MAHTOMEDI ENVIRONMENTAL COMMISSION
MEETING AGENDA
September 14, 2020
CITY HALL
6:30 P.M.

Meeting to be held telephonically pursuant to Minn. Stat. Sec. 13D.021
Telephonic Meeting Call – in instructions
Dial: 1-312-626-6799
Enter Meeting ID 875 8193 7437 Password 346668
Please hit the # sign twice to enter to meeting
The following link will allow you to enter the meeting using video:
https://us0web.zoom.us/j/87581937437?pwd=THVUbThOa1F6eEJQUHg4Z1B3MUxZz09

1. CALL TO ORDER 6:30

2. APPROVAL OF AGENDA

3. APPROVAL OF THE July 13, 2020 MEETING MINUTES.

4. OLD BUSINESS 6:35
   - Keeping of Goats for Grazing Ordinance – City Attorney Bridget Nason
   - Tree Ordinance Revisions – City Attorney Bridget Nason
   - Curbside Organics and Yard Waste – Jason Hartmann, Waste Management

5. NEW BUSINESS 7:20
   - Sustainability Plan – Roxy Robertson, WSB

6. FUTURE AGENDA ITEMS

7. ADJOURNMENT 8:00
A regular meeting of the Environmental Commission was held on Monday, July 13, 2020 at 6:30 p.m. at Mahtomedi City Hall.

Present were Commission Members: Mike Chevalier, Christine Ahmann-Maples, Kevin Toskey, Brandon Cass, and Will Seuffert.

Also present: City Administrator Scott Neilson, Council Member Jeff Ledermann, and Jason Hartman from Waste Management.

APPROVAL OF AGENDA

Motion by Chevalier, seconded by Ahmann-Maples to approve agenda. Motion carried.

APPROVAL OF MINUTES

Motion by Chevalier, seconded by Ahmann-Maples to approve March 9, 2020 meeting minutes. Motion carried.

APPOINT CHAIR AND VICE-CHAIR

Motion by Toskey, seconded by Cass to appoint Christine Ahmann-Maples as Chair and Mike Chevalier as Vice-Chair. Motion carried.

NEW BUSINESS

Curbside Yard Waste/Organics – Jason Hartman, Waste Management

Jason Hartman from Waste Management was at the meeting to discuss Curbside Yard Waste/Organics. Mr. Hartmann said that the disposal sites are no longer accepting co-mingled yard waste and organics. He outlined the City may have a few options which include weekly pick-up of organics only at a higher monthly rate, providing the service to those interested and having the entire City absorb the cost, or providing a drop off site where residents could drop off their organics.

The Commission requested Mr. Hartmann come back and provide prices for the options which would also include picking up yard waste even though it would not be co-mingled.

Keeping of Goats for Grazing Ordinance

The Commission has requested the City Attorney be present at next month’s meeting to answer questions about the draft ordinance. Also, the Commission requested to bring back recommended fees and a draft application.
CITY OF MAHTOMEDI, WASHINGTON COUNTY, MINNESOTA
ORDINANCE NO. _____

AN ORDINANCE AMENDING MAHTOMEDI CITY CODE CHAPTER 3 ENTITLED "ANIMALS" BY AMENDING SECTIONS 3.01 AND 3.02 AND ADDING SECTION 3.13 RELATED TO THE HARBORING AND KEEPING OF GOATS – FOR PRESCRIBED GRAZING BY PERMIT

THE CITY COUNCIL OF THE CITY OF MAHTOMEDI HEREBY ORDAINS AS FOLLOWS:

Section One. Amendment. Chapter 3, Section 3.01 of the Mahtomedi City Code is hereby amended to include the following definitions:

"Buck" means a male Goat.

"Doe" means a female Goat.

“Goat” means an animal in the subspecies of Capra aegagrus hircus.

“Grazing” means Goats eating vegetation.

“Wethers” means a castrated buck.

“Prescribed Grazing” means the temporary use of Goats as a landscape management technique to control the growth of undesirable vegetation, including noxious weeds and invasive plants or trees at a specific location and for a defined length of time. For the purpose of this definition, Goats used for prescriptive Grazing are not considered pets or farm animals.

