

ARTICLE IV. TREES AND SHRUBS*

***Cross references:** Buildings, construction and housing, ch. 34; manufactured homes and manufactured home parks, ch. 78; planning, zoning and development, ch. 98; streets and sidewalks, ch. 106; subdivisions, ch. 110.

DIVISION 1. GENERALLY**Sec. 90-144. Purpose and scope.**

(a) It is the purpose of this article to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in boulevards and all public areas of the city; to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, boulevards, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the city; to enhance property values within the city; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in boulevards and in public areas; and to guard all public and private trees and shrubs within the city against the spread of disease, insects or pests.

(b) The provisions of this article shall apply to trees and shrubs growing or hereafter planted in boulevards or public areas, and to all trees and shrubs growing or to be planted in or upon any private property which threaten the life, health, safety or welfare of the public or any public areas.

(Code 1971, § 24-32)

Sec. 90-145. Definitions.

As used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City right-of-way shall include all platted streets and alleys owned by the city.

Conflict of interest means conduct prohibited by section 2-348.

Maintenance and protection shall include all operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing or cutting above or below the ground.

Major alteration means removing or pruning more than 20 percent of the branches or mass of a tree or shrub.

Private property means all property not owned or leased by the city. The term "private property" includes property owned or controlled by the county and the state.

Public area shall include all public streets, roads, boulevards, alleys, sidewalks, parks and other lands owned or leased by the city.

Public nuisance exists whenever any tree, woody shrub, plant or portion thereof:

- (1) Harbors insects or diseases which reasonably may be expected to injure or harm another tree, woody shrub or plant;
- (2) Obstructs the free passage of pedestrian or vehicular traffic;
- (3) Obstructs the view of traffic at any intersection or traffic sign;
- (4) Is infected with *Ophiostoma* (Buisman) Nannf. or harbors any of the elm bark beetles *Scolytus multistriatus* (Michx) or *Hylurgopinus rufipes* (Marsh). For purposes of determining whether a tree is infected or harbors elm bark beetles, the term "tree" includes logs, branches, stumps, firewood or any other part of the tree which has not been burned, sprayed with a registered elm bark beetle insecticide or from which the bark has not been removed; or
- (5) Creates a condition which is deemed to be adverse to the interests of public health, safety or welfare.

Top means the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree;

Tree and shrub includes all types of woody vegetation.

(Code 1971, § 24-33)

Sec. 90-146. City forester.

(a) *Appointment* . The mayor shall appoint or designate a person to perform the duties of city forester under Wis. Stats. ch. 27. The city forester shall be properly trained and responsible to the mayor and the director of public works.

(b) *Powers* . The city forester shall have the power to:

- (1) Enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees or shrubs upon the right-of-way of any street, alley, sidewalk, park or other public place in the city.
- (2) Regulate the planting, maintenance and removal of trees in boulevards and other public areas to ensure safety or preserve the aesthetics of such public areas.
- (3) Supervise and inspect all work done pursuant to permits issued under this article.
- (4) Set reasonable conditions for permits issued under this article.
- (5) Formulate and update as necessary a master street tree plan with input from the urban forestry tree board and approval of the common council. The master street tree plan shall specify the species of trees to be planted on boulevards and other public areas of the municipality, considering existing and future utility and environmental factors.
- (6) Carry out and enforce the provisions of this article.

(c) *Interference with city forester* . No person shall interfere with the city forester or his or her authorized representatives while they are engaged in carrying out any work or activities authorized by this article.

(Code 1971, § 24-34)

Cross references: Officers, § 2-82 et seq.

Sec. 90-147. Urban forestry tree board.

(a) *Composition* . The Urban Forestry Tree Board is created. The urban forestry tree board shall consist of seven adult residents of the city, appointed by the mayor, subject to confirmation by the common council.

(b) *Terms* . The terms of the first seven appointees to the urban forestry tree board shall be staggered at one, two and three years. Thereafter, all appointments shall be for a term of three years.

(c) *Duties*. The urban forestry tree board shall have advisory powers only. The urban forestry tree board shall advise the common council on matters of the urban forestry program. The urban forestry program shall include planning for planting, maintenance and removal of trees located in city boulevards and public areas and educating citizens about the city's tree resource. The board shall make such recommendations to the council as it deems proper. The urban forestry tree board shall meet with the common council as necessary.

(d) *Removal for cause*. Members of the urban forestry tree board may be removed for cause by majority vote of the common council. Cause shall include, but not be limited to, conflict of interest, failure to attend meetings or failure to fulfill the duties of the position.

(Code 1971, § 24-35)

Cross references: Boards and commissions, § 2-300 et seq.

Sec. 90-148. Design review committee.

