ORDINANCE NO. 1676

BEING AN ORDINANCE AMENDING CHAPTER 4, ARTICLE II, OF THE COLUMBIA HEIGHTS CITY CODE RELATING TO TREE AND WEED SERVICES

The City of Columbia Heights does ordain:

Section 2:
Sections § 4.201, § 4.202 and § 4.203 of the Columbia Heights City Code as they currently read are amended as follows:

ARTICLE II: TREE AND WEED SERVICES
Section
4.201 Removal of diseased, dead or hazardous trees
4.202 Disease control, planting and routine removal
4.203 Weed removal

§ 4.201 REMOVAL OF DISEASED, DEAD OR HAZARDOUS TREES.
(A) Declaration of policy. The health of the trees in the city is threatened by shade tree pests, and 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, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. §§ 89.001, 89.01, and 89.51-64, as they may be amended from time to time, the provisions of this section are adopted as an effort to control and prevent the spread of these shade tree pests.

(B) Declaration of shade tree pest. The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest, as defined by M.S. § 89.001, as it may be amended from time to time, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action.

(C) City Forester/Tree Inspector. The Council may appoint a Forester and/or Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The Forester and/or Tree Inspector will recommend to the Council the details of any program for the declaration, control, and prevention of shade tree pests. The Forester and/or Tree Inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term “Tree Inspector” includes person designated by the Council or the Forester to carry out the activities authorized in this section.

(D) Public nuisances declared. The Forester or their official representative has the authority to enter onto private property for inspection purposes. The Forester shall inspect all premises and places, both public and private, within the city for the presence of any of the below-described conditions and declare them a public nuisance:
The following are public nuisances whenever they may be found within the city:
(6) The Forester or his official representative has the authority to enter onto private property for inspection purposes. The Forester shall inspect all premises and places, both public and private, within the city for the presence of any of the below-described conditions:

1. Living or standing elm (*Ulmus spp.*) trees or parts thereof which are infected with the Dutch elm disease fungus *Ophiostoma ulmi* or *Ophiostoma novo-ulmi* *Ceratocystis Elmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus multistriatus* *Scolytus Multis Triatus* (Eichh.) or *Hylurgopinus Rufipes* (Marsh) *Hylurgopinus Rufipes*.

2. Living or standing oak (*Quercus spp.*) trees or parts thereof which are infected with the oak wilt disease fungus *Bretziella Fagacearum* (syn. *Ceratocystis Fagacearum*) *Ceratocystis Fagacearum*.

3. Any living or dead ash (*Fraxinus spp.*) tree or part thereof infected to any degree with the insect Emerald Ash Borer, *Agrilus planipennis* *Agrilus planipennis* Fairmaire (Coleoptera: Buprestidae).

4. Any other living or standing tree or part thereof infected with tree disease as determined by the Forester or any destructive or communicable disease or insect infestations.

5. Any diseased dead tree or part thereof, including limbs, branches, stumps, firewood, or other oak, elm, ash or wooden material which has not been removed and burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of communicable disease or insect infestation.

6. Any dead trees or parts of trees, standing or fallen, including limbs, branches, and stumps.

67. Any tree, limb or shrub that obstructs street lights, view of intersections, traffic signs, the free passage of pedestrians or vehicles, or a tree or any part thereof that is less than eight-sixteen feet above the surface of the street, sidewalk or alley, or less than ten feet above a sidewalk, or a tree or part thereof that poses an immediate threat to public safety, or public property, as determined by the Forester.

6E. It is unlawful for any person to permit any public nuisance as defined herein on any premises owned or controlled by him them within the city. Such nuisances shall be abated in the manner prescribed by this section.

6E Inspections and application of control measures.

1. The Forester or his her official representative may enter upon private premises at reasonable times and reasonable hours for the purpose of carrying out any of the duties assigned to them under this chapter.

