

**CITY OF EDGERTON
CITY HALL
12 ALBION STREET
EDGERTON, WI**

PUBLIC WORKS COMMITTEE
Monday, February 11, 2019 at 6:00 p.m.

1. Call to order; Roll Call.
2. Confirmation of Appropriate Meeting Notice Posted on Friday, February 8, 2019.
3. Consider Approval of January 14, 2019 minutes.
4. Consider installation of stormsewer system on Marlboro Drive.
5. Consider the use of CDBG funds and income survey for the reconstruction of a portion of Rollin Street.
6. Consider native grass/pollinator plantings on various city properties.
7. Consider tree ordinance amendments.
8. Staff Report
9. Adjourn.

cc: All Commission Members
Department Heads

City Administrator
City Engineer

All Council Members
Newspapers

NOTICE: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call the City Administrator's office at least 6 hours prior to the meeting to request adequate accommodations. Telephone: 884-3341

“Notice is hereby given that a majority of the Common Council is expected to be present at the above scheduled noticed meeting to gather information about a subject over which they have decision-making responsibility. The only action to be taken at this meeting will be action by the Public Works Committee.”

**JANUARY 14, 2019
PUBLIC WORKS COMMITTEE MEETING MINUTES
CITY OF EDGERTON**

Chair Debbie Olson called the meeting to order at 6:01 P.M. Committee members present were Debbie Olson, Mark Wellnitz and Jim Burdick. Also present were City Administrator Ramona Flanigan, Public Works Director Tom Hartzell, Alderperson David Esau, Alderperson Matt McIntyre and several citizens.

Flanigan confirmed the agendas were properly posted on Friday, January 11, 2019 at the Post Office, Edgerton Library, and City Hall.

APPROVE MINUTES: A Wellnitz/Burdick motion to approve the December 10, 2018 Public Committee minutes as amended passed, all voted in favor.

A Wellnitz/Olson motion to approve the December 13, 2018 Public Works Committee minutes passed, all voted in favor.

CONSIDER REMOVAL OF MEDIAN ON HEMPHILL AVE: There has been a citizen request to consider the removal of the island on Hemphill Avenue located near North Pass. Hemphill Street narrows from 45 feet at the west end to 28 feet on the east end in the area of the island. The island was installed to improve safety and slow traffic on the street. At the December 13, 2018 meeting several citizens voiced their opinion that the median is a hazard and should be removed.

Alderperson Debbie Olson read a letter into the record from Joan Fox and Ron Webb indicating the neighborhood will commit to pay for the removal of the island if approved. She stated Hemphill Avenue residents - Brandon and Jessica Whitmore contacted her to express their opinion that the median be removed.

Alderperson Jim Burdick reviewed the historic minutes from the time the island was approved. The main concern was for safety in the area and the median was the solution. He has observed use of medians in other municipalities and their success. Burdick stressed that even though the median is not appealing it is serving the intended purpose. To assist with aesthetics he recommended requesting funding for planting flowers. Alderperson Debbie Olson discussed the importance of removal based on the request of the area residents. She remarked there are other options to control the flow of traffic including additional street parking.

A Wellnitz/Burdick motion to move the removal of Hemphill Avenue median to City Council without a recommendation passed, all voted in favor.

STAFF REPORT: None

Being no other business before the Committee, a Wellnitz/Burdick motion to adjourn passed, all voted in favor.

Ramona Flanigan/jas
City Administrator

Memo

To: Public Works Committee
From: Staff
Date: 2/8/2019
Re: February 11, 2019 Meeting

Rollin Street Project: The State DOA plans to close the Revolving Loan Funds (RLF) throughout the state in an effort to better utilize Community Development Block Grant (CDBG) funds. The program to redirect existing RLF balances is called **CDBG Close**. At the end of 2018, the City had \$193,764 in fund balance and outstanding principal on loans in our CDBG RLF. Through the CDBG Close program, these funds can be utilized for CDBG eligible projects that benefit low to moderate income residents (LMI). After significant analysis of projects, staff is recommending we attempt to use the funds to reconstruct W Rollin Street from N Main St to Swift Street.