“Prescribed Grazing Permit” means a permit issued that allows prescribed grazing within City limits.

Section Two. Amendment. Chapter 3, Section 3.02 of the Mahtomedi City Code is hereby amended as follows:

3.01 KEEPING OF CERTAIN ANIMALS PROHIBITED.

1. Prohibitions. No person may keep within the City any of the following:

A. Any wild animal;

B. Any hoofed animal; or

C. Any farm animal.
Sustainability in 2040 Comprehensive Plan

The Sustainability Chapter in the 2040 Comprehensive Plan was provided to the Commission. Discussion focused on working and completing a Sustainability Plan. It was recommended that a representative from WSB, the City’s engineering and planning firm be present at the next meeting to discuss the possibility of working with the Commission to develop the plan.

OLD BUSINESS

Business Survey/Eco-Hero Program with White Bear Chamber –

City Administrator Neilson indicated that nothing has been done with this item due to COVID-19 business closures.

Tree Ordinance Revisions –

No updates on this matter. The Commission requested the City Attorney be present at the next meeting to discuss.

FUTURE AGENDA ITEMS

The following are the agenda items for the August Environmental Commission Meeting:

1. Sustainability Plan discussion with WSB representative
2. Goat Grazing Ordinance discussion with City Attorney
3. Tree Ordinance Revisions discussion with City Attorney
4. Organic pick-up options.

ADJOURNMENT

Motion by Chevalier, seconded by Cass to adjourn meeting. Motion carried. Meeting adjourned at 7:50 p.m.

Scott Neilson
City Administrator
2. **Exceptions.** This Section does not apply to the following:

   A. Animals which are brought into the City solely for participating in any circus or show;

   B. Any bona fide research institution or veterinary hospital, provided that such institution or hospital employs protective devices adequate to prevent such animal(s) from escaping or injuring the public;

   C. Chickens pursuant to the issuance of a permit as allowed in Section 3.12 of this Chapter;

   D. Goats pursuant to the issuance of a permit as allowed in Section 3.13 of this Chapter for prescribed grazing on specified property in the City for a defined period for the express purpose of controlling invasive, noxious or unwanted vegetation; or

   E. Any animals prohibited in Section 3.02, subdivision 1 that are kept within the City as of the date the City Council adopts this Chapter, and that are reported to the City in writing by the Owner on or before April 1, 1999.

Section Three. **Amendment.** Chapter 3, Section 3.13, of the Mahtomedi City Code is hereby added as follows:

### 3.13 HARBORING AND KEEPING OF GOATS – FOR PRESCRIBED GRAZING BY PERMIT

1. **Purpose.** The purpose of this Section is to establish conditions under which the temporary and periodic use of a limited number of goats for invasive species and other weed control is permitted and to establish the requirements for doing so in order to protect the health, safety, and welfare of the general population.

2. **Prescribed Goat Grazing Permit Required.** It is unlawful for any person to keep, harbor, maintain, possess, or otherwise control any goat within the City, except pursuant to a permit issued by the City under this subdivision.

3. **Conditions of Permit.** The keeping of goats is permitted, pursuant to a Permit granted under this Section, subject to the following conditions:

   A. A permit hereunder may be granted only for:

      1. A parcel or lot of record that is 0.5 acres or more in size; or

      2. A prescribed grazing area located on more than one parcel or lot provided
the grazing areas on each parcel/lot are contiguous or harbored on or in any other property.

B. The permit holder under this subdivision must occupy the premises for which the permit is issued at all times that the permit is in effect and goats are present on the premises. Goats shall not be allowed on a vacant lot.

C. Prescribed grazing shall only be allowed where vegetation, which may include non-native, invasive or noxious species, cannot otherwise be reasonably removed using conventional mechanical methods, such as buckthorn.

D. All premises on which goats are kept or maintained shall be clean from filth, garbage and any substances which attract rodents. The premises shall be cleaned frequently to control the odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property.

