

**THE FOLLOWING ORDINANCE WAS SPONSORED BY COUNCIL MEMBER STRONG-THOMPSON; MOVED FOR ADOPTION BY COUNCIL MEMBER STRONG-THOMPSON, SECONDED FOR ADOPTION BY COUNCIL MEMBER \_\_\_\_\_.**

**ORDINANCE NO. 26-14**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MANDEVILLE TO AMEND THE CODE OF ORDINANCES, SECTION 9-41, SECTION 9-42, SECTION 9-43, AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the City Council of Mandeville is vested by Section 2-1 of the Mandeville Charter with the Legislative power of the City government and has the authority to enact Ordinances which have the force of law; and

WHEREAS, the City of Mandeville has both Comprehensive Land Use Regulations Ordinance provisions and Code of Ordinance provisions that have application to the tree population on both public and private lands within the City. The CLURO and Code of Ordinance provisions establish protections for the tree canopy that extend from general provisions of protection to native tree species protections. Further, certain Code of Ordinance provisions provide for the required removal of hazardous trees that are deemed to be structurally defective, from both developed and undeveloped lots; and

WHEREAS, in furtherance of those ordinances, the Landscape Inspector and Code Enforcement officials have identified situations where a tree, due to the presence of disease or infection but lacking structural defect, does not qualify as a hazardous tree but nonetheless presents the risk of communicable disease spreading to neighboring trees. In such situations, the City has been unable to address property owners needing to remove risk as it is not clearly defined as such by the Code of Ordinance provisions which would require removal under hazardous conditions. Further, there are times when property access has been limited and/or property owners are absent or otherwise immediately available for addressing such offensive conditions; and

WHEREAS, the city has an interest in protecting public property from risks posed by both hazardous trees that could cause structural damage to city property or by diseased trees that could spread infection and cause damage to the tree canopy of Mandeville; and

WHEREAS, The City Council finds that diseased trees may constitute an immediate threat to public safety and the urban forest through the communication and spread of infection and therefore declares such conditions to be subject to abatement under this section; and

WHEREAS, the Louisiana State University College of Agriculture has advised that there are at least five common species of bark beetles in the Southern United States that are either the genus *Ips* or *Dendroctonus frontalis* (Southern pine beetles) and present a risk to the health of the tree population, particularly pine trees, and that pine trees infested with *Ips* beetles should be removed as chemical treatment of the condition is ineffective; and

WHEREAS, the recent amendments to the CLURO provisions address removal of Key Native Tree Species trees that are determined to be terminally diseased, but the provisions do not have application to the removal of non-Key Native Tree Species or an allowance for offensive conditions such as those presently being addressed; and

WHEREAS, the current provisions of Section 9-41 recognize the ability of the City to require removal of hazardous trees which have structural defects that may cause the tree or a portion of the tree to fall, but the current provisions of Sec. 9-42 and 9-43 do not have an enforcement allowance similar to the existing allowance for offensive conditions classified as accumulations; and

WHEREAS, the City desires to modify the current provisions concerning hazardous trees to clarify that the City will take such enforcement measures when a hazardous tree poses a risk to public property but will take no action when the matter concerns hazardous trees that create a concern better addressed through civil remedies available under law between the private property location of the hazardous tree and a neighboring private property where there exists no risk of damage to public property; and

WHEREAS, the City desires to supplement the recent CLURO amendments by providing a procedure that would require the removal of a diseased tree as an offensive condition addressed by Code of Ordinance, Sec. 9-41, permit noticed access to property to perform physical and visual inspection of diseased trees, and permitting the City to provide notice of violation of said ordinance and to include the enforcement procedures set forth in Code of Ordinance Sec. 9-42 and 9-43 as available to the City to enforce the removal of such offensive condition as a diseased tree.

NOW, THEREFORE, BE IT ORDAINED, Section 9-41 of the City of Mandeville codified Ordinances be amended to read:

Sec. 9-41 Removal of offensive conditions required; definitions; access for inspection

- (a) *On developed lots and public right(s)-of-way adjacent to such lots.* The owner, tenant, occupant and/or the agent of any one or more of them of any developed lot or parcel of land situated within the corporate limits of the city shall be and is hereby required to remove all accumulations of litter, trash, garbage or other refuse or detritus; as well as accumulations or piles of vegetative matter such as cut, fallen, raked or pruned grass, brush, leaves, weeds, and/or limbs, diseased trees as determined by the Landscape Inspector based on visual and physical inspection, hazardous trees which have structural defects that may cause the tree or a portion of the tree to fall on public property, and any other deleterious, unhealthy or noxious materials and to maintain the vegetative areas of the lot in a manner consistent with the plan for development, including, the cutting and removal of grass or lawn in excess of eighteen (18) inches in height from the lot or parcel of land and from the public right(s)-of-way [and] sidewalks in front of, around or adjacent to the lot or parcel of land. Failure to clear and keep such lot or parcel of land or adjacent public right(s)-of-way after being notified to do so in accordance with the procedures hereinafter set forth, shall subject such owner, tenant, occupant and/or agent thereof to the proceedings, costs and penalties hereinafter set forth. For purposes of this section a developed lot or parcel of land is defined

