

# ORDINANCE 117

## TREE ORDINANCE

The City of Stockton does hereby ordain:

Section 1: Purpose: It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the developed City of Stockton to the extent found by the City Council to be practical within available financial and staff resources.

Section 2: Definitions:

1) City The City of Stockton

2) Public Property Any area or building owned by the City of Stockton including but not limited to: boulevards, parks, playgrounds, dikes, parkways, streets, sidewalks, alleys and public parking lots.

3) Public Right-of-Way Portion of property reserved for public use and accepted for such use by the city to provide circulation and travel to abutting properties, including but not limited to: streets, boulevard, alleys, sidewalks, provisions for public utilities and cut and fill slopes.

4) Trees Tree means any tree, shrub, hedge or woody vegetation.

5) Public Trees All trees growing on any public property or public right-of-way owned by the City of Stockton.

6) Private Trees All trees growing on private property within the city limits.

7) Hazard Trees Any public or private tree or part thereof which:

a) has an infectious or destructive disease, insect problem, or other pestilence which endangers the growth, health, life or well being of trees in the City, or which threatens to or is capable of causing a spread of a disease, pestilence, or insect infestation;

b) is dead, dying, broken, or decayed;

c) obstructs street lights, traffic signs, or the view of any street

intersection or street sign and so that there shall be a clear space of at least 12 feet above the street;

d) obstructs the free passage of pedestrians or vehicles;

e) is causing the surface of a public street, curb, or sidewalk to be upheaved or otherwise disturbed;

f) injures or poses an imminent threat of injury to the sewer system, electric power lines, gas lines, water lines or other public improvement; or

g) constitutes an imminent danger to the health, safety or well-being of the general public.

8) Boulevard Area between curb and the private property line that is publicly owned.

9) Public Utility Any public or private facility or system for producing, transmitting or distributing communications, electricity, gas, oil products, water, waste or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of the City.

10) Topping The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Sometimes referred to as "top".

Section 3: Authority and Power. There is hereby created and established a City Tree Inspector whom shall be appointed for the City of Stockton. Members shall be appointed annually at the January meeting by the City Council and shall serve without compensation

Section 4: Applicability. This ordinance provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks, along trails, and in other public places of the City; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

Section 5: Tree Care and Protection. The City Tree Inspector has the authority to enter onto private property whereon there is located a tree, shrub, plant, or plant part that is suspected to be a public nuisance or a hazard tree. Before making any inspection on private property within a municipality, it shall be the duty of the municipality to give notice of said inspection to all affected residents and property owners either through an individual oral or written notice, or by publishing said notice in three (3) public places.

Upon the discovery of any Hazard Tree (Section 2, paragraph 7 subsection a through g), the City Tree Inspector shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition not less than fourteen (14) days from the date of the notice. It shall be unlawful for an owner of property receiving such an order to fail to comply with the order in the time specified.

If the required action is not taken by the property owner within the specified time, the City Council may cause the trees, shrubs, or plants concerned to be trimmed or treated with the costs being borne by the property owner. If not voluntarily paid to the City by such owner, the costs of such trimming or treatment may be recovered by the City by special assessment upon the property owner.

Section 6: Abuse or Mutilation of Trees. No person shall intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising poster, or other contrivances to any public tree; allow any gaseous liquid, or solid substance which is harmful to such trees to come into contact with them; or set any fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree; or to direct or authorize such activity or circumstance.

Section 7: Landscaping. In new subdivisions or when the development of commercial property occurs, the City Council and the Tree Inspector will review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

Section 8: Shade Tree disease Program.

a) It is the intention of the City Council to conduct a program of plant pest control pursuant to all the powers of the City including the authority of Minn. Stat. #18.023. (1999 Edition) This program is directed specifically at the control and elimination of shade tree diseases and is undertaken at the recommendation of the state commissioner of agriculture. The City Tree Inspector shall act as a coordinator between the state commissioner of agriculture and the council in the conduct of this program.

b) Except where the City's ordinance is more stringent than rules announced officially by the Commissioner of Agriculture, the City adopts and by reference makes a part hereof the rules of the Commissioner on shade tree disease control found at Minnesota Rules, Sections 1505.0010 to 1505.0340 (1999 Edition), together with any amendments thereto, as if set out herein in full.

Section 9: Penalty. Any person, firm or corporation who violates any provision of this ordinance shall be guilty of a misdemeanor and may be punished by a fine of not more than \$300 or imprisonment for not more than ninety (90) days, or both. In addition thereto, the costs of prosecution may be imposed upon the defendant, and the court shall order restitution to the City for damage to the tree or public property.

Section 10: Effective Date. This ordinance becomes effective from and after its passage and publication.

Passed by the City Council of the City of Stockton this 9th day of October, 2001.

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Mayor

ATTEST:

SEAL:

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City Clerk - Treasurer