

ARTICLE VI. STREET TREES

Sec. 106-191. City forester.

(a) *Appointment.* Appointment of the city forester shall be as provided in section 2-161.

(b) *Powers and duties.* The city forester shall have jurisdiction and control over all trees and shrubs upon all streets, public parks, cemeteries and other public grounds in the city. The city forester shall enforce all ordinances pertaining to trees and shrubs.

(c) *Interference.* No person shall prevent, delay or interfere with the city forester or any of his agents or employees while they are engaged in the performance of duties imposed by subsection (b) of this section.

(Code 1986, § 8.07(1))

Sec. 106-192. Authority to make additional regulations.

The city forester may, subject to the approval of the council, make rules and regulations for planting, pruning, caring for, treating and controlling trees and shrubs upon any street or on other public grounds in the city. After publication in the official city newspaper, such rules shall have the force and effect of ordinances, including penalty for violation.

(Code 1986, § 8.07(2))

Sec. 106-193. Trimming of trees overhanging street or sidewalk.

All trees standing in the streets of the city or upon private property shall be trimmed and pruned so that no branch thereof grows or hangs lower than 14 feet above the level of the street or lower than nine feet above the sidewalk. No trees shall be permitted to stand or grow in such a manner as to obstruct the proper diffusion of light from any streetlight.

(Code 1986, § 8.07(3))

Sec. 106-194. Authority of city to trim trees.

The city forester or his authorized agent may prune or trim any tree standing in the streets of the city so that it conforms to this article. If trees standing upon private property are in conflict with this article, the forester shall notify the owner of the premises upon which such trees are located to immediately prune and trim the trees so that they conform to this article. If the trees are not trimmed within five days after such notice, the forester shall cause the trees to be trimmed and pruned so as to comply with the provisions of this article, and the cost thereof shall be assessed as a special tax against the property.

(Code 1986, § 8.07(4))

Sec. 106-195. Planting permit.

Any person wishing to plant upon any city street (terrace) any tree shall obtain a permit therefor from the city forester and shall abide by all rules and regulations concerning the planting of such trees.

(Code 1986, § 8.07(5))

Sec. 106-196. Injuring trees or obstructing growth.

No person shall allow any gas or other harmful substance to come into contact with the soil surrounding the roots of any tree or shrub in the public right-of-way in such a manner as to injure such tree or shrub, nor shall any person construct any structure in such manner as to retard or interfere with the growth of any such tree or shrub.

(Code 1986, § 8.07(6))

Sec. 106-197. Attaching objects to trees or supports.

No person shall attach to any tree in any public right-of-way in the city, or to the guard or stake intended for the protection of such tree, any rope, wire, sign or other device except for the purpose of protecting such tree or the public.

(Code 1986, § 8.07(7))

Sec. 106-198. Hedges.

No hedge or shrubbery shall be planted closer than 18 inches to the sidewalk, and all hedges and shrubbery shall be kept trimmed so that no part thereof projects over the sidewalk. No shrub or hedge shall be permitted to grow so as to obstruct the view of pedestrian or vehicular traffic.

(Code 1986, § 8.07(8))

Sec. 106-199. Trimming or removal of trees in terraces and tree courts.

The city may trim or remove any tree or part thereof in any terrace or tree court in the city that it deems dead or hazardous to the public or where it is in the best interest of the public or the city. If the city elects to do this work, it shall be performed by city personnel, and the costs thereof shall be paid by the owner of the real estate of which such terrace or tree court is a part. Not later than October 15 in each year, notice shall be given in writing by the city clerk-treasurer to the owner or occupant of all lots or parcels of real estate of which any terrace or tree court is a part of the amount due the city for trimming or removal of trees. Unless such amount is paid by November 15 next succeeding, the amount shall be levied as a tax against such lot or parcel of real estate. Any such charge remaining unpaid on November 16 thereafter shall be a lien upon the lot or parcel of real estate, and the clerk-treasurer shall insert the amount unpaid as a tax against such lot or parcel of real estate. All proceedings in relation to the collection of general property taxes and to the return and sale of property for delinquent taxes shall apply to such tax if the tax is not paid within the time required by law.

(Code 1986, § 8.07(9))

Sec. 106-200. Responsibility of property owner for trees on private property.

The owner of real estate shall be solely responsible for the care, maintenance, trimming and removal of all trees located on the real estate of such owner, except as provided in sections 106-199 and 106-201(a).

