

CHAPTER 11

ENVIRONMENTAL CONTROL

VISUAL POLLUTION

11.101. Unsafe and Unsightly Fencing. No unsightly wire fencing, wooden slat fencing, commonly referred to as "snow fencing", or other unsightly fencing of any kind shall be allowed to exist within the City of Lucan for any purpose, without the written consent of all adjoining property owners or the majority approval of the Council of the City of Lucan, except that snow fencing shall be allowed between October 1 and April 1 for the purpose of blocking snow. This section shall apply to existing fencing falling within the defined category as well as fencing to be constructed in the future.

11.102. Junk Cars, Etc. No person shall allow inoperative cars, or other junk to remain within public view on public or private property within the City of Lucan.

11.103. Violation. Not less than thirty (30) days after effective notice of a violation of this statute, if such violation is not corrected, the Council of the City of Lucan may authorize such fencing or junk removed and any costs incurred therewith shall be assessed against the property owners.

POSTING

11.110. Posting on Outside of Buildings. No person shall paste or in any other way post any written or printed material on any part of the outer walls of any building within the City without first having obtained the consent of the owner thereof.

CONTROL OF DUTCH ELM DISEASE

11.201. Declaration of Policy. Elm trees in the City of Lucan are threatened by a disease known as Dutch Elm disease and the loss of elm trees growing on public and private property would substantially depreciate the value of property within the City and impair the public safety and general welfare. It is declared to be the intention of the City Council to attempt to control and prevent the spread of this disease, and this ordinance is enacted for that purpose.

11.202. Street Inspector. The street inspector shall have the powers and duties hereinafter set forth and shall have the duty of administering and enforcing this ordinance. The street inspector shall coordinate, under the direction and control of the City Council, all activities of the municipality relating to the control and prevention of Dutch Elm disease. He shall recommend to the Council the details of a program for the control of Dutch Elm disease and shall perform the duties incident to such a program adopted by the Council.

11.203. Dutch Elm Disease Program. It is the intention of the City Council of the City of Lucan to conduct a program of pest control pursuant to the authority granted by Minnesota Statutes, Section 18.022. This program is directed primarily at the control and elimination of Dutch Elm fungus and elm bark beetles and is undertaken at the direction of the Commissioner of Agriculture of the State of Minnesota.

11.204. Nuisances Declared. The following are declared to be public nuisances whenever they may be found within the City of Lucan: (a) any living or standing elm tree or part thereof infected to any degree with Dutch Elm disease fungus or which harbors any elm bark beetles; (b) any dead elm tree or part thereof from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide. It shall be unlawful for any person to permit any public nuisance defined in this section to remain on any premises owned or controlled by him within the City of Lucan. Any such nuisance may be abated in the manner prescribed by this ordinance.

11.205. Inspection and Investigation. The street inspector shall inspect all premises and places within the City as often as practicable to determine whether any condition described in Section 11.204 of this ordinance exists, and he shall investigate all reported incidents of infestation by Dutch Elm fungus or elm bark beetles. The street inspector or his duly authorized agents may enter upon private property at any and all reasonable times for the purpose of carrying out any of his duties under this ordinance. The street inspector shall, upon finding conditions indicating Dutch Elm infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 11.207, no action to remove infectious trees or wood shall be taken until positive diagnosis of the disease has been made.

11.206. Abatement of Dutch Elm Disease Nuisances. In abating the nuisances defined in Section 11.204, the street inspector shall cause the infected tree or wood to be sprayed, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and elm bark beetles. Such abatement procedure shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

11.207. Procedure for Removal of Infected Trees and Wood. Whenever the street inspector finds with reasonable certainty that the infestation as defined in Section 11.204 exists in any tree or wood in any public or private place in the City, he shall proceed as follows: (a) If he finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he shall make a written report of his finding to the Council which shall proceed by (1) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or under the Home Rule Charter of the City, or (2) abating the nuisance as provided in section 11.202 of this section; (b) if he finds that the danger of infestation of other elm trees is imminent, he shall notify the property owner by certified mail that the nuisance will be abated within a specified time, not less than five (5) days from the date of mailing of such notice. He shall immediately report such action to the City Council, and after the expiration of the time limited by the notice, he may abate the nuisance. For purposes of this ordinance, land lying in a public street or alley abutting the property whereon the nuisance is located shall be deemed to be the property of the abutting property owner. Upon receipt of the street inspector's report required by this Section, the City Council shall, by resolution, order the nuisance abated. Before action is taken pursuant to such resolution, the City Council shall publish notice of its intention to meet and to consider taking action to abate the nuisance. Such notice shall be mailed to affected property owners and published once in the official newspaper not less than one week prior to such meeting. Such notice shall state the time and place of the meeting, a general description of the property affected, the action proposed, the estimated cost of the abatement, and the proposed method of assessing the cost of such abatement

against the owners of property affected thereby. At said hearing or any adjournment thereof, the Council shall hear all parties in interest with reference to the scope and desirability of the proposed abatement project. The City Council shall thereafter, if it determines to proceed with the abatement, adopt a resolution confirming the original resolution proposing to abate the nuisance with such modifications as it may regard desirable, and it shall provide for the doing of such work by day labor or by contract. The street inspector shall keep a record of the costs of abatements done pursuant to this ordinance, and shall report the same to the City Council. Such report shall contain the total cost of abatements, the amount which is to be assessed against affected property, a description of the lots or parcels of land, and the amount of the proposed assessment against each. On or before the third Monday of September of each year, the street inspector shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this ordinance. The City Council may then spread the charges or any portion thereof against the property affected as a special assessment under Minnesota Statutes, Chapter 429, and any other pertinent statutes or under the Home Rule Charter of the City for certification to the County Auditor and collection thereof the following year along with current taxes.

11.208. Spraying Elm Trees. Whenever the street inspector determines that any elm tree or elm wood within the City is infected with Dutch Elm fungus or elm bark beetles, he may, at his discretion, spray all nearby elm trees with a recommended elm bark beetle destroying concentrate. Such spraying activities shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his agents whenever possible. The notice, hearing and assessment procedures set forth in Section 11.207 of this ordinance shall be applicable to spraying operations conducted pursuant to this section.

11.209. Transporting Elm Wood Prohibited. It shall be unlawful for any person to transport into the City any bark-bearing elm wood without having obtained a permit from the City Clerk. The City Clerk shall grant such permits only when the purposes of this ordinance will be served thereby. It shall be unlawful for any person to prevent, delay or interfere with the street inspector or his agents in the performance of his duties imposed by this ordinance. It shall be unlawful for any person to store any bark-bearing elm wood within the City from April 15 to September 15 of any year.