E. Goats shall not be kept in such a manner as to constitute a nuisance to the occupants of adjacent property.

F. It shall be unlawful for any person to keep or harbor a goat which habitually bleats. Habitual bleating is defined as bleating for repeated intervals of at least five (5) minutes with less than one (1) minute of interruption. The bleating must also be audible off of the premises for which the permit is issued.

G. The premises for which a permit is issued shall, at all reasonable times, be open to inspection by the City forester or any other City official to determine compliance with this subdivision, other City Code provisions and state laws relating to zoning, health, fire, building or safety.

H. A permit issued hereunder shall be nontransferable. It is unlawful to keep, harbor, maintain, possess, or otherwise control any goat on any property that is not listed on the permit.

I. All supplemental feed for the goats shall be securely stored in water-tight and vermin-proof containers. All goats on the premises shall have daily access to fresh drinking water (not from nearby lakes, ponds, etc.). All goats used under the permit shall receive proper veterinary treatment and regular deworming. In the event that a goat becomes ill, hurt, or perishes, the permit holder and the owner of the goat is responsible for immediate on-site care or removal of the goat from the premises.

J. No more than one (1) goat per every one-tenth (0.10) acre of the prescribed grazing area shall be on the premises at one time under the permit.
K. Unneuter male goats over six (6) months of age are prohibited.

L. Prescribed grazing must comply with the shoreline regulations and wetland regulations set forth elsewhere in the City Code. The permit may restrict the permissible grazing area to protect ecologically sensitive areas on the premises. Prescribed grazing shall comply with the following:

1). Prescribed grazing shall comply with the best management practices established by the Minnesota Department of Agriculture, the Minnesota Department of Natural Resources, Dakota County Soil and Water Conservation District, and all other pertinent agencies.

2). Prescribed grazing shall not impair water quality as defined by the Federal Clean Water Act.

3). Threatened or endangered plant species shall not be negatively impacted by prescribed grazing.

M. The prescribed grazing area shall be fully and securely enclosed with proper enclosures, and fully maintained for the duration of the prescribed grazing permit, as required and provided herein. It is unlawful and a violation of the permit for any goat to be allowed to run at large as the term is defined elsewhere in this Chapter. The prescribed grazing area shall be fully and properly enclosed at all times.

Proper enclosure means any combination of temporary or permanent fences or structures designed to prevent the escape of the goats used for the prescribed grazing and to protect the goats from the intrusion of other predatory animals. All sides of the enclosure(s) shall be of sufficient height and the bottom of the enclosures shall be constructed or secured in a manner as to present to the goats from escaping over or under the enclosure(s). An enclosure shall meet the following requirements.

1). Fences and structures constructed to enclose the prescribed grazing goats but intended to remain at the expiration of the prescribed grazing, shall comply with the regulations for the zoning district in which the prescribed grazing is located and shall be permitted separately from the prescribed grazing.

2). Temporary fencing and structures for the sole purpose of enclosing prescribed grazing goats shall be allowed for the duration of the prescribed grazing. All temporary fencing or structures shall be removal within five (5) days of the removal of the goats from the premises as required under the permit.
3). Temporary fences may be electric or electrified as specified in the approved prescribed grazing permit. Where electric fences are used, a double fence system with a non-electric outer fence, maintained a minimum of three (3) feet from the electric fence, is required to serve as a safety barrier to reduce the possibility of the public coming in contact with the electric fence. If an existing natural barrier or permanent structure exist which prevent contact with or serve as a barrier to the electric fence, then the second outer fence may not be required for the applicable segment of fencing.

4). Any electric or electrified fence in association with prescribed grazing must have a warning sign posted on every boundary of the enclosure at least every fifty (50) feet along each side of the fence. The warning sign shall clearly identify the electric fence. No single sign shall exceed four (4) square feet in area. Each sign shall be clearly visible on the approach to the fence and be posted on or within one (1) foot of the electric or electrified fence.

5). The outer fence line shall be inside the property lines of the premises on which the permit applies and shall not be located within any public or private right-of-way.

6). The goat containment fences shall be set back a minimum of 100 feet from any residence.

N. If the proposed prescribed grazing area is within a conservation easement, all requirements of the conservation easement must be met. If the terms of the conservation easement do not allow prescribed grazing, then the permit will be denied.

