

PART IV NATURAL RESOURCES

Chapter 48 TREES AND VEGETATION

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48.01 Dutch Elm disease and elm bark beetles declared public nuisances

The village board of the village of Lake Delton has determined there are many elm trees growing on public and private premises within the village of Lake Delton the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the village's tax base, and the health and life of such trees is threatened by a fatal disease known as Dutch elm disease, which is spread by the elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), the village board hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors that carry such disease and declares Dutch elm disease and the elm bark beetles that carry such disease to be public nuisances.

48.02 Dutch Elm Control Commission created

A Dutch elm control commission is hereby created for the village president to fill by appointment, subject to the village board's confirmation. The Dutch elm control commission shall consist of three members. Said commission shall carry out the provisions of this chapter.

48.03 Definitions

Unless otherwise clearly indicated by the context:

- A. Public nuisance means:
 - 1. Dutch elm disease.
 - 2. Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
 - 3. Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus or in a weakened condition that harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
 - 4. 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 concentrate.

- B. Public property means premises owned or controlled by the village, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards and the terrace strip between the lot line and the curb or improved portion of any public way.
- C. Person means person, firm or corporation.
- D. Commission means Dutch elm control commission.

48.04 Inspecting for Dutch Elm disease and elm bark beetles

- A. The Dutch elm control commission or designated agent shall inspect or cause to be inspected at least twice each year all premises and places within the village to determine whether any public nuisance exists thereon. It or its representative shall also inspect or cause the inspection of any elm tree reported or suspected to be infected with the Dutch elm disease or any elm bark bearing material reported or suspected to be infested with elm bark beetles.
- B. Whenever necessary to determine the existence of Dutch elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid permanent injury thereto and deliver such specimens to the commission, which shall forward them to the Wisconsin Department of Agriculture in Madison for analysis to determine the presence of such nuisances.
- C. The commission and its agents or employees shall have authority to enter upon private premises at reasonable time for the purpose of carrying out any of the provisions of this chapter.

48.05 Commission's duty to abate nuisances

- A. The commission shall order, direct, supervise and control the abatement of public nuisances as defined in this chapter by spraying, removing, burning or by other means it determines necessary to prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or vectors known to carry such disease fungus.
- B. Whenever the commission after inspection or examination shall determine a public nuisance as herein defined exists on public property in the village, it shall immediately abate or cause the abatement of such 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.
- C. When the commission shall determine with reasonable certainty a public nuisance exists upon private premises, it shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than 14 days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of elm trees in the village, the commission shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by one publication in a newspaper of general circulation in the village area at least 14 days before the date set for hearing.
1. If after hearing held pursuant to this subsection, the commission shall determine a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within 24 hours after such hearing, the commission shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this chapter. The commission may extend the time allowed the property owner for abatement work but not to exceed 10 additional days.

48.06 Cost of tree care, nuisance abatement

- A. The village shall bear the abatement cost of a public nuisance or treating elm trees or elm wood at the commission's direction if the nuisance, tree or wood is located on public property.

B. The cost of abating a public nuisance or treating elm trees or elm wood located on private premises when done at the commission's direction and under its supervision shall be assessed to the property on which such nuisance, tree or wood is located as follows:

1. The commission shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the village board on or before October 15 of each year.
2. Upon receiving the commission's report, the village board shall hold a public hearing on such proposed charges, giving at least 14 days advance notice of the time, place and purpose of such hearing to interested persons by one publication in a newspaper of general circulation in the village and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
3. After the hearing, the village board shall affirm, modify and affirm, or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
4. The village clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last known address, stating that unless paid within 30 days of the date of the notice, or proper arrangements made for such payment, such assessment will be entered on the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
5. The village hereby declares that in making assessments under this chapter, it is acting under its police power and no damages shall be awarded to any owner for the destruction of any diseased or infested elm tree or elm wood or part thereof.

48.07 Prohibited acts and penalties

Any person who does any of the following acts within the village of lake Delton shall upon conviction thereof forfeit not less than \$10.00 nor more than \$100.00 together with the prosecution costs and in default of payment thereof shall be imprisoned in the Sauk County Jail until such costs and forfeiture are paid, but not exceeding 60 days:

- A. Transports any bark bearing elm wood, bark or material on public streets or highways or other public premises without first securing the commission's written permission.
- B. Interferes with or prevents any acts of the commission or its agents or employees while they are engaged in performing duties imposed by this chapter.
- C. Refuses to permit the commission or its duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this chapter.
- D. Permits any public nuisance to remain on ay premises owned or controlled by him when ordered by the commission to abate such nuisance.

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