ORDINANCE NO. XXX
AN ORDINANCE AMENDING THE CITY CODE CHAPTER 10, ARTICLE III
Amendment to Sections 10.57-10.63 Regarding Shade Tree Diseases and Pest Control

The City Council for the City of Golden Valley hereby ordains as follows:

Section 1. City Code Sections 10-57-10.63 are amended hereby by changing it to read as follows:

Section 10-57. Purpose. The City Council has determined that the health of the trees within the City limits is threatened by tree diseases and pests. It has further determined that the loss of trees growing upon public and private property would impair the safety, good order, general welfare, and convenience of the public and substantially depreciate the value of property within the City. It is the intention of the City Council to control and prevent the spread of these conditions, and the ordinance from which this article is derived is enacted for that purpose, and to conform to the policies and procedures embodied in Minn. Stats. Ch. 18G, as amended, and rules promulgated thereunder.

Section 10-58. Tree Inspection Program. The City Manager shall designate a Tree Inspector, certified by the State Commissioner of Agriculture, who shall administer the Shade Tree Pest Control Program for Dutch elm disease, oak wilt, and other pests for the City in accordance with the City ordinances and Minn. Stats. Ch. 18G – Plant Protection and Export Certification and Minnesota Rules, Chapter 1505 – Department of Agriculture Pest and Disease Control and subsequent amendments thereto.

Section 10-59. Shade Tree Nuisances Declared. The following are declared to be public nuisances whenever and wherever they may be found within the City on private and public property:

(1) Any standing or living elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ophiostoma ulmi* (Buisman) Nannf. and *Ophiostoma novo-ulmi* Brasier or which harbors any of the elm bark beetles, *Scolytus multistriatus* (Marsham) or *Hylurgopinus rufipes* (Eichoff). Any dead or dying elm tree, arising from any cause, or part thereof with bark intact including logs, branches, stumps, or firewood which has not been disposed of properly.

(2) Any living or standing tree or part in the red oak group (red oak, pin oak, scarlet oak, black oak) infected to any degree with the oak wilt fungus, *Bretziella fagacearum* (Bretz) Hunt.

(3) Any living or standing tree in the white oak group (white oak, bur oak, bicolor oak) that poses a threat of transmission of the oak wilt fungus to other trees of the same species through interconnected or grafted root systems.

(4) Any tree or shrub on public property that in the opinion of the Tree Inspector has become or threatens to become a hazard so as to adversely affect the public health, safety or welfare.

Section 10-60. Abatement. It is unlawful for any person to permit a public nuisance as defined in Section 10-59 to remain on any premises owned or controlled by that

person within the City. Such nuisances may be abated in the manner prescribed by this article.

Section 10-61. Inspection and Investigation.

(a) *Inspection.* The certified Tree Inspector so designated by the City Manager shall inspect all premises and places within the City as many times as practical or necessary to determine whether any conditions described in Section 10-59 exist. The Tree Inspector shall investigate all reported incidents of infection or infestation by Dutch elm disease or elm bark beetles, oak wilt disease, other shade tree disease or pest problem, and hazardous trees and shrubs.

(b) *Entry Upon Private Premises.* The tree inspector may enter and inspect any private or public property at any reasonable time for the purpose of carrying out the assigned duties specified under this article. Such inspections shall be preceded by a legal notice published once annually in the City's local (legal) newspaper informing all property owners within the City to destroy and dispose of tree materials declared a nuisance by Section 10-59.

(c) *Diagnosis.* The Tree Inspector shall, upon finding indications of Dutch elm disease or oak wilt, take such appropriate steps for diagnosis, including analysis of twig samples from actively wilting branches by diagnostic laboratories capable of performing such services approved by the State Commissioner of Agriculture. Whenever possible, diagnosis will be based upon accepted field (on-site) symptoms.

(d) *Hazard Tree Evaluation.* The tree inspector shall assess potential hazardous trees on public property according to the following guidelines as established by the State Department of Natural Resources:

(1) Dead trees and branches

(2) Cracks

(3) Weak branch unions

(4) Decay

(5) Poor tree architecture

(6) Root problems; and

(7) Cankers.

A hazard tree has a mechanical defect that is likely to cause a tree or a part thereof, to fail and said failure has the potential to adversely affect a target. A target includes, but is not limited to, people, vehicles, buildings, and property, etc. Trees without targets are not considered hazards even if they are likely to fail and can be considered beneficial in habitat protection.

Section 10-62. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the City Tree Inspector or his/her agent while they are engaged in the performance of duties imposed by this article.

Section 10-63. Procedure for Abatement and Removal.

(a) *Abatement of Shade Tree Disease Nuisances.* In abating the nuisances defined in this article, the City Tree Inspector shall cause the infected tree, shrub or wood to be removed, burned, debarked, and trenched (buried) or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of disease or pest. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and procedures as may be established by the Commissioner of Agriculture.

(b) *Procedure for Removal of Infected (or Infested) Trees and Wood.* Whenever the Tree Inspector finds with reasonable certainty that the infection or infestation defined in this article exists in any tree, shrub or wood in any public or private place in the City, the Inspector shall proceed as follows: If the Tree Inspector finds that danger of infestation of other trees is imminent, the property owner shall be notified by mail that the nuisance shall be abated 20 days after notification. After the expiration of the time limited by the notice, the City may abate the nuisance, the costs of which will be assessed against the benefiting property.

(c) *Assessment.* The City may assess the charges or any portion thereof against the property involved as a special assessment under pertinent State statutes for certification to the County Auditor and collection the following year along with current taxes.

Section 10-64. Transporting Infected or Infested Elm and Oak Wood Prohibited. Whenever the City Tree Inspector finds with reasonable certainty that elm and oak wood being transported in the City is infested and/or infected, and constitutes a hazard to the public, the Tree Inspector shall have the authority to prohibit such transporting.

Section 10-65-10.86. Reserved.

Adopted by the City Council this 20th day of February, 2024.

/s/ Roslyn Harmon
Roslyn Harmon, Mayor

ATTEST:

/s/ Theresa J. Schyma
Theresa J. Schyma, City Clerk