O. The owner of the goat(s) to be utilized under the permit shall have and maintain insurance coverage for claims arising from prescribed grazing in the amount of $1,000,000 per occurrence and $2,000,000 general aggregate and shall provide to the City proof prior to the issuance of the permit.

P. The permit holder shall install and maintain signs on the premises for the duration of the permit as follows:

1). Signs warning of the hazardous condition of the presence of goats such as “Do Not Enter – Goat Defoliation Area” or “Do Not Enter – Goat Invasive Species Treatment Area – No Petting Or Feeding.”

2). A sign shall be located on each side of the enclosed area. The sign shall be a minimum of 4 square feet and not exceed 16 square feet in area.

3). The signs shall not contain advertising. However, the contact
information of the owner of the goat(s) may be listed on the sign for emergency purposes.

4. The signs shall be setback a minimum of 10' from the property line of the premises if freestanding or placed on the enclosure fence.

5. All signs shall be removed when the goats are removed from the premises.

4. Permit Process.

A. An applicant shall complete an application form provided by the City and filed with the City Clerk. The applicant shall also pay the Application fee for the permit which shall be established by City fee schedule. Permit fees shall not be prorated or refundable.

B. The applicant shall must provide a detailed site plan of the premises on which the prescribed grazing is sought to occur, including the location and dimensions of the proposed grazing area, a list of the vegetation existing on the site and sought to be controlled by the prescribed grazing, the location and delineation of any wetland or public water shoreline, and the location of the proposed enclosure fencing;

C. The full name and address of the following persons:

   a. The applicant signed thereto; and

   b. The owner(s) of the premises on which prescribed goat grazing is sought to occur and for which the permit would apply;

D. The street address of the premises on which prescribed grazing is sought to occur and for which the permit would apply;

E. The number of goats to be kept on the premises under the permit, not to exceed one (1) goat per very one-tenth (0.10) acre of the prescribed grazing area;

F. The full name, address, and 24-hour contact telephone number of the person who owns the goats to be used for the prescribed grazing;

G. The type of fencing to be used for the required enclosure;

H. Date the temporary fence will be installed;

I. Date the goats will arrive on the premises for which the permit would apply;
J. The latest date the goats will be removed from the premises for which the permit would apply;

K. A statement certifying whether the property’s homeowners’ association rules, if any, prohibit the keeping of goats on the property for which the permit is sought;

L. If the applicant is not the fee owner of the premises on which the goats for prescribed grazing is sought to be kept and for which the permit would apply, the application shall be signed by all fee owners of the premises;

M. Any other and further information as the City deems necessary.

5. Granting or Denying Issuance of Permit. The City Clerk may grant a permit under this subdivision; however, a permit may not be issued unless the application filed demonstrates compliance with the requirements of this subdivision. A permit shall not be issued until the City forester or designee inspects and determines the existence and the need for control of undesirable vegetation, as well as review of any ecologically sensitive areas, on the premises at which the prescribed grazing is sought to be implemented. The City Clerk shall deny a permit hereunder for any of the following reasons:

A. The application is incomplete or contains false, fraudulent or deceptive statements;

B. The applicant does not or has not complied with one or more of the provisions of this subdivision;

C. The premises for which the permit is sought, including, but not limited to, the proposed grazing area, is not in compliance with any provisions of this subdivision, other City Code provisions or state law relating to zoning, health, fire, building or safety; or

D. The applicant or owner of the premises where the prescribed grazing is to occur has been previously convicted of a violation under this subdivision with the past two years.

E. The applicant is delinquent in paying of any taxes, assessments, forfeitures, or fines for violations of City Code, utility bills or other claims owed to the City.

6. Duration of Permit: The duration of a permit under this Section shall be as follows:

A. On properties with an area of less than two (2) acres, prescribed grazing shall not be permitted for more than thirty (30) consecutive days. No more
than two (2) prescribed grazing permits may be issued within one (1) calendar year for the premises. There shall be a minimum of sixty (60) days between the expiration of the first permit issued and the second permit issued in a twelve (12) month period.

