

**CITY OF WINTHROP
ORDINANCE NUMBER
20140902-2**

1 **AN ORDINANCE CREATING SECTION 305 OF THE WINTHROP CITY CODE**
2 **REGARDING TREES**

3 The City Council of the City of Winthrop Ordains:

4 Section 305 of the Winthrop City Code is hereby created to read as follows:

5
6 **PART 5. TREES**

7
8 **305.01. Regulations.**
9

10 Minnesota Statutes Chapter 89, Minnesota Statute 17.86, and all other state laws and
11 Department of Agriculture regulations regarding the use, management, protection
12 and disposal of shade trees, together with amendments thereof to date, are hereby
13 adopted by reference and made a part of this ordinance as if set out hereat in full,
14 except as hereinafter provided.
15

16 **305.02. Administration.**
17

18 Subd. 1. Shade Tree Board. The City of Winthrop does hereby establish a Shade
19 Tree Board that will consist of five memebers, citizens and residents of this city, who
20 shall be appointed by the mayor with the approval of the city council. This Board
21 shall have general supervision of shade tree management within the City of
22 Winthrop. The Board shall make recommendations to the City Council regarding
23 the conduct and regulation of the city shade tree program, propose an annual budget
24 for said program and make periodic reports to the City Council on the status of the
25 shade tree inventory of the city. The City Council shall have final authority to
26 regulate and budget for the shade tree program.
27

28 Subd. 2. City Forester. The position of City Forester is hereby created in the City of
29 Winthrop. It shall be the duty of the Forester to coordinate, under the direction and
30 control of the Shade Tree Board, and under the general authority of the City
31 Council, all activities of the municipality relating to the protection, management, and
32 removal and replacement of shade trees within city limits. The City Forester shall
33 act as an advisor to the shade tree board to effectively implement the terms of this
34 ordinance.
35

36 Subd. 3. Permits for Planting Trees in Boulevards and Utility Corridors. Private
37 parties must secure a permit from the City before planting any tree in any boulevard
38 or utility corridor in the City. City approved trees may be purchased and planted by
39 the property owner of the land abutting the boulevard, or by a person retained by the
40 property owner. Varieties of trees approved shall be trees of the hardwood variety,
41 with good mature appearance, adaptability to the climate, long lived and generally
42 resistant to injurious insects and diseases. Varieties selected for planting in

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43 boulevards should be capable of attaining the height and general appearance of
44 existing boulevard trees in the same block. Approved varieties shall be
45 recommended by the City Forester each year and approved by the Shade Tree Board.
46

47 Subd. 4. Permits for Tree Trimming and Removal. Private parties must secure a
48 permit from the City before cutting, trimming, pruning, removing, spraying or
49 otherwise treating trees, shrubs or other vegetation within the city rights of way or
50 city parks or other city property.
51

52 **305.03. Tree Pruning Guidelines.**
53

54 Subd. 1. Any public utility company must notify the City Administrator before any
55 trees are pruned in a utility corridor, and any such pruning done by or for a utility
56 and regulated in this section shall be done in accordance with the current ANSI Tree
57 Care Performance Standards.
58

59 Subd. 2. Tree limbs within the right of way will be pruned by the City if they create a
60 potential threat to public safety. As a general guideline, limbs will be trimmed to
61 provide 10 feet clearance above sidewalks and 14 feet clearance over the street.
62

63 Subd. 3. Private parties may trim or prune trees, shrubs or other woody vegetation in
64 the right of way if City guidelines are followed. Private parties should contact the
65 City to review the guidelines regarding accepted methods for pruning and optimal
66 time of the year for pruning.
67

68 **305.04. Regulations for Planting Trees on Boulevards and Utility Corridors:**
69

70 Subd. 1. Tree plantings shall conform to the minimum standards of ANSI Z60, the
71 American Standard of Nursery Stock. Tree calipers shall be measured six inches
72 above the root ball per ANSI Z60.
73

74 Subd. 2. No trees shall be placed so as in the opinion of the City to cause a traffic
75 hazard. Some specific measurement regulations are as follows:
76

- 77 (1) The spacing of shade trees will be in accordance with the three species
78 size classes defined as follows:
79

80 Small Trees – any plant material that will grow to a height of 30 feet or
81 less. Small trees are to be planted no closer than 10 feet apart.
82

83 Medium Trees – any plant material that will grow to a height of 50 feet
84 or less. Medium trees shall be planted no closer than 25 feet apart.
85

86 Large Trees – any plant material that will grow to a height of over 50
87 feet. Large trees shall be planted no closer than 45 feet apart.
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89 These spacing requirements may be ignored in special plantings
90 designed or approved by the Shade Tree Board.

