

ORDINANCE NO. 63

AN ORDINANCE RELATING TO THE CONTROL AND
PREVENTION OF DUTCH ELM DISEASE WITHIN THE
VILLAGE OF HOKAH

The Village Council of the Village of Hokah, Houston County Minnesota,
ordains:

Section 1. DECLARATION OF POLICY. The Village council of the Village of Hokah has determined that the health of the elm trees within the municipal limits is threatened by a fatal disease known as Dutch elm disease. It has further determined that the loss of elm trees growing upon public and private property would substantially depreciate the value of the property within the Village and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of this disease and this ordinance is enacted for that purpose.

Section 2. FORESTER. Subd. 1. POSITION CREATED. The position of forester is hereby created, whose duties hereinafter enumerated, shall be performed by a person appointed by the council.

Subd. 2. DUTIES OF FORESTER. It is the duty of the Forester to coordinate, under the direction and control of the 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 perform the duties incident to such a program adopted by the Council.

Section 3. DUTCH ELM DISEASE PROGRAM. Subd.1. It is the intention of the Council of the Village of Hokah to conduct a program of plant pest control pursuant to the authority granted by Minnesota Statutes 1961, Section 18.022, as amended. This program is directed specifically at the control and elimination of Dutch elm disease fungus and elm bark beetles and is undertaken at the recommendation of Commissioner of Agriculture. The Village Forester shall act as coordinator between the Commissioner of Agriculture and Council in the conduct of this program

Section 4: NUISANCES DECLARED. Subd.1. The following things are hereby declared public nuisances wherever they may be found within the Village of Hokah:

- A. Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus *DERATOCYSTIS ULMI* (buisman) noreau or which harbors any of the elm bark beetles *SCOLYTUS NULTISTRIATUS* (Eichn) or *HYLUGOPINUS RUFIPES* (Marsh).
- B. Any dead elm tree or part thereof, including logs, branches stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with and effective elm bark beetle insecticide.

Subd. 2. ABATEMENT. It is unlawful for any person to permit any public nuisance as defined in Subdivision 1 hereof to remain on any premises owned or controlled by him within the Village of Hokah. Such nuisances may be abated in a manner prescribed by this ordinance.

Section 5. INSPECTION AND INVESTIGATION.

Subd. 1. ANNUAL INSPECTION. The Forester shall inspect all premises and places within the Village as often as practicable to determine whether any condition

described in section 4 of this ordinance exists thereon. He shall investigate all reported incidents of infection by Dutch elm Fungus or elm beetles.

Subd. 2. ENTRY ON PRIVATE PREMISES. The Forester or his duly authorized agents may enter upon private premises at any reasonable time for purpose of carrying out any of the duties assigned him under this ordinance.

Subd.3. DIAGOSIS. The forester shall, upon finding conditions indicating Dutch elm infection, immediately send appropriate specimens or samples to the Commissioner or agriculture for analysis, or take such other steps for diagnosis as may be recommended by the Commissioner Except as provided in Section 7, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

Section 6. ABATEMENT OF DUTCH ELM DISEASE NUISANCES.

Subd. 1. In abating the nuisances defined in Section 4, the forester 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 procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

Section 7. PROCEDURE FOR REMOVAL OF INGECTED TREES AND WOOD.

Subd. 1. Whenever the forester finds with reasonable certainty that the infection defined in section 4 exists in any tree or wood in any public or private place in the Village, he shall proceed as follows:

A. If the forester finds that the danger of infection 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 Ch 429, or (2) abating the nuisance as provided in Subd. 2 of this Section.

B. If the forester finds that the danger of infection of other elm trees is imminent, he shall notify the abutting property owners by certified mail that the nuisance will be abated within a specified time, not less than 5 days from the date of mailing of such notice. The forester shall immediately report such action to the Council, and after the expiration of the time limited by notice he may abate the nuisance.

Subd. 2. upon receipt of the forester report acquired by Subd. 1, part A, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to mee to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement and the proposed bases of assessment, if any of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

Subd. 3. The forester shall keep a record of the costs of abatements done under this Section and shall report monthly to the Village Clerk or other office or officers designated by the Council, all work done for which assessments are to be made stating and certifying the description of the land, parcels involved and the amount chargeable to each.

Subd. 4. On or before September 1st. of each year the Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this ordinance. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes Section 429.101 and other pertinent statutes for certification to the County auditor and collection the following year along with current taxes.

Section C. SPRAYING ELM TREES.

Subd. 1. Whenever the forester determines that any elm tree or elm wood within the Village is infested with Dutch elm fungus he may spray all nearby high value elm trees, with an effective elm bark beetle destroying concentrate. Spraying activities authorized by this section 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.

Subd. 2. The notice provisions of Section 7 apply to spraying operations conducted under this section.

Section 9. TRANSPORTING ELM WOOD PROHIBITED.

Subd. 1. It is unlawful for any person to transport within the Village of Hokah any bark-bearing elm wood without having obtained a permit from the forester. The forester shall grant such permits only when the purposes of this ordinance will be served thereby. The Council may by resolution from time to time determine the amount of a fee to be charged for obtaining such permit.

Section 10. INTERFERENCE PROHIBITED. It is unlawful for any person to prevent, delay or interfere with the forester or his agents while they are engaged in the performance of duties imposed by this ordinance.

Section 11. PENALTY. Any person, firm or corporation who violates Sections 9 or 10 of this ordinance may be punished by a fine of not to exceed \$100.00 or imprisonment for 90 days.

Section 12. This ordinance shall become effective upon its passage and adoption and publication as provided by law.

Passed and adopted by the Village Council of the Villaeg of Hokah, Houston County, Minnesota, this 15th day of November 1967

Martin Scholze
Mayor

Attest:

Verian Craig
Clerk