The design review committee is established as a regulatory committee of the planning department. The committee shall be responsible for reviewing and approving landscape plans for property located within the city and zoned for industrial, manufacturing, commercial or retail use. No trees or shrubs shall be planted on property zoned for industrial, manufacturing, commercial or retail use except pursuant to a landscape plan which has been submitted to and approved by the design review committee. Whenever trees and shrubs have been planted as part of an approved landscape plan, the property owner shall take reasonable and necessary measures to maintain and protect the trees and shrubs.

(Code 1971, § 24-36)

Cross references: Boards and commissions, § 2-300 et seq.; planning, zoning and development, ch. 98.

Secs. 90-149--90-179. Reserved.

DIVISION 2. PUBLIC AREAS**Sec. 90-180. Prohibited acts.**

No person shall engage in the following activities in a public area without a written permit from the city forester:

- (1) Secure any rope, wire, sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
- (2) Break, mutilate, deface or remove any tree or shrub or permit any fire to burn where it will injure any tree or shrub.

- (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied on any tree or shrub.
- (4) Place cement or other solid substance around the base of any tree or shrub.
- (5) Remove any protective device from a tree or shrub.
- (6) Attach any sign or notice on any tree, or fasten any guy wire, cable, rope, nails, screws or other device to any tree; except that authorized city employees may tie temporary "no parking" signs to trees when necessary.
- (7) Excavate ditches or tunnels or construct a driveway within a radius of ten feet from any tree.
- (8) Fail to take reasonable and necessary efforts to protect trees to be retained during the construction of streets, sidewalks, boulevards, parks and buildings.

(Code 1971, § 24-37)

Sec. 90-181. Tree planting.

- (a) All boulevard trees and trees in public areas shall be planted according to tree planting standards developed by the urban forestry tree board and approved by the common council. The city forester shall make copies of the tree planting standards available to the general public.
- (b) No person may plant a tree on a boulevard or in public areas unless the tree is a species which has been approved by the common council. The city forester shall make a list of approved species available to the public.

(Code 1971, § 24-38)

Sec. 90-182. Tree maintenance.

- (a) Trees shall be managed in a manner which promotes their general health by providing the necessary arboricultural practices which may include insect and disease control, fertilization, irrigation, staking, guying, wrapping, cabling, bracing and pruning.
- (b) Trees shall be maintained in such a manner as not to endanger, interfere, or otherwise conflict with the safe use of a public area.
- (c) Trees shall be maintained to prevent the creation of a hazard because of growth, age, condition or disease or obstruction of streets, signs, signals or intersections. Limbs and branches shall be maintained to provide a minimum clearance of fourteen feet above streets, except truck thoroughfares which shall have a minimum clearance of 16 feet, and ten feet above sidewalks. The city forester may waive the requirements of this section for newly planted trees if the trees do not interfere with public travel or endanger public safety.
- (d) Any tree which, because of disease or insect infestation, poses a threat to other trees or plants in the community shall be treated to control the spread of the problem.
- (e) It shall be unlawful for any person, firm or city employee to top any tree planted in a boulevard or public area. Trees severely damaged by storms or other causes and trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the city forester.

(Code 1971, § 24-39)

Sec. 90-183. Tree removal.

(a) *Criteria for removal.* Trees growing in public areas may be removed at the direction of the city forester if, in the opinion of the city forester, one or more of the following criteria are met:

- (1) The tree is infected with an insect or disease, alternative means of control are not practical and removal is the city forester's recommended practice to prevent transmission.
- (2) The tree creates a public nuisance because of its species, size, location or condition, which may include, but not be limited to, fruit or seed drop, insects, excessive twig or limb breakage or internal rot.
- (3) The tree poses a safety hazard that cannot be corrected by pruning, transplanting or other treatments.
- (4) The tree interferes with the growth and development of a more desirable tree.
- (5) The aesthetic value of the tree is substantially outweighed by the visual enhancement caused by the tree's removal.
- (6) Work improvements required to be made near the tree will kill the tree or render it a hazard.
- (7) Preservation of the tree, when adjacent property is developed, is not cost effective.

(b) *Disposal; stumps.* Whenever it is necessary to remove trees and shrubs growing in public areas, the trees and shrubs removed shall be completely removed from the growing site and disposed of in a manner authorized by the city forester. The stump shall be ground out to a depth suitable for future planting of trees or turf.

(Code 1971, § 24-40)

Secs. 90-184--90-204. Reserved.

DIVISION 3. PRIVATE PROPERTY**Sec. 90-205. Inspection.**

The city forester or authorized representatives shall have the authority to enter onto private property for purposes of inspecting any tree or shrub that is suspected to be a public nuisance and to order the elimination of the nuisance in the manner provided in this chapter.

(Code 1971, § 24-41)

Sec. 90-206. Elimination of public nuisance.

(a) *City-owned property.* The city forester shall take all necessary and reasonable steps to eliminate any public nuisance located on city-owned property.