91
92 (2) Trees, shrubs and hedges with a mature height greater than 30 inches
93 shall not be planted within the sight triangle at intersections measuring
94 25 feet along the boundary of each of the intersecting roadways,
95 measured from the point of intersecting curb lines, or in the case of a
96 curved curb corner, measuring 25 feet parallel to each street side from
97 the center point of the radius of such curve.

98
99 (3) Trees shall be planted at least 10 feet from the street openings of
100 driveways and alleyways. No tree or shrub shall be planted in such a
101 manner that its eventual growth cannot be reasonably controlled so as to
102 avert interference with or obstruction to any improvements installed for
103 public benefit.

104
105 Subd. 3. No tree shall be planted on any boulevard where the distance between the
106 nearest edge of the sidewalk and/or curb is less than 5 feet.

107
108 Subd. 4. All trees shall be planted equi-distant from the nearest edge of the proposed
109 or existing sidewalk and curb, except when the City may direct otherwise.

110
111 Subd. 5. The City will assist in staking out the location of the tree planting.

112
113 Subd. 6. In all utility corridors where overhead transmission lines are used or may
114 be used in the future, trees or shrubs planted must be of a variety and must be placed
115 in a manner so that the height or circumference of the tree or shrub at maturity will
116 not interfere with said transmission line.

117
118 Subd. 7. In all utility corridors where buried transmission lines and/or surface
119 transformers or other equipment are used or may be used in the future, trees or
120 shrubs planted must be of a variety and must be placed in a manner so that the root
121 system of the tree or shrub at maturity will not interfere with said utility lines or
122 equipment.

123
124 Subd. 8. The City must be contacted for approval prior to planting trees near fire
125 hydrants.

126
127 **305.05. Removal of Trees on Public Property.**

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129 Subd. 1. The City will remove, prune, or trim trees and shrubs on public property or
130 rights of way that are determined by the City to be diseased, dead, hazardous or a
131 public nuisance, at city cost.

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135 Subd. 2. The City will remove the stump of any tree or shrub disposed of under
136 Subsection 5.1 above, at the city's cost. The City shall also provide fill and grass
137 seeding to fill the hole left by the stump removal, at city cost. The watering and
138 maintenance of the replacement grass planting shall be the responsibility of the
139 adjoining property owner for any stump removal sites on any residential
140 neighborhood boulevards.

141

142 Subd. 3. No removal of healthy trees shall be done on city boulevards without first
143 obtaining the express written permission of the city. In such case, the removal of any
144 such healthy tree approved by the city shall be at the cost of the private property
145 owner requesting such removal, including the cost of stump removal, fill for the
146 stump hole, and grass seeding at the private property owner's cost, all said work to be
147 done to the reasonable satisfaction of the city.

148

149 **305.06. Damage to Trees on Public Property.**

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151 No person shall do any of the following:

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153 (1) Damage, cut, carve, top, kill or injure the bark of any tree or plant on public
154 property.

155

156 (2) Attach any rope, wire or other contrivance to any tree or plant on public
157 property, except to stabilize new plantings in a manner approved by the
158 Shade Tree Board.

159

160 (3) Cause or permit any wire charged with electricity or any gaseous, liquid or
161 solid substance harmful to tree or plants to come into contact with them.

162

163 (4) Attach any sign, poster or decoration to any tree or plant on public property
164 without prior city permission.

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166 **305.07. Abatement of Shade Tree Disease Nuisances.**

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168 Any shade tree with an epidemic or contagious disease or pest, determined by the
169 City, shall be sprayed, removed, burned, chipped or otherwise effectively treated so
170 as to destroy and prevent as fully as possible the spread of contagious shade tree
171 diseases. Such abatement procedures shall be carried out in accordance with current
172 technical or expert opinions and guidelines. Whenever the City Forester or Shade
173 Tree Board finds with reasonable certainty that a contagious disease infestation exists
174 in this municipality, the procedures in the following sections will pertain.

175

176 **305.08. Abatement of Nuisances on Private Property.**

177

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178 It is unlawful for any person to permit any public nuisance as herein defined to
179 remain on any premises owned, leased, occupied or controlled by that person. Such
180 nuisance may be abated in the manner prescribed by this ordinance.