2. All premises and places within the city shall be inspected as often as practicable to determine whether any condition declared in this section to be a public nuisance, exists thereon. All reported incidents of infection by Dutch elm fungus, the presence of elm bark beetles, of infection by the oak wilt fungus or the presence of Emerald Ash Borer shall be promptly investigated. Diagnosis may be by the presence of commonly recognized symptoms, by tests as may be recommended by the commissioner of the Minnesota Department of Agriculture or the commissioner of the Minnesota Department of Natural Resources, or other reliable means.
(3) No person, firm, or corporation shall interfere with the Forester/Tree Inspector or with anyone acting under the Forester/Tree Inspector's authority while engaged in activities authorized by this section.

(HC) Abatement of shade tree pest nuisances. In abating a nuisance, defined by ordinance herein, the organism, condition, plant, tree, wood, or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed herein.

(HD) Reporting discovery of shade tree pest. 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 herein, shall report the same to the city.

(HE) 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 registered with the Minnesota Commissioner of Agriculture under M.S. § 18G.07, as it may be amended from time to time, and must also be licensed by the City on an annual basis.

(4F) Standard abatement procedure. Except as provided herein, whenever a Forester/Tree Inspector determines with reasonable certainty that a public nuisance, as described by this section is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the procedures in this division.

(1) The nuisance shall be clearly physically marked by the Forester wherever possible. The 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 Clerk. The notice shall require abatement of all identified public nuisances and shall clearly state the time by which the abatement must be completed.

(2) The notification shall require abatement of such condition within 20 days from the date of the mailing of the notice.

(23) Abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designated by the Commissioner of Agriculture of the State of Minnesota or by the Commissioner of Natural Resources of the State of Minnesota.

(a) The notice of abatement shall state that unless the public nuisance is abated by the owner, it will be abated by the city at the expense of the owner. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk prior to the expiration of the date by which the nuisance must be abated as set forth in the notice.

(b) If no timely appeal is submitted, and the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any
additional time granted, the Forester or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property, and carry out abatement in accordance with the notice of abatement.

(3) Limbs or parts of trees or shrubs encroaching upon the public right of way, signs, lights, or otherwise obstructing or interfering with public infrastructure and its intended uses, may be removed or abated by City staff or contractors during regularly scheduled tree maintenance activities without first providing notice to the tree owner.

(LK) High-cost abatement. If the Tree Inspector determines that the cost of abating a nuisance will exceed $5,000 based on a reasonable, good faith estimate, the written notice referred to in division (K) must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

(ML) Appeal procedure. If the City Clerk receives a written request for a hearing on the question of whether a public nuisance exists, prior to the expiration of the date by which the nuisance must be abated as set forth in the notice, the City Council shall hold a hearing. At least three days notice of the hearing shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant, and lien holder of the subject property of properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

(NM) Abatement procedure in event of imminent danger.

(1) If the Forester/Tree Inspector determines that the danger of infestation to other shade trees, or danger to public safety or infrastructure is imminent, and delay in control measures may put public health, safety, or welfare in immediate danger, the Forester/Tree Inspector may provide for abatement without following the procedures described herein. The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(2) 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.

(ON) Recovery of cost of abatement; liability and assessment.

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(2) After notice and hearing, as provided in M.S. § 429.061, which may be amended from time to time, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges as well as other charges for current services to be assessed under M.S. § 429.101, as it may be amended from time to time, against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property to the County Auditor for collection along with
current taxes the following year or in annual installments as the city may determine in each case.

(PQ) Penalty.

(1) Any person, firm, or corporation that violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty, which may be imposed for any crime that is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days, or a fine of not more than $1,000 or both.

(2) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(3) The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(4) In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this section, the City Council or any official designated by it may institute appropriate proceedings at law or equity to restrain, correct, or abate the violation.

(‘77 Code, § 4.201) (Am. Ord. 1248, passed 7-13-92; Am. Ord. 1579, passed 4-12-10)

§ 4.202 DISEASE CONTROL, PLANTING AND ROUTINE REMOVAL.

