

**CITY OF LEXINGTON
COUNTY OF ANOKA
STATE OF MINNESOTA**

ORDINANCE NO. 21-01

**AN ORDINANCE REVISING CHAPTER 10 REGARDING
SHADE TREE REGULATION**

WHEREAS, the Planning and Zoning Commission considered the adoption of these revisions to Chapter 10.30 of the Lexington Code of Ordinances on December 03, 2020, and did RECOMMEND the ordinance revisions set forth.

WHEREAS, the first reading of this Ordinance occurred on January 7, 2021.

WHEREAS, the second reading of this Ordinance occurred on January 21, 2021.

THE CITY COUNCIL OF LEXINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Subdivision 1. Chapter 10.30 of the Lexington Code of Ordinances, effective until this day, is deleted.

Subdivision 2. Chapter 10.30 of the Lexington Code of Ordinances, henceforward, shall read as follows.

SECTION 10.30. SHADE TREE REGULATION

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/aspen, 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.

Subdivision 3. This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

PASSED by the City Council of the City of Lexington this ____ day of _____, 2021.

Michael Murphy, Mayor

ATTEST:

Bill Petracek, City Administrator

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