In addition, staff recommends we apply for additional CDBG funds through the **CDBG Public Facilities (PF)** competitive program to see if we can obtain grant funds for the section of W Rollin St from Swift Street to Albion Street. CDBG compliance requires extra procedures and therefore adds costs to a project. Since we will be incurring those costs for the CDBG Close program, we can obtain more value from these extra costs by trying to expand the project with an application for CDBG PF funds. The CDBG PF application is not a required part of the CDBG Close program. One of the steps required by the CDBG programs is that we use the funds to benefit primarily LMI residents. To do this, we will have to complete an income survey similar to the recently completed survey for S Main Street.

The Committee should discuss if we should take steps necessary to utilize the CDBG Close funds for Rollin Street, apply for a CDBG PF grant, and undertake an income survey.

Areas for native grass planting: In an effort to reduce mowing costs and to increase habitat for pollinators and native plants and animals; and in some cases for erosion control. Staff would like the Committee to discuss converting the following areas to native grass and flowers.

- Area between the railroad tracks and the parking lot behind Fulton Square.
- The lawn area around the welcome sign on East Fulton Street at Neville Street
- A portion of Veteran's Park.
- The 1.8 acres on the west side of Lord Street across from South Ave.(current annual lease income \$90)

If the Committee is interested in this idea, staff will explore the costs.

Tree Ordinance: Attached is a draft tree ordinance that consolidates the existing tree regulations in

the Code book and adds general language regarding trees. In particular the Public Works Committee recommended we add language regarding the removal of dead or dangerous trees. Below are the major ordinance provisions and policy items to discuss:

Major Ordinance Provisions

- Provides powers and duties of the Tree Advisory Board.
- Provides powers and duties of City Forester
- Adopts standards
- Defines nuisances and directs their abatement
- Provides regulations and permit requirements for public trees

Policy Questions to Consider:

- Should one member of the Tree Board be a City Council member?
- Should public utilities be required to get a permit to trim public trees?
- Should private citizens be responsible to pay to remove diseased trees in the terrace adjacent to their property?
- Is the Tree Board advisory or does it direct the City Forester?
- Should the ordinance continue to require diseased trees be removed within 30 days of a notice being sent?
- Should the fine for noncompliance be changed from \$200 - \$250 to \$50-\$500?
- Should the ordinance contain specific provisions about spacing, size, terrace widths, etc or should this be left to the City Forester?

Marlboro Ave Stormsewer: Several of the houses on the west side of Marlboro Ave south of Salem Drive have sump pumps that drain to the street. The pumps' discharge is causing problems including degrading the street pavement and curbs. Staff recommends the installation of a "small" stormwater collection system in the terrace that would collect the sump discharge and convey it to the existing stormsewer system. The preliminary cost estimated with the DPW doing the installation is \$15,000. The project would be funded through the stormwater utility.

CITY OF EDGERTON MUNICIPAL CODE
CHAPTER 32

URBAN FORESTRY

32.01 PURPOSE & INTENT.

This chapter establishes policies, regulations and standards necessary to insure that the community will continue to realize the benefits provided by its urban forest. Activities regulated include, but are not limited to, the planting, transplanting, removal, maintenance and protection of trees and shrubs within the City in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, sidewalks or other public property; to promote and enhance the beauty and general welfare of the City; to prevent damage to any public sewer, water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and/or 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 City Council that the provisions of this subchapter shall apply to all the trees, shrubs, or plants growing in or upon any public right-of-way or other public lands and to all trees within the boundaries of the City.

32.02 DEFINITIONS.

The following terms, as used in this chapter, shall be defined as follows:

- (1) **PUBLIC TREE.** Shall mean any tree located within a public right-of-way or upon any other lands owned or leased by the City whether acquired by lease, purchase, gift, dedication, condemnation or otherwise.
- (2) **SHRUB.** Shall be defined as a deciduous or evergreen woody plant with an expected mature height of generally not more than fifteen (15') feet, with single or multiple trunks or multiple leaders.
- (3) **TREE.** Shall mean any woody plant usually with a single stem unbranched at the base, reaching a height of fifteen (15) feet or more.
- (4) **TREE ADVISORY BOARD.** Shall mean the board established under Section 32.03 and charged with implementation of this subchapter.