(A) Whenever the Forester determines that any tree or wood within the city is infected with disease, he may use appropriate disease control methods on all the nearby high value trees, in accordance with methods and procedures prescribed by the Commissioner of Agriculture of the State of Minnesota or the Commissioner of Natural Resources of the State of Minnesota. Notice shall be provided under this section in the manner prescribed for abatement.

(B) The Forester shall maintain trees on public streets, parks, boulevards and other public properties to facilitate the safe passage of pedestrian and vehicular traffic.

(C) No person shall plant, remove, cut above the ground, or disturb any tree on any public place without first obtaining written permission from the City Forester. The City Forester shall consider all requests by property owners for the planting or routine removal of public trees in accordance with the following standards:

(1) No more than one tree shall be planted for each 3040 feet of property frontage.

(2) No trees may be planted under or within twenty-five lateral feet of any overhead utility wire except tree varieties that reach a mature height of 25 feet or less. No trees may be planted over or within five lateral feet of any underground water line or gas line, or over or within five lateral feet of any sewer line, transmission line or other utility.

(3) No trees may be planted midway between the existing curb and sidewalk without the approval of the City Forester. In areas where curb and sidewalk do not exist, no tree may be planted closer than three feet from the projected curb line.

(4) No tree shall be planted closer than 30 feet of any street corner, measured from the point of nearest intersecting curbs, or curb lines. No tree shall be planted closer than ten feet of any fire hydrant.
(5) No person, firm, or city department shall top any public tree. Topping is defined as the severe cutting back of limbs to stubs within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this subdivision at the determination of the City Forester.

(6) No tree stumps shall remain on any property. All stumps of trees shall be removed or buried to a minimum of four inches below the level of the surface of the ground including root extension to at least two feet from the outer edge of surrounding the stump. Residents may request in writing an exception from the City Forester. The request must clearly state the reason the exception is being requested, and why allowing the stump to remain should be considered. If at any time thereafter the stump is found to be a nuisance, the City Forester may rescind the exception and require the removal of the stump.

(D) The City Forester shall locate, select and identify any trees which qualify as “Landmark Trees.” A tree may qualify as a Landmark Tree if it meets one or more of the following criteria: species rarity, old age, association with a historical event or person, abnormality, or scenic enhancement.

(E) The city shall have the exclusive right to plant, prune, maintain and remove public trees as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds and rights-of-way.

(F) No person except the City Forester, his agent, or a contractor hired by the city may plant, remove, prune, trim, spray or otherwise treat public trees without first obtaining written permission from the City Forester. The removal of basal suckers, also called water sprouts, is exempted from this clause. The person obtaining the written permission shall abide by the standards set forth in this section.

(G) The City Tree Board shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of public trees and shall have full power and authority over all public and private trees that constitute a hazard or threat as described herein.

(H) When the development of private and/or commercial property occurs, the Planning and Zoning Commission, City Engineer, and City Forester shall review landscaping plans and may require trees to be planted in any of the streets, parking lots, parks or other public places abutting lands henceforth developed and/or subdivided.

(HH) A person, partnership, corporation or other entity who violates or refuses to comply with any of the provisions of this article, upon conviction thereof, shall be punished as provided in § 1.999. Each day that a violation exists shall constitute a separate offense. If, as the result of the violation of any provision of this section, the injury, mutilation or death of a public tree located on city owned property is caused, the cost of repair of replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of “A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens,” as published by the International Society of Arboriculture.

('77 Code, § 4.202) (Am. Ord. 1248, passed 7-13-92; Am. Ord. 1579, passed 4-12-10)
§ 4.203 WEED REMOVAL.

(A) The weed inspector or delegated assistant may inspect all premises and places within the city for the presence of weeds, as defined below:

WEEDS. As used in this code shall include:

(a) Noxious weeds enumerated by Minn. Rules, part 1505.0730, as it may be amended from time to time.