181

182 **305.09. Inspection and Investigation.**

183

184 Subd. 1. The City Forester, or the City's other agents or employees, shall inspect all
185 premises and places within the City as often as practicable to enforce the terms of this
186 ordinance. Any violation of this ordinance shall be reported to the Shade Tree
187 Board.

188

189 Subd. 2. The City Forester, or the City's other agents or employees, may enter upon
190 private premises at any reasonable time for the purpose of carrying out any of the
191 duties assigned to them hereunder.

192

193 Subd. 3. The City Forester, or the City's other agents or employees, upon finding
194 conditions of a contagious disease, such as Dutch elm, Oak wilt or other infestation,
195 immediately shall take and send appropriate specimens or samples to the
196 Commissioner of Agriculture (Bureau of Plant Industry), State of Minnesota, for
197 analysis, or take such other steps for diagnosis as may be recommended by the
198 Minnesota Department of Agriculture and/or University of Minnesota Plant Disease
199 Clinic. Except as provided in Section 11, no action to remove infected trees or wood
200 shall be taken until positive diagnosis of the disease has been made.

201

202 Subd. 4. Within 10 days of receipt of the diagnosis, the owner, lessee, occupant or
203 person in control of the property from which the specimen was obtained shall be
204 notified of the result by certified mail or personal service of written notice.

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206 **305.10. Abatement of Tree Disease Nuisance on Public Property.**

207

208 In abating the nuisance defined herein on public property, the City Forester or the
209 City's other agents or employees, shall at City cost cause the infected tree or wood to
210 be removed and burned or otherwise effectively treated so as to destroy and prevent
211 as fully as possible the spread of epidemic diseases. City staff shall also take such
212 steps as are necessary to prevent root graft transmission of the disease. Such
213 abatement procedures shall be carried out in accordance with the current technical
214 and expert methods and plans as may be designed by the Commissioner of
215 Agriculture of the State of Minnesota. The city shall establish specifications for tree
216 removal and disposal methods consistent therewith.

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218 **305.11. Abatement of Tree Disease Nuisance on Private Property.**

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220 Whenever the City Forester, or the city's other agents or employees, finds with
221 reasonable certainty that any infestation defined in Section 305.07 exists in tree or
222 wood located on private property, they shall notify by certified mail or personal

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223 service of written notice, the owner of such property on which the nuisance is found,
224 of the infestation and direct that the infestation shall be removed and burned, or
225 otherwise effectively treated in an approved manner by such owner with 20 days
226 after receipt of such notice. The notice shall also state that if the nuisance shall not
227 be abated by the owner within the time provided, the owner, lessee, occupant or
228 person in control may be charged with a violation of this Section for maintaining a
229 nuisance and that the City by and through its Council may abate the nuisances and
230 assess the costs against the property. If the owner of any private premises upon
231 which such a tree is situated fails to have such tree so removed and burned or
232 otherwise effectively treated, within 20 days after receipt of notification by mail or
233 personal service, the City Forester, or the City's other agents or employees, shall
234 proceed to have such tree removed and burned or otherwise effectively treated, and
235 any expense incurred by the City in so doing shall be a charge and lien upon the said
236 property and shall be collected as a special assessment in the same manner as other
237 special assessments.

238

239 **305.12. Transporting Firewood.**

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241 Whenever the City finds with reasonable certainty that wood being transported in the
242 City is infested and/or infected with a contagious disease, and constitutes a hazard
243 to the public, the City shall have the authority to prohibit such transporting.

244

245 **305.13 Interference Prohibited.**

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247 It is unlawful for any person to prevent, delay or interfere with the City Forester or
248 other City agents or employees while they are engaged in the performance of duties
249 imposed by this ordinance.

250

251 **305.14. Penalty.**

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253 Any person, business entity or organization who violates this ordinance is guilty of a
254 misdemeanor and may be punished by a penalty as set out for misdemeanors under
255 Minnesota Statute 609.03 (3), or any laws amending or superseding said law. Each
256 day the violation continues shall be considered a separate offense.

257

258 **This ordinance becomes effective from and after its passage and publication.**

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260 **Passed by the City Council of the City of Winthrop this 6th day of October, 2014.**

261

262 Signed  Mayor

263

264 Attest  City Administrator