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19.01 PURPOSE

It is hereby declared to be the policy of the City of Wisconsin Rapids, to regulate and control the planting, transplanting, removal, maintenance and protection of trees and shrubs in the city in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the city; to promote and enhance the beauty and general welfare of the city; to prevent damage to any public sewer or water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the city against the spread of disease or pests. It is the intent of the common council that the provisions of this ordinance shall apply to all trees, shrubs or plants growing or hereafter planted in or upon any public right-of-way or other premises owned or controlled by the city, and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the lives, health, safety or welfare of the public or of the property owned or controlled by the city.

19.02 DEFINITIONS

Whenever the following words or terms are used in this ordinance they shall be construed to have the following meanings:

- (1) Person shall mean person, firm, association or corporation.
- (2) Public Trees and Shrubs shall mean all trees or shrubs located or to be planted on any park, playground, or other property owned or controlled by the city or on any public street, alley, sidewalk or highway within the public right-of-way.

19.03 SUPERINTENDENT OF PARKS

The superintendent of parks shall direct, regulate and control the planting, care and removal of all public trees and shrubs within the city and shall cause the provisions of this section to be enforced.

19.04 PLANTING AND REMOVAL OF PUBLIC TREES AND SHRUBS

- (1) **Permit Required.** No person, except upon order of the superintendent of parks shall plant, transplant or move any public tree or shrubs within the city, or cause such acts to be done by others, without first obtaining a written permit for such work from the superintendent of parks as herein provided.
- (2) **Requirements and Conditions of Permits.** If the superintendent of parks determines that proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this section taking into account the safety, health and welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of tree or shrub, he shall issue a permit to the applicant.
- (3) **Replanting of Trees.** As a condition of granting any permit to remove a public tree or shrub, the superintendent of parks may require that the permittee plant one or more trees or shrubs in place of the one removed, and no permittee under such conditional permit shall fail, refuse or neglect to plant trees or shrubs of the type, size and in the location specified in his permit.

- (4) Form; Expiration; Inspection. Every permit shall be issued by the superintendent of parks on forms prepared by him and shall include a description of the work to be done and shall specify the species or variety, size, nursery grade and location, of trees or shrubs to be planted, if any. Any work done under such permit must be performed in strict accordance with the terms thereof and the provisions of this section. Permits issued under this section shall expire six months after date of issue.

19.05 HOUSE MOVING PERMITS

No permit shall be issued to any person to move any building, structure or object exceeding 13-1/2 feet in height or width upon, over or along any public right-of-way or other public place without first obtaining a written report from the superintendent of parks who may require the applicant to furnish a bond or cash deposit to cover the cost of repairing or replacing any public trees or shrubs which are injured as a result of the moving operations, specify the route to be taken and impose any other conditions reasonably necessary for the protection of nearby public trees from injury.

19.06 GENERAL TREE AND SHRUB REGULATIONS

- (1) Trees to be Kept Trimmed. Trees and shrubs standing in or upon any public right-of-way between the lot line and the curb or edge of the improved street or upon any private premises adjacent to any public street, right-of-way, park, playground or place shall be kept trimmed by the owner or owners of the premises upon or in front of which such trees or shrubs are standing so that the lowest branches projecting over the public street or right-of-way provide a clearance of not less than 13-1/2 feet and over all other public places of not less than 10 feet. The superintendent of parks may waive the provisions of this section for newly planted trees if he determines that they do not interfere with public travel, obstruct the light of any street light, or endanger public safety. Any tree or shrub not trimmed as herein provided is hereby declared to be a public nuisance. This section shall not preclude routine trimming of such trees at the direction of the superintendent of parks.
- (2) Obstruction of View at Intersections Prohibited. Notwithstanding any other provisions of this section, no person shall maintain, plant, or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the city any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle approaching such intersection to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing said intersection. Any such hedge, tree, shrub or growth is hereby declared to be a public nuisance if declared obstructions under Sections 11.06(1) and 11.06(2) of this municipal code.

19.07 COTTONWOOD AND BOX ELDER TREES PROHIBITED

No person shall plant a female tree of the species *populus deltoides*, variety *populus balsamifera* or other pistillate form of genus *Populus* commonly known as "cottonwoods", a female tree of the species *acer negundo*, commonly called the "seed bearing box elder", which may hereafter become infested with *leptocoristrivattatus*, commonly known as the "box elder" bug.

19.08 AUTHORITY OF SUPINTENDENT OF PARKS TO REMOVE TREES/SHRUBS AND ABATE PUBLIC NUISANCES

- (1) Authority over Public Trees and Shrubs. The superintendent of parks shall have the authority to plant, trim, spray, preserve, renew and remove public trees and shrubs or cause such work to be done as may be necessary to insure the safety or preserve the symmetry and beauty of public streets or grounds and to protect public sidewalks, streets, sewers and mains from damage or injury.
- (2) Authority over Private Trees and Shrubs.
- (a) Notice to Abate Nuisances. Whenever the superintendent of parks shall find on examination that any tree or shrub, alive or dead, or part thereof growing or located upon private premises is a public nuisance as defined in this ordinance, or which endangers life, health, safety or property of the public, or which is infested with parasites or insect pests or disease which may spread or scatter to public trees and shrubs, he shall notify the owner or his agent in writing or by publication in a newspaper of general circulation in the city that the nuisance must be sprayed, removed or otherwise abated as directed in this notice within the time specified, which shall not be less than 10 days unless the superintendent of parks shall determine that immediate correction or removal is necessary for public safety.
- (b) Immediate Hazard or Nuisance. In the event that a tree has fallen from private property onto city property during a private cutting operation, or due to negligence of the property owner, it is the responsibility of the owner of the property from which the tree fell to cause it to be removed in accordance with this ordinance. Should the superintendent of parks or the city street superintendent determine that the fallen tree is an immediate hazard or nuisance, they shall cause the tree to be removed and shall report the expense thereof to the city treasurer who shall enter it as a charge

against the property upon which the tree was originally located. In the event that such tree has fallen due to a storm or other identifiable act of God, the city shall remove the tree without charge to the property owner.