(b) Any other uncultivated or uncontrolled weed growth, which have gone or are about to go to seed, such as secondary weeds enumerated by Minn. Rules, part 1505.0740, as it may be amended from time to time.

(c) Any tall weeds or grass growing upon any lot or parcel of land in the city to a height greater than nine inches. The weed inspector may grant exceptions for wildlife areas, areas bordering ponds, wildflower areas, ornamental grasses and other such areas in a natural landscape that are a part of an orderly landscape design and comply with City guidance and requirements.

(d) Such other vegetation as the Council shall, from time to time, designate by resolution.

(B) The weed inspector or delegated assistant shall notify the affected property owner that weeds which are on their property, must be eradicated, or controlled, in the manner prescribed by the inspector. Such notice may be posted on the property, served personally, or may be served by mail.

(1) The notification shall require abatement of the weeds, or other prescribed action, within four days from the date of mailing of notice.

(2) The notification shall state that the city will take appropriate remedial action to eradicate or control the weeds upon expiration of said four days, with a charge to the property owner/property for costs.

(C) For properties for which there have been one or more notices issued within the prior 12-month period, compliance with division (B) shall not be required. For those properties, the first notice issued within a 12-month period shall contain a general notice that the city may abate future violations without providing additional specific notice of the violation.

(D) The weed inspector, delegated assistant, or other delegated agent of the city, shall cause the removal or other prescribed action of any weeds located on public property; or on private property, upon expiration of the prescribed notice to the owner.

(E) For the purpose of this section, the following definition shall apply.

OWNER. The person who is listed as the contact person on any current rental licensing application on file with the city, if any, or if none, the person listed as owner by the County Assessor on the homestead record, or if none, the taxpayer as shown by the records of the County Assessor.

(77 Code, § 4.203) (Ord. 1511, passed 6-12-06; Am. Ord. 1544, passed 5-12-08; Am. Ord. 1590, passed 5-9-11)
First Reading: April 11, 2022
Offered by: Novitsky
Seconded by: Jacobs
Roll Call: All Ayes

Second Reading: April 25, 2022
Offered by: Buesgens
Seconded by: Novitsky
Roll Call: All Ayes

Date of Passage: April 25, 2022

[Signature]
Mayor Amáda Márquez Solís

Attest:

[Signature]
Sara Iom, City Clerk
SUMMARY OF ORDINANCE NO. 1676

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE II OF THE COLUMBIA HEIGHTS CITY CODE RELATING TO TREE AND WEED SERVICES

The City Council for the City of Columbia Heights, Minnesota adopted Ordinance No. 1676 on April 25, 2022.

The purpose and intent of this ordinance is to amend Sections 1, 2 and 3 of Article II to update best practices, procedures, and current enforcement regarding disease, pests, and new challenges facing the urban forest.

This is a summary of Ordinance No. 1676. A copy of the entire text of the Ordinance is available for public inspection during regular office hours at City Hall, by standard electronic mail, or at www.columbiaheightsmn.gov.

Attest:

[Signature]
Sara Ion, City Clerk/Council Secretary

[Signature]
Mayor Amáda Márquez Simula
AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA  |
COUNTY OF ANOKA |

Karen Nelson being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

BSLP Col Hght Frid Life

with the known office of issue being located in the county of:

ANOKA

with additional circulation in the counties of:

RAMSEY

and has full knowledge of the facts stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.

(B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 05/06/2022 and the last insertion being on 05/06/2022.

MORTGAGE FORECLOSURE NOTICES

Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By: Karen Nelson

Designated Agent

Subscribed and sworn to or affirmed before me on 05/06/2022 by Karen Nelson.

Notary Public

CITY OF COLUMBIA HEIGHTS
SUMMARY OF ORDINANCE NO. 1676

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Mayor Amíada Márquez Simula
Attest:
Sara Ion,
City Clerk/Council Secretary

Published in
The Life
May 6, 2022
1226869

Rate Information:
(1) Lowest classified rate paid by commercial users for comparable space:

$22.00 per column inch

Ad ID 1226869