32.03 TREE ADVISORY BOARD.

- (1) **CREATION AND MEMBERSHIP.** The Edgerton Tree Advisory Board is hereby established to administer this chapter. The Tree Advisory Board consisting of 7 members. Of the members, one shall be an alderman and six shall be persons with relevant experience or significant contacts to the City of Edgerton (i.e. Resident, business or property owner, a person employed within the City, or one with other significant contacts or knowledge). Each member shall have, to the higher extent practicable, a known interest in Urban Forestry. The Mayor shall appoint the Board members subject to confirmation by the Common Council. Of the initial members so appointed, two shall serve a term of 1 year, two shall serve a term or 2 years, and three shall serve a term of 3 years. Thereafter, the term for each member shall be 3 years.
- (2) **POWERS AND DUTIES.** The Tree Advisory Board shall:
 - (a) Provide for the care of all trees and shrubs planted in the rights-of-way of all streets or highways, or in any park or other public areas of the City;
 - (b) Prepare and recommend to the City Council an urban forestry management plan, which shall include provisions for the planting, maintenance and protection of all public trees, and make recommendations for amendments thereto as the Tree Advisory Board shall determine appropriate from time to time;
 - (c) Serve in an advisory capacity to the City Council on all issues relating to trees and shrubs located within street right-of-ways, parks, cemeteries, and other public places in the City; and to any other matter involving trees and shrubs that affect, or may affect, public areas;

- (d) Prepare and maintain an inventory of trees and shrubs located in public areas within the City and on private property along streets where street trees cannot be planted due to site limiting factors;
 - (e) Adopt rules and regulations for the protection and maintenance of trees and shrubs located on public property, and to protect the public health, safety and welfare against dangers resulting from any trees and shrubs, including any regulations deemed necessary to protect against injury or damage caused by the spread of disease, insects or fungus;
 - (f) Identify, improve and promote desirable tree and shrub species within the City;
 - (g) Identify and maintain a list of tree and shrub species deemed to be nuisances due to their propensity to harbor pests or transmit diseases which endanger other trees or shrubs or the public health, safety and welfare. Any trees or shrubs so listed by the Board shall be deemed public nuisances within the meaning of 17.02 of this Code.
 - (h) Apply for county, state, federal and private grant funds for the City's urban forestry program;
 - (i) Recommend such persons or firms who are qualified in urban forestry to assist with the City's urban forestry program;
 - (j) Provide a forum for, and encourage, public comments on City tree and shrub projects and the urban forestry program;
 - (k) Encourage public participation in urban forestry practices and projects within the City and the surrounding extraterritorial area;
 - (l) Conduct an Arbor Day observance each year;
 - (m) Inform and educate City residents about the care of natural areas in their neighborhoods;
 - (n) Undertake programs for education of the public with regard to the benefits of urban trees, the proper selection, planting and care of urban trees and other matters relating to urban forestry as it deems appropriate.
 - (o) Maintain the "Tree City USA" status of the City.
 - (p) Provide plan review and technical assistance to the Planning & Zoning Commission or any other board, committee or commission of the City upon request, and provide technical advice and assistance with respect to matters affecting the urban forest to the public on such terms and conditions as determined by the board.
- (3) **LIMITATION ON REGULATIONS.** Except as provided in sub. (4), and notwithstanding the provisions of sub. (2), the regulations established by the Tree Advisory Board shall not apply to the extent they conflict with the applicable provisions of Chapters 22 or 23. The planting of any tree or shrub required or approved by the Planning Commission as part of a landscaping plan required under Chapter 22 or 23 shall not be prohibited by the regulations adopted by the Tree Advisory Board.
- (4) **EMERGENCY AUTHORITY.** In addition to the general powers of the Tree Advisory Board, and without limitation by sub. (3), the Tree Advisory Board may issue emergency orders to temporarily prohibit, limit, or regulate the planting, pruning, spraying, fertilizing, cutting, removal or handling of any tree or shrub, any species of either, or any brush, wood or other materials derived therefrom, within the City if deemed necessary to prevent threatened harm to any tree or shrub or to the public health, safety or welfare. Any such order shall not become effective until posted in at least 3 public places within the City. The regulations shall be published as a Class I notice in the official City newspaper as soon as practicable after their adoption and upon any amendment. If the order applies only to an individual property, the order shall not be enforced until a copy thereof is served upon the owner of such property by personal delivery or certified mail. Emergency regulations adopted pursuant to this subsection shall remain in effect for a period determined by the Tree Advisory Board, but not longer than thirty (30) days, unless the extension thereof is approved by the City Council.