(Code 1986, § 8.07(10))

Sec. 106-201. Public nuisances.

(a) *Dutch elm disease.*

(1) *Declaration of nuisance.* The council, having determined that the health of the elm trees within the city is threatened by a fatal disease known as Dutch elm disease, hereby declares the following to be public nuisances:

a. Any living or standing elm tree or part thereof infected with Dutch elm disease fungus or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus 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 an effective elm bark beetle destroying insecticide.

(2) *Nuisances prohibited.* No person shall permit any public nuisance as defined in subsection (a)(1) of this section to remain on any premises owned or controlled by him within the city.

(3) *Inspections.* The city forester shall inspect or cause to be inspected all premises within the city at least twice each year to determine whether any such public nuisance exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with Dutch elm disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetle.

(4) *Abatement.*

a. *Procedure in case of imminent danger on public property.* If the city forester upon inspection and examination determines that any public nuisance as defined in this subsection exists in or upon any public street, alley, park or other public place, including the terrace strip between the curb and lot line, within the city, and that danger to other trees within the city is imminent, he shall immediately cause it to be removed and burned or shall otherwise abate the nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus.

b. *Procedure in case of imminent danger on private property.*

1. If the city forester determines with reasonable certainty that any public nuisance as defined in this subsection exists in or upon private premises within the city and that danger to other elm trees is imminent, he shall immediately serve upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice to abate such nuisance. Such notice shall advise that the city will remove such nuisance at its expense, provided the owner within five days of the date of such notice executes in writing a request for the removal of such tree at the city's expense and waives any damages for the destruction of such tree necessarily incurred in the removal thereof, such request and waiver to be executed on forms provided by the city forester.

2. If the owner of the property upon which such nuisance is found neglects or refuses to execute and deliver to the city forester such a request and waiver within such five-day period, he shall at his own expense immediately cause such nuisance to be removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease. Such nuisance shall be abated within 25 days after the date the property owner was first notified of the existence thereof; and, should the property owner fail or refuse to abate such nuisance within such period, the city forester shall enter upon the premises and cause the nuisance to be abated. The reasonable expense of such removal or abatement shall be certified to the city clerk-treasurer and assessed, collected and enforced against the premises from which such nuisance was removed or abated as taxes are assessed, collected and enforced and shall be paid into the city treasury. No damage shall be awarded to the owner for the destruction of any such tree or for any damage necessarily incurred in the removal thereof.

c. *Analysis of specimens.* If the city forester is unable to determine with reasonable certainty whether or not a tree in or upon private or public premises is infected with Dutch elm disease, he shall forward specimens from such tree for diagnosis and report to the state department of

agriculture and shall proceed as provided in this section upon receipt of a positive report from the department.

d. *Procedure if danger not imminent.* Where the city forester determines upon inspection that any public nuisance as defined in this subsection exists in or upon any public or private premises, but that the danger to other elm trees within the city is not imminent because of elm dormancy, he shall make a written report of his findings to the council, which shall proceed as provided in Wis. Stats. § 27.09(4).

(5) *Spraying of elm trees.* Whenever it is determined in accordance with subsection (a)(4) of this section that any elm tree or part thereof is infected with Dutch elm disease fungus, the city forester may cause to be sprayed all high-value elm trees within a 1,000-foot radius thereof with an effective elm bark beetle destroying concentrate, provided such spraying shall be performed prior to July 31.

(6) *Assessment of costs of abatement and spraying.*

a. The entire cost of abating any public nuisance as defined in this subsection or of spraying any elm tree or part thereof shall be borne by the city, except that, where any tree or part thereof has been damaged, injured or destroyed by the act or failure to act of the owner of such real estate, the entire cost of abating such public nuisance shall be borne entirely by the owner.

b. The city forester shall keep account of the work done under this subsection and shall report monthly to the clerk-treasurer all work done.

(7) *Transporting of elm wood.* No person shall transport within the city any bark-bearing elm wood or material without first securing the written permission of the city forester.

(b) *Obstruction of view at intersections.* All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk are public nuisances and may be abated as such.

(c) *Tree limbs overhanging street or sidewalk.* All limbs of trees which project over and less than 14 feet above any public street or nine feet above any public sidewalk or other public place are public nuisances and may be abated as such.

(d) *Dangerous or objectionable trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public are public nuisances and may be abated as such.

(Code 1986, § 8.07(12))

Secs. 106-202--106-230. Reserved.