and support
6. Maintenance
7. Recommended rimming and pruning techniques
8. Recommended acceptable treatments

When approved by resolution of the City Council following a review by the City Tree Board, the Public Works Director and Community Development Director, the Public Tree Master Plan and any modifications will be the Official Plan of the City. After the adoption of the official plan, no tree planting permit will be issued which does not conform to the Public Tree Master Plan.

## **706.08: ~~ORDER PROCEDURE~~ REGULATIONS FOR PLANTING OR REMOVING TREES, SHRUBS OR HERBACEOUS PLANTS ON PUBLIC PROPERTY:**

- A. Hazard Placement Prohibited: No tree, shrub or herbaceous plant shall be planted, placed or allowed to remain in a place which the City Engineer determines could cause a traffic hazard. Enforcement shall be conducted by the City Forester and the City Engineer.
- B. Boulevard Planting: Trees, shrubs, or herbaceous plants must be located within the first three (3) feet of the boulevard, measured from the property line. Plant material shall be consistent with the Public Tree Master Plan and not in conflict with public plantings based on the judgment of the City Forester. Planting will be by permit only.
- C. Spacing/Placement: Placement of trees, shrubs or herbaceous plants must be consistent with Sections 706.07 through 706.08 and the guidelines listed in the Public Tree Master Plan.
- D. Abuse or Mutilation: No person shall on public property and right of way:
  1. Damage, cut, remove, carve, kill or injure trees, shrubs or herbaceous plants.
  2. Trim, prune, remove, spray or otherwise treat trees, shrubs or herbaceous plants without first obtaining a public tree permit.
  3. Attach any rope, wire or other contrivance to any tree, shrub or herbaceous plant.
  4. Cause or permit any wire charged with electricity or any gaseous liquid or solid substance to come in contact with trees, shrubs or herbaceous plants which are located on, or extend over, any public street, boulevard, park or other public place without a permit.
- E. Public Tree Permits:
  1. No person shall plant, remove or treat trees, shrubs or herbaceous plants on a public boulevard without first obtaining a public tree permit from the City Forester.
  2. The following provisions apply to the issuance of public tree permits for planting, treating or removing trees, shrubs and/or herbaceous plants on a public property, especially the boulevard:
    - a. Application Data: The application required under this Section shall state the number of trees, shrubs and/or herbaceous plants to be planted, the location, size and specific species of each tree or plant.
    - b. Standards for Issuance: A permit shall be issued after the application has been

determined to be in compliance with the Public Tree Master Plan and the requirements of this Section and related sections by the City Forester.

c. Replacement: As a condition to the granting of a tree removal permit, the City Forester may require the applicant to relocate or replace trees, shrubs and/or herbaceous plants to be consistent with the Public Tree Master Plan.

d. Bond Requirements: A posted bond or cash escrow may be required in an amount to be determined by the City Forester conditioned upon satisfactory compliance with the terms of the permit.

e. Permit Denial: If a tree planting or removal permit is denied, the reason(s) for denial shall be set forth in writing and given to the applicant, within 20 days of receipt of application.

f. Denial Appeal: Any applicant adversely affected by the decision may appeal to the City Tree Board and, finally, to the City Council.

F. Areas Not Applicable: The provisions of subsection D above shall not apply to:

1. The removal of trees on public easements/rights of way, conducted by, or on behalf of, a Federal, State, County, Municipal or other governmental agency in pursuance of its lawful activities or functions in construction or improvements.

2. The removal of any tree by a public utility when such tree has the reasonable potential of endangering the facility's operation by the utility. (Ord. 1107, 12-9-91)

## **706.09: DEVELOPMENT OR REDEVELOPMENT TREE PLANTING DUTIES OF PRIVATE LANDOWNERS:**

It shall be the duty of any person owning private property to comply with the following:

A. Planting on Private Property: No person shall plant or allow to be planted on any privately owned property any tree, shrub or herbaceous plant listed in the Public Tree Master Plan as prohibited.

B. Acceptable Plant Materials: Acceptable plant materials shall not have characteristics detrimental to the public welfare such as:

1. susceptibility to pests, as determined by the MNDNR, Minnesota Department of Agriculture (MNAG) and the City Forester

2. susceptibility to wind damage

3. a tendency to interfere with utilities

4. or a tendency to interfere with public easements or rights of way.

C. Prohibited Obstructions:

1. Obstructing View: No trees, shrubs or herbaceous plants shall be planted or allowed to grow so as to obstruct the view of any vehicular traffic on public streets or pathways, or pedestrians on public pathways.

2. Utilities: No trees may be planted under or within ten (10) level feet of any overhead utility wire or over or within ten lateral feet of any underground water line.

D. Trimming of Trees:

1. Private property trees and shrubs must be trimmed so as not to cause a hazard to persons or property on abutting property.

2. All trees and shrubs shall be pruned to sufficient height to allow free passage of pedestrians and vehicular traffic: nine (9) feet over sidewalks and 16 feet over streets and two (2) feet horizontal distance.

E. Removal of Pest-Infested or Hazardous Trees: Pest-infested or hazardous trees, and plants deemed to be a health or safety hazard by the City Forester, must be treated or removed so as not to constitute a health or safety hazard to the public or to other trees or plants in the

City.