32.04 CITY FORESTER.

- (1) **APPOINTMENT.** The City Forester shall be appointed by, and shall serve at the pleasure of, the City Council.
- (2) **POWERS AND DUTIES.** The City Forester, subject to the direction of the Tree Advisory Board, shall have the following general powers and duties:
 - (a) To direct, manage, supervise, and control the City's urban forestry program including the planting, removal, trimming, maintenance, and protection of all trees and shrubs in or upon all public areas of the City;
 - (b) To enforce such rules, regulations, permit, and penalty procedures as deemed necessary and may do so by the issuance of administrative orders and/or municipal citations to effectuate the intent of this chapter.
 - (c) To inspect any trees, shrubs, vines, hedges, plants, logs or branches existing or growing upon any property within the City and to conduct surveys and testing/sampling to determine if any destructive or communicable disease or pest exists which may be detrimental to or endanger the good health and wellbeing of trees or other plant life. No additional consent from the private property owner or person in possession of the property is necessary to carry out such duties.
 - (d) To order the removal of a nuisance tree or shrub.
 - (e) To restrict or regulate tree maintenance activities within the City limits to reduce the spread of infectious diseases and/or insects.
 - (f) To provide information to the public concerning the urban forestry program and tree and shrub care.
 - (g) To implement and direct a City Urban Forestry Management Plan.
 - (h) To plant, remove, maintain, and protect all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, and to protect life and property.

32.05 STANDARDS AND SPECIFICATIONS

- (1) The following standards and specifications, are hereby adopted and incorporated herein, and shall apply to all activities regulated by this chapter:
 - (a) Forestry Specifications for Construction on Public Areas with such amendments as may be approved by the Committee from time to time;
 - (b) ANSI A300-1995 "American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance - Standard Practices Part 6" or the most recent version thereof.
 - (c) ANSI Z60.1-1996 "American Standard for Nursery Stock" or most recent version thereof.
 - (d) City of Edgerton Species Recommendations and Prohibited Tree/Shrub List as approved by the Tree Advisory Board under 32.03(2)(g).

32.06 PUBLIC NUISANCES, DECLARATION AND ABATEMENT.

- (1) **DECLARATION:** The City Forester shall have the right to declare as a public nuisance any tree or shrub or part thereof, including firewood and other plant material, existing anywhere in the City which is:
 - (a) Interfering with the use of any public area,
 - (b) Infected with a plant disease,
 - (c) Infested with insects, or
 - (d) Endangering the life, health or safety of other trees/shrubs, persons or property.
- (2) **LIST OF NUISANCE TREES AND SHRUBS:** City Forester shall maintain and make available to the public a list of nuisance trees and shrubs as established by the Tree Advisory Board.
- (3) **ABATEMENT OF PUBLIC NUISANCES.**
 - (a) Public Areas. All trees, shrubs or parts thereof on public property shall be subject to treatment and/or removal when it is determined by the City Forester or his/her designee

that the trees or shrubs constitute an immediate or future health or safety hazard or when they have become unsightly, infested, diseased or dead. The City Forester or his/her designee shall have the discretion to determine the most appropriate course of action to prevent or treat such conditions.

- (b) Private Premises. No person shall permit any nuisance tree or shrub as determined under 32.06, 32.03(2)(g), or Chapter 17 of this Code to remain on any premises owned or controlled by such person within the City. Upon determination by the City Forester that any nuisance tree or shrub exists on any private premises, he/she shall order the owner or tenant having charge of such premises to treat, remove or otherwise control such tree or shrub in such manner as will abate the nuisance. Within notice reasonable time as specified in the order, the person shall cause treatment, removal or control of the nuisance tree or shrub as directed in the order. If the owner or tenant, shall refuse or neglect to comply with the terms of the order within the time specified, the City Forester shall cause the public nuisance to be abated and shall report the expense thereof to the City Clerk who shall enter it as a special charge against the property upon which the nuisance is located. No damage shall be awarded to the owner for the destruction of any tree, wood, or any part thereof pursuant to this section.
- (c) Stump Removal. The property owner shall treat, remove, or cause to be removed the tree stump of a nuisance tree that may endanger the health of other trees.
- (d) Determination: If the City Forester is unable to determine with reasonable certainty that a tree in or upon private premises is a nuisance, the City Forester shall notify the Wisconsin Department of Agriculture at Madison, Wisconsin, and shall proceed as provided in subsection (3)(b) of this section upon receipt of a positive report from the Department.
- (e) Special Charge for costs of abatement and treatment.
 - 1. The entire cost of abating any public nuisance with regard to diseased trees or of treating any diseased tree or part thereof including the stump may be chargeable as a special charge against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands. The cost of abating any such nuisance or treating any diseased tree or part thereof which is located in or upon any park or public grounds shall be borne by the City.
 - 2. The City Forester shall keep strict account of the costs of work done under this section and shall report to the City Clerk all work done for which a special charge is to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each lot or parcel and such amounts shall be levied as a special charge against said parcels or lots in the same manner as other special taxes in accordance with Section 4.11.