B. On properties with an area of two (2) or more acres, the duration of the prescribed grazing shall be as specified in the permit, determined solely within the discretion of the City Clerk as may be guided by City personnel trained in control and maintenance of noxious and invasive weed/plant vegetation.

7. Right of Entry for Inspection. An initial inspection of the prescribed grazing area and fencing is required to verify compliance with this ordinance and the site plan submitted with the Application prior to moving goats onto the premises. City Staff may enter and inspect any property for which a prescribed goat grazing permit has been issued following notice to the property owner at any reasonable time for the purpose of ensuring compliance with this Section. It shall be deemed a violation of this Section for any person to resist, impede or hinder City Staff or their designee in the performance of their duties inspecting any goat-related materials.

8. Liability. The City shall have no liability for any damages that may be caused by goats kept on a property pursuant to this Section. Owners under this Section shall be jointly and severally liable for any damage that may be caused by the goats kept pursuant to the permit issued under this Section.

9. Violation and Penalties. If a violation of the terms of this Section or the prescribed goat grazing permit is found, the City shall give written notice thereof to the permit holder. If the violation is not remedied within ten (10) days of the date of the notice, a misdemeanor citation may be issued and/or the prescribed goat grazing permit may be revoked following notice and a hearing before the City Council. The City Clerk may summarily revoke a permit if a permit holder's Goat(s) have been found running at large on two (2) or more occurrences within the term of the permit.

Section Four. Effective Date. This Ordinance shall be in full force and effect upon its publication as provided by law.
Passed in regular session of the City Council on the ___ Day of __________, 2020.

Motion for adoption by:
Seconded by:
Ayes:
Nays:
Abstained:
None Absent:

CITY OF MAHTOMEDI

By__________________________

Judson Marshall
Its Mayor

Attest:

By: Jerene Rogers
Its City Clerk

(Published in the White Bear Press on ______, 2020)
## PRESCRIPTIVE GRAZING PERMIT APPLICATION

Initial License Fee: $50  
Renewal License Fee: $25

### APPLICANT INFORMATION

<table>
<thead>
<tr>
<th>Site address for prescriptive grazing:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Applicant Name (property resident):</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Applicant's Email Address:</th>
<th>Primary Phone: ( )</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Alternate Phone: ( )</td>
</tr>
</tbody>
</table>

The above referenced property's Homeowners' Association rules, if any, do not prohibit prescriptive grazing on the property: (please initial)

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Not Applicable</th>
</tr>
</thead>
</table>

### PROPERTY OWNER INFORMATION

Is the premises owned or rented by the applicant?

- [ ] Owned (skip to "goat owner information" section)
- [ ] Rented (complete the remainder of this section)

If the premises is rented:

<table>
<thead>
<tr>
<th>Property owner:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Property owner mailing address:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Property owner phone number:</th>
</tr>
</thead>
</table>

I consent to have the prescribed grazing activity described in this application on my property.

Property owner signature: ___________________________  
Date: ___________________________

### PRESCRIPTIVE GRAZING INFORMATION

Date goats will arrive on property: ___________________________

Latest date goats will be removed from property: ___________________________

Type of temporary fencing to be used: ___________________________

Date temporary fencing will be installed: ___________________________

List of vegetation to be controlled by prescriptive grazing: ___________________________

Size of prescriptive grazing area (in acres): ___________________________

Maximum number of goats to be used on the property: ___________________________
GOAT OWNER INFORMATION

Name of Goat Owner: 

Goat Owner Mailing Address: 

Goat Owner Email Address: 

Goat Owner Phone Number (available 24-hours a day for emergencies):

TENNESSEN WARNING NOTICE

When the City of Eagan ("City") collects private/confidential data from an individual about that individual, the City is required under Minn. Statute § 13.04, subd. 2, to provide a Tennessee warning Notice. The purpose of this Notice is to enable individuals to make an informed decision about whether to give data about themselves to the City.

