

P.I.
10-17-16

ORDINANCE

16-1000

An Ordinance to amend Section 8.190 of the Manitowoc Municipal Code regulating Trees and Shrubs.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

Section 1. Section 8.190(1) is amended to read as follows:

(1) Statement of Policy and Rationale of Chapter.

(a) Purpose and Intent. It is the policy of the City to regulate and establish the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas of the City. promote, maintain and improve the urban forest by addressing the planting, maintenance, and removal of trees within the City of Manitowoc.

~~1. To eliminate and guard against dangerous conditions which may result in injury to persons using public areas.~~

~~2. To maintain on public land and promote on private land the maximum amount of tree cover in the City through proper tree management.~~

~~3. To guard against the possible spread of disease, insects or pests for both public and private areas within the City.~~

~~4. To provide an appeal system for dispute resolution of urban forestry issues between City property owners and the City of Manitowoc.~~

~~5. To educate the public in proper tree and shrub care and maintenance.~~

~~6. To provide uniform urban forestry management practices throughout the City.~~

(b) The provisions of this chapter shall be effective the date following publication of the ordinance and shall apply to all public trees or shrubs and to trees or shrubs located on private property that constitute a hazard or public nuisance as described herein. growing or hereafter planted in or upon public areas, including trees and shrubs located on any private property which shall threaten the life, health, safety, or welfare of the public or of any public areas.

Section 2. Section 8.190(3) is amended to read as follows:

(3) Definitions. Unless specifically defined below, the words or phrases used in this chapter shall be so interpreted as to give them their common meaning and to give this chapter its most reasonable application:

Director means the Director of Public Works or his/her designee.

Hazard means any tree or shrub with an infectious disease or insect problem; dead or dying trees; a tree or limb(s) that obstructs street lights, traffic signs, the free passage of pedestrians or vehicles; a tree that poses a threat to safety.

Section 3. Section 8.190(6) is amended to read as follows:

(6) Authority to Preserve or Remove City Trees and Shrubs and Abate Public Nuisances.

(b) Authority Over Private Trees, Shrubs, and Terrace Trees.

1. Notice to Abate Public Nuisances. Whenever the City Forester Director finds, upon examination, that any tree or shrub or part thereof growing or located upon private premises ~~which overhangs into any street or other public right-of-way area~~ is a hazard or public nuisance, it shall be pruned, sprayed, removed or otherwise

abated by the owner or occupant of such property. A written notice from the ~~City Forester~~ Director shall be sent by certified mail to the affected homeowner. Said notice shall include a detailed explanation of any required abatement.

Abatement shall take place within 30 days of receipt of said written notice unless specified otherwise and unless the ~~City Forester~~ Director shall determine that immediate action is necessary for public safety. At the discretion of the ~~City Forester, Director,~~ Manitowoc Public Utilities and the Director of Public Works herein are authorized to complete emergency pruning that, in the opinion of the ~~City Forester, Director,~~ constitutes a safety concern hazard or public nuisance.

Section 4. Section 8.190(7) is amended to read as follows:

(7) Authority of the ~~City Forester~~ Director to Enter Private Premises. The ~~City Forester~~ Director shall request permission of a property owner, at least 48 hours in advance of an inspection, for the right to enter upon private land to inspect and abate a suspected hazard or public nuisance. Notice shall be in written form by certified mail to the property owner and occupant, if not the property owner. If permission is denied, the ~~City Forester~~ Director shall apply to the court having jurisdiction for an order to enter the land to inspect and abate a suspected hazard or public nuisance.

In the case of an emergency defined herein as a situation which creates an immediate danger or harm to the health, safety or welfare of the public, the ~~City Forester~~ Director may enter private property to abate a hazard or public nuisance without compliance with the notice requirement detailed in this section. If the ~~City Forester~~ Director shall abate the nuisance on private property, the cost of the abatement shall be reported to the Municipal Tree Commission as a proposed assessment against the property. The Commission shall make a report to the Common Council and the Common Council shall hold a public hearing, and report to the City Clerk as set forth in subsection (6)(b)(2) of this section.

Section 5. Section 8.190(9) is amended to read as follows:

(9) Assessment of Costs of Abatement. The entire cost of abating any hazard or public nuisance resulting from any tree or shrub growing or located upon private property shall be a minimum charge of \$300.00 borne by the owner of such property. For any abatement that takes longer than 60 minutes, there will be an additional charge of time and material at the ~~full-time rate~~ 120% of the total cost to the City.

Section 6. Section 8.190(16) is amended to read as follows:

(16) Appeal from Determinations or Orders. Any person who receives a written determination or order from the ~~City Forester~~ Director and objects to all or any part thereof may file with the ~~City Forester~~ Director a written appeal to the Municipal Tree Commission within seven days of receipt of the written order. The Municipal Tree Commission shall hear such appeal within 15 days of receipt of written notice of the appeal. After such hearing, the Municipal Tree Commission may reverse, affirm, or modify the order or determination, and shall state the grounds for its decision in writing. The chairperson of the Municipal Tree Commission shall, by letter, notify the party appealing the order or determination of its decision within 10 days after the decision has been made. The decision of the Municipal Tree Commission shall be final.

Section 7. This ordinance shall take effect the day after publication.

Introduced OCT 17 2016 _____

Adopted _____

Approved _____

Justin M. Nickels, Mayor

Fiscal Impact:	\$0
Funding Source:	n/a
Finance Director Approval:	/sc
Approved as to form:	/emm

Drafted by Elizabeth Majerus, Staff Attorney