32.07 PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES AND SHRUBS.

- (1) **URBAN FORESTRY MANAGEMENT PLAN.** The Urban Forestry Management Plan adopted by the Tree Advisory Board may contain any or all of the following elements:
 - (a) Street Tree Planting Plan. A proposed plan for the orderly and systematic planting of new or replacement trees in the terraces or boulevards along City streets in a manner which minimizes conflicts between trees and other public use of streets, facilitates care of the trees, and enhances the aesthetics of the City streetscapes. The plan shall designate the appropriate species of tree(s) for each street segment and shall take into consideration the mature size and requirements of the species, the width of the terrace or boulevard, depth of building setbacks, location of street lights, safety signals and signs, the location of overhead or underground public utility facilities, the location of existing desirable trees and any other relevant site factors. The plan shall be consistent with the requirements of Chapter 22 of this Code and shall contain the following provisions:

1. No trees shall be planted on any City street until the grade of such street and terrace has been established.
 2. No tree shall be planted closer than 20 feet from an intersecting street line.
 3. No tree shall be planted under an overhead wire that reaches a maximum height of greater than 18 feet.
- (b) Tree Maintenance. Plans for the maintenance of trees located in public places to preserve the function or beauty of such public places in accordance with the applicable City maintenance standards. The plan shall provide plans for the trimming, removal, pruning, spraying, fertilizing or other treatment of any tree on any public place when necessary or appropriate to promote the general welfare, improve the City's appearance or alleviate any unsafe condition. Plans shall include the following:
1. Branches over streets and alleys shall be trimmed to at least 14 feet above the ground.
 2. Branches over sidewalks shall be trimmed to at least 9 feet above the ground.
- (2) **PROHIBITED ACTS.** It shall be unlawful for any person to:
- (a) remove, destroy, cut, deface or injure any tree or tree roots existing on any public place in the City;
 - (b) attach any rope, wire, chain, sign or any other device to any tree on any public place in the City except as approved by the City Forester or the Tree Advisory Board;
 - (c) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any public tree or shrub, excluding routine winter street maintenance by City Departments.
 - (d) participate in the erection, alteration or removal of any building or structure in the City without assuring that any tree upon any public place in the vicinity of such operation is provided with a good and sufficient guard or protection so as to prevent injury, damage or defacement to such tree arising out of, in connection with or by reason of, such operation. The sufficiency of the guard or protection shall be determined by the City Forester;
 - (e) Interfere with the Tree Advisory Board or the City Forester when carrying out their responsibilities under this chapter;
 - (f) Plant, move, remove, prune, spray, or otherwise maintain any public tree or shrub except pursuant to a permit issued by the City Forester pursuant to sub. (3);
 - (g) Plant or maintain any tree or shrub which is prohibited or which is declared a nuisance pursuant to this Chapter and Chapter 17 of this Code or by regulation adopted by the Tree Advisory Board.
 - (h) Remove or misuse any device placed to protect a public tree or shrub.
 - (i) Fail or refuse to comply with any lawful rule, regulation or order issued by the City Forester or Tree Advisory Board under this subchapter.
 - (j) Transport within, into, or out of the City any infected wood or material without first securing a permit from the City Forester.
- (3) **PERMIT REQUIRED.**
- (a) The City Forester may issue a permit to any person allowing such person to plant, move, remove, prune or otherwise maintain any public tree or shrub in accordance with this subsection.
 - (b) Application and Approval. Any person, including public utilities and other entities maintaining its infrastructure, desiring to plant, move, remove, prune or otherwise maintain any public tree or shrub shall apply in writing to the City Forester for a permit to do such work. Such application shall specify the location and description of the proposed work. Such permit may be issued if the City Forester determines that the proposed work is necessary and in accord with the purposes of this subchapter, taking into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character and aesthetic quality of the area in which the tree or shrub is located or proposed to be located, and the soil conditions and physiological needs of the tree or shrub, and that the work will be performed by a person capable of completing the work without unnecessary risk of injury or damage.