Classification of Data Provided
Under Minnesota Statute § 13.41, subd. 2, regulating licensing data obtained by a public entity, names and the designated contact address and telephone number are public data and available upon request. All other information provided on your application prior to licensure approval is classified by law as private data and is accessible to you, but not to the public. Upon license approval, all information provided on your application is public data, EXCEPT for: date of birth, social security, non-designated or secondary contact address and telephone number, financial data, state and federal tax ID’s, or data classified under Minnesota Statute § 13.02, subd. 12, as private or subd. 13 as protected nonpublic. Public data is available to any person upon written request to the City.

Purpose and Intended Use
The data requested on each application will be used in determining whether you meet the City qualifications and requirements for the license for which you are applying. Data from your application will also be relied upon for contact and communication purposes by the City.

Failure to provide any of the requested information could result in the delay or possible denial of your initial or renewal application. All data collected and stored may be shared upon court order or with other government entities as authorized by law.

REQUIRED DOCUMENTATION

☐ A certificate of liability insurance issued to the owner of the goats for prescribed grazing activity at the licensed premise. The certificate must show at general liability coverage of at least $1,000,000 per occurrence and $2,000,000 general aggregate. The City of Eagan must be listed as a certificate holder.

☐ A detailed site plan of the premises on which the prescribed grazing will occur. Please include dimensions of the proposed grazing area, the location and delineation of any wetlands or bodies of water and the location of the proposed fencing. (Electrified fences require a boundary fence. Both the electric and boundary fences must be included on the site plan.)

You may subscribe to receive an electronic notification from the City of proposed ordinances by signing up for an email update on the City’s website at www.cityofeagan.com/subscribe.

I certify that I have read the above questions and that the answers are true and correct to the best of my knowledge.

Applicant Signature ___________________________ Date ____________

PLANNING (OFFICE USE ONLY)

Approve / Denied Review Date: __________________ Staff: ___________
Notes: __________________________

FORESTRY (OFFICE USE ONLY)

Approve / Denied Review Date: __________________ Staff: ___________
Notes: __________________________
Application – Temporary Keeping of Goats for Vegetation Management

$50.00 Calendar Year License Fee

Applicant Name:

Please provide (attach additional sheets if necessary):
1. A description of the real property upon which it is desired to keep goats.

2. The breed and number of goats to be maintained on the property. Note: Permitted and prohibited goats: does and wethers are permitted; bucks are prohibited. Number of goats allowed: Up to four goats on parcels that are 10,000 square feet in area or less, with one additional goat per every 1,000 square feet of lot area over 10,000 square feet.

3. The dates the goats will be kept at the property. Note: Permits shall not be granted from December through March. No property owner or person shall store goats on a property for more than 30 consecutive days or 60 days in any 12-month period starting with the date the animals are moved onto the property.

4. A detailed site plan of the property showing the location and size of the proposed grazing area, including dimensions, a list of the vegetation on the property that is sought to be controlled by the grazing and the location of the fencing, as well as any goat pen or enclosure. Note: Every owner, keeper, custodian, or harborer of goats shall erect and/or maintain a temporary or permanent fence to contain and confine all goats kept on the premises. The fence shall of sufficient height to contain the goats. A permanent fence shall comply with all fence requirements of this code. Any temporary electric fence shall have appropriate warning signs.

5. List of person(s) managing and monitoring the goats, including 24-hour contact information, accompanied by evidence of liability insurance in the amount of at least $1,000,000 per occurrence.
6. Signature from the applicant that the applicant will at all times keep the goats in accordance with all of the conditions prescribed by the city clerk, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this ordinance and grounds for revocation of the permit.

_____________________________  __________________________
Signature                                      Date

7. Signature of the property owner, if different than the applicant.

_____________________________  __________________________
Signature                                      Date

8. Application fee as established in the City’s Fee Schedule.
12.04 TREES.

1. Purpose. The City Council finds and determines that to protect and promote the public health, safety, and general welfare of the citizens of the City of Mahtomedi, it is necessary to provide a comprehensive program to regulate the planting, care, maintenance, and removal of trees, including the trimming and treatment of trees on public right of ways. The City Council finds that the loss of many trees growing on public and private premises within the City would substantially depreciate the value of public and private property and impair the general welfare and convenience of the public. The City Council hereby determines that this Section is necessary to provide such regulation and to prevent and control the spread of tree diseases, insect vectors carrying diseases, and insect pests, and the resulting hazardous conditions which are declared to be a public nuisance.