(b) *Private property.* Any public nuisance located on private property shall be eliminated by the property owner or his or her agent.

(Code 1971, § 24-42)

Sec. 90-207. Notice to eliminate public nuisance.

The city forester shall have the power to order the elimination of public nuisances on private property. Whenever the city forester determines that a public nuisance exists the city forester shall send a written notice by certified mail to the property owner at the address contained in the current real property tax records. The order shall describe the tree or shrub determined to be a public nuisance, its street address in the city, its location on the property and the reasons for which it has been determined to be a public nuisance. The notice shall specify the actions required by the property owner to eliminate the nuisance and the date by which the property owner must eliminate the nuisance. In the event the nuisance is not eliminated by the date specified in the notice, the city forester may take actions necessary to eliminate the nuisance and the cost thereof shall be charged to the property owner. If the charges are not paid within 30 days of billing, the charges shall become a lien against the owner's property as provided by Wis. Stats. § 66.0627.

(Code 1971, § 24-43)

Sec. 90-208. Appeals.

Any person who receives an order to eliminate a public nuisance may appeal the order. The appeal shall be made in writing and delivered to the director of public works together with all documents and evidence which the person wishes to have considered in deciding the appeal. The appeal must be filed within five business days of the date on which the order was received. The director of public works may reverse, affirm, modify or amend the order by written decision issued within 14 days of the date of appeal.

(Code 1971, § 24-44)

Secs. 90-209--90-239. Reserved.

DIVISION 4. PERMITS AND LICENSES*

***Cross references:** Licenses, permits and business regulations, ch. 74.

Sec. 90-240. Permits required.

No person shall plant, remove, or perform major alterations on a tree or shrub located in a public area or in the city right-of-way without obtaining a written permit from the city forester. No fee is required to obtain a permit. In reviewing the application for a permit, the city forester shall determine whether the requested action is appropriate, taking into consideration the safety, health and welfare of the public, the location of utilities, public sidewalks, driveways, boulevard signs and street lights, and the health and beauty of the urban forest.

(Code 1971, § 24-45)

Sec. 90-241. Conditions for issuance of permit.

Each permit issued shall include the location of the site and a description of the work to be performed. Each permit issued shall require the permittee to abide by all arboricultural specifications

and standards of practice adopted by the city and the provisions of this article. Each permit shall specify an expiration date by which the permitted activity must be completed. Within three days of completion, the permittee shall notify the city forester that the work has been completed. The city forester shall inspect all work and may issue additional orders requiring completion and correction of work that did not comply with the permit or this article.

(Code 1971, § 24-46)

Sec. 90-242. Exemptions from permit requirements.

(a) No permit shall be required to weed, fertilize or water trees or shrubs located in a public area or city right-of-way.

(b) No permit is necessary to plant, maintain or remove trees on private property.

(Code 1971, § 24-47)

Sec. 90-243. Permits to public utilities.

The city forester may issue permits to a public utility to remove, trim, prune, cut, disturb, alter or perform surgery on any tree or shrub located in a public area or city right-of-way when necessary to maintain a clearance of ten feet from primary conductor lines and five feet from secondary conductor lines. The city forester shall limit the work to be performed to the actual necessities of the utility and may assign his or her authorized representatives to periodically review the work done pursuant to the permit. The expense of inspections shall be charged to the permittee. The permittee shall abide by the terms and conditions of section 90-241. In lieu of obtaining individual permits, a public utility may enter into an annual working agreement with the city forester for utility clearance pruning on the condition that the city forester review and approve all pruning done pursuant to the agreement.

(Code 1971, § 24-48)

Sec. 90-244. Contractors.

No person, other than a person working on his or her own property, shall be permitted to prune or remove trees in excess of 20 feet in height unless the person holds a valid contractor's license issued by the city and has met all licensing and insurance requirements for contractors as set forth in ch. 34, art. VI.

(Code 1971, § 24-49)

Secs. 90-245--90-266. Reserved.

DIVISION 5. PENALTIES

Sec. 90-267. Violations.

(a) Any person found guilty of violating any provision of this article or failing to comply with any order issued pursuant to the provisions of this article shall be subject to a fine of not less than \$100.00 and not more than \$500.00 for each separate offense. Each day that a violation occurs or continues shall be considered a separate offense.

(b) Any person who damages or destroys any tree or shrub located in a public area or city right-of-way shall be liable for the cost of repairing the damage or replacing the tree or shrub. The parents or parent of any unemancipated minor child who damages or destroys any tree or shrub in a public area or city right-of-way may also be held liable under common law and Wis. Stats. § 895.035 for the cost of repairing the damage or replacing the tree or shrub.

(Code 1971, § 24-50)

Secs. 90-268--90-297. Reserved.

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