- (c) **Permit Form, Expiration, Compliance, and Inspection.** Permits shall be issued by the City Forester on the standard form for this purpose and shall include a description of the work to be done and shall specify the genus, species, variety, size, grade, and location of trees or shrubs to be planted, if any. Any work done under such permit shall be performed in strict compliance with the terms thereof and with the specifications and standards set forth in 32.05. The City Forester shall inspect all work performed pursuant to this section. Permits issued under this section shall specify an expiration date not to exceed six (6) months after the date of issuance.
- (d) **Permit Exemptions.** No permit shall be required to water or fertilize any public tree or shrub or to take the necessary action to guard the public safety or clear the public way in the event of a storm, accident or other emergency.
- (e) **Request to Remove Trees.** Should any property owner desire to have a public tree removed that is adjacent to his/her property - other than a dead, dangerous, or undesirable variety - it shall be removed by a tree expert or by an agent of the City at the expense of the property owner, and then, only after a permit for said removal has been obtained from the City Forester.

32.08 TREE PROTECTION DURING CONSTRUCTION.

- (1) **REVIEW OF PERMIT APPLICATIONS.** The City Forester shall review all applications for approval of construction in public rights-of-way and other public areas under Chapter 10, and shall make recommendations to the Building Inspector as to conditions or requirements necessary to adequately protect public trees and trees on property adjacent to such public areas from damage due to the construction work. Such recommendation shall include compliance with all applicable standards contained in 32.05 unless the Forester shall determine that compliance therewith is unnecessary or impracticable under the circumstances.
- (2) **CITY CONTRACTS.** All City contracts for public construction shall include or incorporate by reference the standards contained in 32.05 to the extent applicable to the construction project, provided, however, that the City Forester may waive any standards the Forester determines to be unnecessary or impracticable under the circumstances. The decision of the Forester under this subsection shall be reviewable by the City Administrator.

32.09 PRIVATE TREE MAINTENANCE.

- (1) **OAK PRUNING REGULATED.** No person shall prune, cut or otherwise injure any oak tree on public or private property between April 1 and October 1 in any year, provided, however, that the Tree Advisory Board may authorize the issuance of permits to allow such pruning as may be necessary to protect the public safety and shall specify any conditions thereon deemed necessary to prevent the spread of Oak Wilt Disease.
- (2) **PRIVATE TREES.** Property owners having trees or shrubs growing on their property outside of public right-of-way shall maintain such trees and shrubs such that they do not obstruct street lights, traffic signs or signals, street name signs or the free use of public ways and do not interfere with overhead or underground utility facilities.

32.10 PENALTY.

- (1) **GENERAL.** Any person who shall violate any provision of this chapter shall, in addition to any other remedy provided in Section 1.06 of this Municipal Code, be subject to a civil forfeiture of:
 - (a) not less than \$50.00 nor more than \$500.00 for a first violation;
 - (b) not less than \$100.00 nor more than \$500.00 for second and subsequent violations.
- (2) **CONTINUING VIOLATIONS.** Each day a violation continues shall constitute a separate offense.
- (3) **PRIVATE REMEDIES PRESERVED.** Nothing in this subchapter shall be construed in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have as a result of any nuisance.

32.11 APPEALS.

Any person aggrieved by the administration or interpretation of any of the terms or provisions of this chapter by any City officer may, within ten (10) days after notice of the action appealed from, appeal to the Tree Advisory Board which may reverse, affirm or modify, in whole or part, the order, requirement, decision or determination of such officer. Any person aggrieved by a decision of the Tree Advisory Board may appeal that decision to the City Council. Any appeal to the City Council shall be filed in writing not later than 30 days after the date of the decision appealed or be barred.

Edgerton Ordinances

2.05(12) TREE ADVISORY BOARD. See Chapter 32

~~10.19 STREET AND PUBLIC TREES.~~

~~(1) DEFINITION.~~ Any tree that has been or will be planted in the terrace along any public street, public alley, or public place, and in accordance with the provisions of the section.