- F. Stockpiling and Storage of Firewood Logs: No person shall stockpile or store wood from a pest-infested tree with the bark intact without first having obtained a permit to do so. The City Forester may issue permits, upon proper application, for the stockpiling or storage of such wood only between September 15 and April 1 of the following year and only at locations which are specified in the permit.

**706.10: ~~TREE ORDINANCE FEES~~ REPORTING DISCOVERY OF SHADE**

**TREE PESTS:** Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a public nuisance caused by a shade tree pest as defined under Section 706.14 shall report the same to the city.

**706.11: ~~INTERFERENCE~~ REGISTRATION OF TREE CARE FIRMS:** Any person, firm, or corporation that provides tree care, tree trimming, or removal of trees, limbs, branches, brush, or shrubs for hire must be licensed to work in the City by the Community Development Department.

**706. 12: ~~EMERGENCIES~~ STANDARD ABATEMENT ORDER**

**PROCEDURE:** When the City Forester determines with reasonable certainty that it is necessary to order the trimming, treatment or removal of trees, shrubs or herbaceous plants as authorized in subsection 706.09, a written order to correct the condition shall be served.

- A. The City Forester will notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Forester.
- B. Removal Date: The date inserted in the notice in subsection 706.12A shall be 20 days after the notice is mailed.
- C. Appeal: A person receiving said notice may, within five working days of the postmark date of said notice, file an appeal with the City. The appeal will be heard by the City Tree Board and forwarded to the City Council for action within 21 calendar days following the appeal of said notice.
- D. Summary Removal of Pest-Infested Trees: In the event the trees covered in said notice are not removed, destroyed and/or treated, as provided in subsections 706.12A through C, within ten calendar days following the denial on an appeal as set forth in subsection 706.12C, the City Forester shall cause said trees to be summarily removed, destroyed and/or treated and shall take any other action necessary to prevent the spread of the pest or danger to the public.
- E. Cost Responsibility: Any costs of inspecting, removing or treating trees, including any legal expense, shall be itemized and mailed to the owner at the address shown in the records of the County Auditor. In the event said itemized bill is not paid within thirty (30) days, the amount of said costs, plus interest, shall be certified to the proper County officials and collected with the next succeeding five years real estate taxes as provided for in Minnesota Statute sections 18.023 and 429.101. (Ord. 1107, 12-9-91; amd. 1995 Code)

**706. 13: DEVELOPMENT OR REDEVELOPMENT TREE PLANTING:**

All development and redevelopment activities within the City of Roseville shall be subject to City Code Chapter 1011.03 regarding minimum landscaping standards.

**706.14: DECLARATION OF A SHADE TREE PEST:** The 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, as defined by Minn. Stat. § 89.001, to be a shade tree pest.

**706.15: SHADE TREE PEST NUISANCES ARE UNLAWFUL:** It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this ordinance.

**706.16: DECLARED SHADE TREE PESTS, CONTROL MEASURES, AND CONTROL AREAS:** The City Forester may prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action. Shade Tree Pests are to be eradicated, controlled or managed according to best management practices prescribed by the MNAG and the MNDNR. The control area of a shade tree pest is defined as all lands within the boundaries of the city.

**706.17: URBAN FOREST MANAGEMENT FEES:** Fees for all permits and other applicable required City services shall be as established by the City Fee Schedule in Section 314.05. (Ord. 1107, 12-9-91)

**706.18: EMERGENCIES:** In case of emergencies involving, but not limited to, tornadoes, windstorms, floods, freezes or other natural disasters, the requirements of this Chapter may be waived by the Mayor or, in the absence of the Mayor, the Acting Mayor. (Ord. 1107, 12-9-91)

**706.19: INTERFERENCE:** It is unlawful for any person to prevent, delay or interfere with the enforcement of this Chapter by any City official. (Ord. 1107, 12-9-91)

SECTION 2: Title 2, Section 203.04 O is amended to read as follows:

- O. Shall act in all matters relating to the ~~Forestation~~ **Urban Forest Management** Ordinance contained in chapter 706 of this code, and shall act as the Tree Board as set forth in section 706.03 of this code.

SECTION 3: Effective date. This ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Roseville this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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*Ordinance –Forestation Control/Urban Forest Management*

(SEAL)

CITY OF ROSEVILLE

BY: \_\_\_\_\_

Daniel J. Roe, Mayor

ATTEST:

\_\_\_\_\_

William J. Malinen, City Manager

City of Roseville

ORDINANCE SUMMARY NO. \_\_\_\_

SUMMARY OF ORDINANCE No. \_\_\_\_

The following is the official summary of Ordinance No. \_\_\_\_\_ approved by the City Council of Roseville on \_\_\_\_\_, 20\_\_:

**An ordinance amending Title 7 Chapter 706, Forestation Control (now Urban Forest Management) as required by the Emerald Ash Borer Preparedness Grant received by the City in 2010 and to update other forestation language.**

A printed copy of the ordinance is available for inspection by any person during regular office hours in the office of the City Manager at the Roseville City Hall, 2660 Civic Center Drive, Roseville, Minnesota 55113. A copy of the ordinance and summary shall also be posted at the Reference Desk of the Roseville Branch of the Ramsey County Library, 2180 Hamline Avenue North, and on the internet web page of the City of Roseville ([www.ci.roseville.mn.us](http://www.ci.roseville.mn.us)).

Attest: \_\_\_\_\_  
William J. Malinen, City Manager