2. Planting.

A. Permitted Trees. It is lawful to plant only such species of trees within the public right of way as are designated by the City Council. It is unlawful to plant any other species or kind of tree within such right-of-way.

B. Planting Regulations. No trees shall be planted, placed, or allowed to remain in a public right-of-way in a position which the Tree Inspector determines in consultation with the engineer to be or to cause a traffic hazard. Trees planted in a right-of-way must be planted in soil adequate to ensure proper growth in accordance with standards set by the Tree Inspector. No shrubs or herbaceous plant materials may be planted on a public right-of-way without the prior approval of the Tree Inspector.

3. Trimming, Cutting, and Maintenance.

A. Duties of Private Owners. Any person responsible as owner for all trees, shrubs, or other herbaceous plant materials growing on private property abutting a public right-of-way shall have the following duties:

i. To trim such trees, shrubs, and plants so that they do not to cause a hazard or in any respect interfere with persons using abutting public property, and do not interfere with the proper lighting or traffic conditions of public streets. Trees shall at all times be kept trimmed in such manner that the lowest branches shall not be less than ten (10) feet from the ground; and

ii. To treat or remove any trees, shrubs, or plants determined by the Tree Inspector to be so diseased or insect ridden as to constitute a hazard to the trees, shrubs, or plants within the City.

B. Mutilation. No person shall (a) damage, cut, carve, or otherwise injure the bark of any tree, shrub, or plant on public property; (b) attach any rope, wire, or similar contrivance to any tree, shrub, or plant on public property unless such person receives the proper authorization of the Tree Inspector; or (c) in any other way injure or impair the natural beauty or usefulness of any tree, shrub, or plant located on public property.

4. Disease Control and Prevention.

A. Policy. The City Council declares its intention to conduct a program of tree, shrub, and plant pest control under authority of Minnesota Statutes Section 18B.13. The City Council hereby determines that the health of trees within the City is threatened by Dutch elm disease, oak wilt, elm bark beetles, pine bark beetles, emerald ash borer and other agents/vectors of epidemic diseases or insect pests of shade and evergreen trees, and therefore enacts this section to control, eliminate, and prevent such epidemic diseases and pest problems.

B. Public Nuisances. The City Council hereby declares the following things, when found anywhere within the City, to be public nuisances:

Chapter 12 - 19

i. Any elm tree or part thereof infected to any degree with either of the two (2) species of Dutch Elm Disease fungi, Ophiostoma ulmi and Ophiostoma novo-ulmi, or which harbors any of the elm bark beetles.

ii. Any living or standing red or pin oak tree (Quercus rubra and Quercus ellipsoidallis), or part thereof, infested to any degree with oak wilt, fungus, or ceratocystis fagacerarum.

iii. Any dead elm or oak tree, or part thereof in an infectious stage, including branches, stumps, firewood, or other material from which the bark has not been removed and disposed of, that is infested to any degree with oak wilt, fungus, Dutch elm disease, ceratocystis fagacerarum, or other epidemic disease.
iv. Any ash tree (Fraxinus spp.) or part thereof, infected to any degree with emerald ash borer (Agrilus planipennis)

v. Any standing pine tree infected with pin bark beetles Ips pini, Ips perroti or Ips grandicollis.

vi. Any standing dead pine that has been dead under one and one-half years or any exposed pine slash or logs cut from live trees that have been dead under one and one-half years.

vii. Any tree species with other tree diseases and infestations regulated by the Minnesota Department of Agriculture pursuant to statute, rule or commissioner’s declaration which is necessary for the protection, preservation and conservation of public and private lands and the investment and benefit therein, and to protect and promote the general welfare of the public and the community.

viii. Any tree deemed by the City Forester as “hazardous”. A hazardous tree is defined as having visible structural defects in the roots, stem and or branches or being in an environmental condition that may cause the tree or parts of the tree to fall; where if it fell would land within a public right-of-way or property owned by another person or entity.