~~(2) INJURY TO PUBLIC TREES.~~ No person, without a written permit from the Director of Public Works, shall plant, cut, prune, break, climb, injure, or remove any tree, plant, or shrub growing in a public highway, public alley, or public place, or cut, disturb, or interfere in any way with the roots of any tree, plant, or shrub on a public highway, public alley, or public place; or spray with any chemical or insecticide any tree, plant, or shrub in a public highway, public alley, public place; or place any rope, sign, poster, or other fixture on a tree in a public highway, public alley, or public place; or injure, misuse, or remove any device placed to protect such tree, plant or shrub on a public highway, public alley, or public place.

~~(3) INTERFERENCE WITH DIRECTOR OF PUBLIC WORKS ORDERS.~~ No person shall delay or interfere with the Director in planting, pruning, spraying, or removing of trees or shrubs living or dead, in that part of any street lying between the lot line and the curb line or in the center of side plots of boulevards in the City, or from removing stone, cement, lumber, or other substance placed against a tree or shrub in any public place in said City.

~~(4) TREE PLANTING PERMIT REQUIRED.~~ No person shall plant any tree upon any street lying between the lot line and the curb line without first securing a written permit from the Director and such permit, if issued, shall be subject to the following conditions and restrictions:

~~(a)~~ No trees shall be planted on any City street until the grade of such street has been established and cut or filled to the established grade.

~~(b)~~ No tree shall be planted on a street where the width of the terrace between the walk and the curb line is less than 8 feet unless approved by the Public Works Director.

~~(c)~~ No tree shall be planted closer than 10 feet from an intersecting street line.

~~(d)~~ All trees shall be placed at least 30 feet apart on lots with a frontage of less than 70 feet and not less than 35 feet apart on all other lots.

~~(e)~~ Where trees are permitted between walk and curb, all trees will be placed 4 feet from the outside edge of walk.

~~(f)~~ The following shall not be planted in the streets and alleys of the City:

- ~~1.~~ No elm of any type until such time as one immune to Dutch Elm Disease has been developed.
- ~~2.~~ No box elder.
- ~~3.~~ No nut tree.
- ~~4.~~ No willow, cottonwood, poplar, catalpa, or native honey locust.
- ~~5.~~ No shrubs of any kind.

~~(g)~~ It is prohibited to plant trees that reach a maximum, mature height or greater than 18 feet under any overhead electric wires.

- ~~1.~~ The Director of Public Works shall maintain a list of appropriate trees that are permitted to be planted under overhead electric wires.

~~(5) TRIMMING OF STREET TREES.~~ All trees planted in accordance with the provisions of this section upon any public street, public alley, or public place shall be trimmed, pruned, or removed in accordance with the standards in this section by the Department of Public Works or a tree expert hired by the City to do so. The City is not obligated to trim street trees if they comply with the following standards:

~~(a)~~ Branches over streets and alleys will be kept at 14 feet or above clearance height.

~~(b)~~ Branches over sidewalks will be kept at 9 feet or above clearance height.

~~(6) REMOVAL OF DANGEROUS TREES.~~ The City shall remove all dead and dangerous trees and may replace the same with approved varieties where they can be planted in compliance with the regulations hereby established.

~~(7) LARGER TREES.~~ Whenever the City decides to replace a tree under subsection (6) above, the owner or occupant of the lot or parcel or real estate upon which said tree or trees are to be planted may make

application to the Director for a permit to plant a larger tree or other approved variety than the City proposes to plant.

~~(8) REMOVAL OF TREES AT EXPENSE OF PROPERTY OWNER.~~ Should any property owner desire to have a street tree removed other than a dead, dangerous, or undesirable variety, it shall be removed by a tree expert or by an agent of the City at the expense of the property owner, and then, only after written permission for said removal has been obtained from the Director of Public Works.

~~(9) PENALTY.~~ The penalty provision of subsection 10.24 shall apply to any violation of ordinance.

17.03 PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be public nuisances affecting health:

(14) OBJECTIONABLE VEGETATIVE COVER AND NOXIOUS WEEDS.

2. Every owner or occupant of any premises having a lawn shall cut and maintain such lawn at a height not exceeding six inches on such premises as well as the boulevard in front of or along such premises. In this section "yard" means an open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

Yards shall be provided with adequate lawn, groundcover or vegetation, hedges or bushes, equal to at least ten percent of the total lot area. All areas that are not covered by vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. ~~All trees, bushes or vegetation which overhang a public entrance, street or sidewalk shall be properly trimmed to avoid obstruction of the view and movement of vehicles and pedestrians, which shall be at least 9 feet above the surface of such public sidewalk and at least 14 feet above the surface of such street.~~

17.06 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of sec. 17.02.