- (c) Tree Partially on Public Property. In the event that a tree, which is partially located on public property need to be removed, the city and the sharing private property owner will share in the removal costs on the basis of the percentage of the base of the tree on each property.
- (d) Abatement by City. If the owner of such premises or his agent shall refuse or neglect to comply with the notice within the time specified, the superintendent of parks shall cause the nuisance to be sprayed, removed or otherwise abated and shall report the expense thereof to the city treasurer who shall enter it as a charge against the property upon which the tree or shrub is located. If the cost of tree removal is in excess of \$100.00, the bill may be paid in equal installments over a period of five years with interest to be paid at the rate of eight percent on any unpaid balance after the first year.
- (e) Authority of Superintendent of Parks to Enter Private Premises. The superintendent of parks shall have the authority to enter upon private premises at all reasonable times for the purposes of examining any tree or shrub located upon or over such premises in carrying out any of the provisions of this section.
- (f) Interference with Superintendent of Parks Prohibited. No person shall prevent, delay or interfere with the superintendent of parks or his agents, employees, or servants while they are engaged in carrying out any work or activities authorized by this ordinance. (MC#221)

19.09 DESTRUCTION OF DISEASED TREE; COLLECTION OF COSTS

If an examination is made, as above provided, or made at the instance of the owner of the real estate, and discloses that the tree is diseased, the superintendent of parks shall give notice to the owner of the said real estate, at his last known address, and to the person in possession of said real estate to have such diseased tree cut down and the wood properly disposed of within 10 days of giving such notice. If the owner or person in possession of such real estate does not cut down the diseased tree and dispose of the wood within 10 days after such notice is given, then such tree shall be cut down and the bark and wood disposed of by city agents on order of the superintendent of parks. Accurate record of the expense of such cutting and disposing of shall be made and report thereof given to the city clerk, who shall enter the amount against the respective real estate in the next and subsequent tax roll as a special tax against such real estate, and the same shall be collected in all respects like other city taxes upon real estate.

19.10 DESTRUCTION OF WOOD; COLLECTION OF COSTS

No person shall keep, stockpile, store, sell, offer for sale, give away or transport any elm tree, elm firewood, or branches, stump of log into or within the City of Wisconsin Rapids, between the dates of April 15 and September 1, except for the purpose of immediately disposing of the same by burning or without debarking the same. All places where elm logs have been stored and stockpiled must be cleaned up and bark and related debris properly disposed of by April 15. Every owner and person in possession of real estate in the City of Wisconsin Rapids shall permit the agents or employees of said city to enter upon said real estate and every residence, garage, wood shed, or other structure thereon for the purpose of determining whether or not any elm material, of the type above described, is located on said real estate or any structure thereon, and if such agent or employee ascertains that there is any elm material located on such real estate or structure which has not been debarked and within 10 days from the date of said notice of in lieu thereof to dispose of said elm material, and each owner and person in possession shall permit agent or employee to take a sample of any such elm material for the purpose of determining whether or not it is infested with Dutch elm disease, or disease carrying medium, and if such examination discloses that any such material is so infested, the superintendent of parks shall give notice to the owner at his last known address, and to the person in possession, to dispose of all of such elm material located on such real estate or any structure thereon.

If the owner or person in possession does not comply with any notice given as provided in this section, within 10 days after the same is given, then on order of the superintendent of parks the city agents or employees shall remove all such elm material and dispose of the same. Accurate account of the expense of removal and burning shall be kept and report made to the city clerk who shall enter the amount thereof in the next and subsequent tax roll as a special tax against such real estate, and the same shall be collected in all respects like other city taxes upon real estate. (MC#148)

19.11 REMOVAL AND DISPOSAL OF DEAD WOOD FROM TREES

Each owner and person in possession of real estate in the City of Wisconsin Rapids shall cause all dead wood to be removed from every tree on his real estate and to be properly disposed of. In the event that it appears to any agent or employee of said city that there is dead wood in any tree on private property in the City of Wisconsin Rapids, the superintendent of parks shall cause notice to be given to the owner at his last known address, and the person in possession of such real estate, to remove and dispose of such dead wood. If such dead wood has not been removed

and burned within 10 days after such notice is given, then the agents or employees of the city shall remove the same and burn it. Accurate record of the cost of removing and burning such dead wood shall be kept and a report made to the city clerk, and the amount thereof shall be entered in the next and subsequent tax roll as a special tax against such real estate and same shall be collected in all respects like other city taxes on real estate.

19.12 PENALTIES

Any person who shall violate any provisions of this section shall upon conviction thereof forfeit not less than \$10.00 nor more than \$200 together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until said forfeiture and costs are paid but not exceeding 90 days. A separate offense shall be deemed committed on every day on which a violation occurs or continues.

19.14 SEPARABILITY

If any provision of this section shall be declared invalid or unconstitutional by any court or competent jurisdiction, such declaration shall not invalidate any other provision of this section. The common council of the City of Wisconsin Rapids hereby declares that they would have adopted each and every provision of this section separately regardless of the possible invalidity of any part thereof.