C. Abatement. It is unlawful for any person to permit any such nuisance as defined in Subpart B of this Subdivision to remain on any premise owned or controlled by such person within the City, or permit the spread of a public nuisance as defined in this chapter across his or her property lines and in any specified control areas as established by the City. Such nuisance may be abated in the manner specified in Section 12.03.

D. Inspection. The Tree Inspector or an authorized agent shall inspect all premises and places within the City as often as practicable to determine whether any condition described in Subpart B of this Subdivision exists thereon. The Tree Inspector shall investigate all reported instances of infestation by Dutch elm fungus, elm bark beetles, oak wilt disease, or similar diseases or pests. The Tree Inspector may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this section. Whenever necessary to determine the existence of Dutch elm disease, oak wilt, or other disease or infestation of pests in any tree, the Tree Inspector may remove or cut specimens from the any tree he or she believes to be a public nuisance, in such manner as to avoid permanent injury to the tree and may forward such specimen to the Minnesota Department of Agriculture, the University of Minnesota Plant Disease Clinic, or a similar organization, for analysis to determine the presence of such nuisance. (5-29-90)

E. Spraying. Whenever the Tree Inspector determines that any elm tree, oak tree, ash or wood from these trees within the City is infected with oak wilt, Dutch elm fungus, or Dutch elm beetles, or Emerald Ash Borer, the Tree Inspector may spray or inject all nearby trees likely to be infected with an effective concentrate. Spraying or injecting activities shall be conducted in accordance with the technical and expert opinions and plans of the Commissioner of Agriculture.

F. Storage or Transportation of Wood. It is unlawful for any person to store or dispose within the City any diseased or infested bark bearing elm wood or oak wood without having obtained a written permit from the Tree Inspector.

G. Financing. The cost of implementing and administering the disease control and prevention program authorized by this section may be defrayed by levying a tax on the taxable property within the City pursuant to Minnesota Statutes Section 18G.13.

H. Records. The Tree Inspector shall keep a record of the costs of any abatements or other corrective action performed under this section, and shall report such information monthly to the City Council.

I. Interference Prohibited. It is unlawful for any person to prevent, delay, or interfere with the Tree Inspector while the Tree Inspector is engaged in the performance of duties imposed by this section.

5. Abatement Procedure for hazardous and infected trees and wood:
A. Nuisance Declared, Notice, Appeal: Upon the determination of conditions constituting a nuisance as described in this chapter, located on property with the City of Mahtomedi, excluding city property, the City Forester, Tree Inspector or designee shall declare the existence of a public nuisance and order abatement thereof. The City Forester, Tree Inspector or designee shall send written notification to the owner of the nuisance declaration and the necessary abatement procedures. A property owner who disagrees with the determination of the City Forester may appeal the determination to the City Council. Such appeal must be filed in writing with the City Clerk and within ten (10) days of receipt of notice of the determination. The City Council shall consider the appeal at the next scheduled regular City Council meeting. The City Council shall affirm, reverse or modify the determination.

B. Failure to Abate, Contract for Abatement, Costs: Should a property owner fail to abate the nuisance, or be unwilling or unable to abate the nuisance, as described by the City Forester, Tree Inspector, or designee the Public Works Director shall then proceed to contract for the prescribed abatement procedure as soon as possible and shall report to the City Clerk all charges resulting from the abatement procedures carried out on such private property. The City Clerk shall list all such charges along with a city administrative cost against each separate lot or parcel by September 1 of each year as special assessments to be collected commencing with the following year’s taxes. Administrative costs as set by City Council ordinance shall be assessed for each parcel and shall be added to each assessment. All assessments levied for the repayment of such tree disease abatement may be repaid over a five (5) year period. Such assessments shall be levied under authority granted by Minnesota Statutes Section 429.101.

C. Imminent Danger of Infestation: If the City Forester, tree inspector, or designee finds that danger of infestation of epidemic diseases in shade trees is imminent, the City Forester, Tree Inspector or designee shall notify the abutting property owners by mail that the nuisance shall be abated within a specified time.