~~(2) TREE ROOTS. All trees placed or set so close to any street that the roots of the same penetrate the public sewer.~~

~~(3) TREE LIMBS. All limbs of trees which project over a public sidewalk or street and which are less than nine feet above the surface of such public sidewalk and fourteen feet above the surface of such street.~~

(17) BUSHES OBSTRUCTING VIEW. All shrubs or bushes located near any street, alley, sidewalk or right of way used by the public which obstruct the view of persons traveling thereon.

17.05 DISEASED TREES. (See chapter 32)

~~(1) PUBLIC NUISANCE.~~ The Common Council, having determined that the health of any tree within the City that is threatened by a fatal, contagious disease such as Dutch Elm Disease or Emerald Ash Borer, hereby declares the following to be public nuisances:

~~(a) Any living or standing diseased tree or part thereof infected with a disease or which harbors any disease carrying agent.~~

~~(b) Any dead, diseased tree or part thereof, including logs, branches, stumps, firewood or other material in which a disease carrying agent can harbor.~~

~~(2) INSPECTION.~~ The Building Inspector shall inspect or cause to be inspected all premises and places within the City periodically to determine whether any public nuisance as defined in subsection (1) of this section exists thereon, and shall also inspect or cause to be inspected any tree or wood reported or suspected to be infected with a contagious disease.

~~(3) ABATEMENT OF NUISANCE.~~

~~(a) If the Building Inspector upon inspection and examination determines that any public nuisance as herein defined exists in or upon any public street, alley, park or other public place, including the terrace strip curb and lot line, within the City, and that the danger to other trees within the City is imminent, he shall immediately cause it to be removed and burned or otherwise abate the same in such manner as to destroy or prevent as fully as possible the spread of the disease or the insect, pests or vectors known to carry such diseases.~~

~~(b) If the Building Inspector determines with reasonable certainty that any public nuisances as herein defined exists in or upon private premises and that the danger to other trees within the City 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 within thirty (30) days of the service of said notice. If such owner or occupant does not abate or provide evidence of suitable treatment of said nuisance within the time limited, the Building Inspector shall cause the same to be abated. No damage shall be awarded to the owner for destruction of any tree, wood or any part thereof pursuant to this section.~~

~~(c) If the Building Inspector is unable to determine with reasonable certainty or not a tree in or upon private premises is infected with a contagious disease, the Inspector shall notify the~~

Wisconsin Department of Agriculture at Madison, Wisconsin, and shall proceed as provided in subsection (3)(b) of this section upon receipt of a positive report from the Department.

(d) In all cases where the Building Inspector shall determine upon inspection that any public nuisance as defined herein exists in or upon any public or private premises, but that the danger to other trees within the City is not imminent because of dormancy, he shall make a written report of his findings to the Common Council and shall proceed as provided in Section 27.09(4), Wis. Stats.

~~(4) TREATMENT OF DISEASED TREES.~~ Whenever it is determined in accordance with subsection (2) of this section that any tree or part thereof is infected with a contagious disease, the Building Inspector may cause to be sprayed or otherwise treated all high value trees of similar species within one thousand (1,000) foot radius thereof with an effective pesticide; providing such treatment shall be performed during the appropriate season.

~~(5) ASSESSMENT OF COSTS OF ABATEMENT AND TREATMENT.~~

(a) The entire cost of abating any public nuisance with regard to diseased trees or of treating any diseased tree or part thereof may be chargeable to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands. The cost of abating any such nuisance or treating any diseased tree or part thereof which is located in or upon any park or public grounds shall be borne by the City.

(b) The Building Inspector shall keep strict account of the costs of work done under this section and shall report to the City Administrator all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each lot or parcel and such amounts shall be levied and assessed against said parcels or lots in the same manner as other special taxes. Before such assessments are entered on the tax roll, the Common Council shall hold a public hearing on the proposed assessments and shall give advance notice in accordance with Section 4.11.

~~(6) TRANSPORTING OF WOOD PROHIBITED.~~ No person shall transport within, into, or out of the City any infected wood or material without first securing the written premises of the Building Inspector.

~~(7) INTERFERENCE WITH BUILDING INSPECTOR.~~ No person shall prevent, delay, or interfere with the Building Inspector or any of his agents or employees while they are engaged in the performance of duties imposed by this section. (Ord. 12-13)