as any lot or parcel of land upon which a structure, as defined in Appendix A, Zoning, of this Code of Ordinances, has been constructed, whether or not such structure is presently habitable or in use; any lot or parcel of land which serves as a yard for such a structure; or any lot or parcel of land which has been wholly or partially cleared of its naturally growing vegetation or which is the subject of a building or clearing permit issued by the city.

- (b) *On undeveloped lots and public right(s)-of-way adjacent to such lots.* The owner, tenant, occupant and/or the agent of any one or more of them of any undeveloped lot or parcel of land situated within the corporate limits of the city other than a lot or parcel of land which would be subject to the provisions of paragraph (a) of this section shall be and is hereby required to remove all accumulations of litter, trash, garbage or other refuse or detritus; diseased trees as determined by the Landscape Inspector based on visual and physical inspection, hazardous trees which have structural defects that may cause the tree or a portion of the tree to fall on public property, and other deleterious, unhealthy or noxious materials from the lot or parcel of land and from the public right(s)-of-way in front of, around or adjacent to the lot or parcel of land. Failure to comply with the requirements of this section and keep such lot or parcel of land or adjacent public right(s)-of-way free of such offensive conditions as herein described after being notified to do so in accordance with the procedures hereinafter set forth, shall subject such owner, tenant, occupant and/or agent thereof, to the proceedings, costs and penalties hereinafter set forth. For purposes of this section, an undeveloped lot is any lot other than a developed lot as defined in the foregoing paragraph (a) of this section. The provisions of this paragraph shall not be construed to require the clearing of naturally occurring conditions on undeveloped lots or parcels of land which are being maintained in their natural state, except where the condition of the lots creates a public or private nuisance.

...

- (f) *Diseased tree* shall mean a tree that is affected by a fungal infection, insect infestation, pathogen, or other biological condition which, as determined by the Landscape Inspector based on visual and physical inspection, materially compromises the health, structural integrity, or life expectancy of the tree and poses a risk of communication, spread or other infection spread to surrounding trees. A diseased tree may be deemed an offensive condition notwithstanding the absence of visible structural defects where the disease presents a risk of communication of infectious condition.
- (g) *Hazardous tree* shall mean a tree that has obvious structural defects that may cause the tree, or a portion of the tree, to fall on public property.
- (h) Any determination made pursuant to this section concerning the status of any tree as being a diseased tree or a hazardous tree shall be made by the Landscape Inspector upon visual and physical inspection of the diseased condition or the structural defects which present a risk to the stability of the tree.
- (h) The Landscape Inspector, either with the Code Enforcement official or not, is authorized to enter upon private land to inspect a tree after making a good faith attempt to provide notice no

more than 24 hours prior to the inspection by personal contact, door hanger, telephone, or electronic means reasonably calculated to reach the owner or occupant. Due to the potentially emergent circumstances necessitating the inspection, such inspection may proceed through either owner permission or after 24 hours have passed since notice was given.

Sec. 9-42. Notice of violation; abatement by city; lien for costs; proceedings for collection.

- (a) An officer of the Mandeville Police Department shall notify the owner and occupant of any lot or parcel of land on which or on the public right(s)-of-way in front of, adjacent to or around which there exists an accumulation, diseased tree, or hazardous tree prohibited under the provisions of section 9-41 and shall demand that the offensive accumulation, diseased tree, or hazardous tree be removed from its location and be properly disposed of within fourteen (14) days of the date of mailing of the notice and demand. As applicable to an offensive condition existing as a result of either a diseased tree or a hazardous tree, the notice shall state that the determination was made by the Landscape Inspector and shall briefly describe the basis for the determination. This notice and demand shall be sent to the owner and occupant in question via registered mail, return receipt requested, addressed, in the case of the owner of the lot in question, to such address as appears for such owner on the latest ad valorem tax rolls of the city and, in the case of the occupant of the premises in question, to the municipal address of the premises. Any such notice and demand shall be affixed with sufficient postage to ensure delivery as addressed.
- (b) In the event that the offensive ~~accumulation~~ offensive condition has not been removed and properly disposed of by the owner or occupant within the time set forth in the preceding paragraph of this section, the city may proceed, without further notice, to remove and dispose of the said ~~accumulation~~ offensive condition. In such event the city's tax collector shall promptly bill the owner and/or occupant for all costs so incurred by the city in abating the ~~nuisance caused by the accumulation~~ offensive condition, including the cost of all notices provided by the city pursuant to the provisions of this section.
- (c) In the event that the owner and/or occupant of the property on or adjacent to which the ~~accumulation~~ offensive condition was removed by the city shall have failed or refused to reimburse the city for the costs incurred in the abatement of the ~~nuisance caused by the accumulation~~ offensive condition as provided in the preceding paragraph of this section, within thirty (30) days of the date of mailing of the bill for such costs to the owner and/or occupant, the tax collector of the city shall file and record in the mortgage records maintained by the clerk of court of this parish a notice of such costs. This notice shall contain the name of the owner of the property on which or adjacent to which the ~~accumulation~~ offensive condition was removed by the city, a description of the property, and a statement of the costs incurred in such removal by the city. Once duly recorded with the clerk of court, the notice shall constitute and create a lien and a privilege on the property therein described to secure, in favor of the city, the costs incurred in the removal and disposal of the accumulation, diseased tree, or hazardous tree with priority attaching to the lien and privilege as provided by law.
- (d) In the event that the debt secured by the lien and privilege is not satisfied within ten (10) months from the filing of the said notice of costs with the clerk of court of this parish the mayor of the

city shall be and is hereby authorized and empowered to instruct the city attorney to institute appropriate legal proceedings to recover and collect the debt and to have recognized and enforced for under the provisions of this section. In any such proceedings the city shall also be entitled to interest on the debt secured by the privilege at a rate of twelve (12) percent per annum from the date of filing of the notice of the debt with the clerk of court until paid, attorney's fees for the prosecution and collection of the debt in an amount to be fixed by the court and all costs of such proceedings. The city attorney is hereby authorized and empowered to represent the city in any and all such proceedings.

- (e) Any person shall have the right to lodge a complaint with the Mandeville Police Department asserting the existence of an ~~accumulation~~ offensive condition prohibited under the provisions of section 9-41.
- (f) Required removals under Section 9-41, when determined by the Landscape Inspector to involve a diseased tree or hazardous tree, shall not require the owner to obtain a tree removal permit. This exemption applies notwithstanding any contrary provisions of this Code or the Comprehensive Land Use Regulations Ordinance, including Article 9.2.5.

Sec. 9-43. Alternate procedures for removal of violations of section 9-41; notice and removal by city; assessment of cost as ad valorem taxes.

- (a) Should a violation of section 9-41 not be remedied within the period of time for abatement following the giving of notice to the owner of the property on which or adjacent to which the violation has occurred, as provided under the provisions of paragraph (a) of section 9-42, the City of Mandeville may, without further notice to the owner, remove and dispose of the ~~accumulation~~ offensive condition which constitutes the violation.
- (b) In the event that the city is unable to notify the owner in the manner set forth under the provisions of paragraph (a) of section 9-42, the notice to the owner required by this section may be accomplished by publication in two (2) successive issues of the official journal of this city of a notice directed to the owner of the property as shown on the city's property tax rolls, which notice contains the information required of the notice required under the provisions of paragraph (a) of section 9-42. In the event of notice by publication, the city shall not remove or dispose of the ~~accumulation~~ offensive condition which prompted the notice until ten (10) days following the second publication in the official journal of the notice provided for herein.
- (c) Should the owner fail to reimburse the city for all costs and expenses, including the cost and expense of all notices given hereunder, incurred by the city in removing and disposing of the ~~accumulation~~ offensive condition within ten (10) days of removal of the ~~accumulation~~ offensive condition by the city, the tax collector of the city shall forward to the owner, by registered mail, at the address for the said owner set forth in the city's property tax rolls, a statement setting forth the costs and expenses and identifying the owner's property on which or adjacent to which the removal work was done. Should this statement not be paid within one (1) month of its mailing, all costs and expenses set forth in the statement shall be assessed to and form a part of the property taxes due for the then current year by the owner of the property

identified in the statement. When collected, such costs and expenses shall be credited to the general revenue fund of the city.

- (d) The tax collector shall maintain a separate record of ad valorem charges and assessments made pursuant to the provisions of this section. Such record shall be maintained prior to the filing of the tax rolls and shall be open to inspection at city hall at all times during normal business hours upon request of any person or entity.

**NOW, THEREFORE, BE IT FURTHER ORDAINED** that the Clerk of this Council be and is hereby authorized and empowered to take all actions which, in the exercise of her discretion, deems necessary to promulgate the provisions of this ordinance.

The ordinance being submitted to a vote, the vote thereon was as follows:

AYES:

NAY:

ABSTENTIONS:

ABSENT:

And the ordinance was declared adopted this \_\_\_ day of \_\_\_\_\_, 2026.

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Alicia Watts  
Clerk of Council

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Jason Zuckerman  
Council Chairman