

CHAPTER 19

DEPARTMENT OF FORESTRY--TREES, PARKS AND BOULEVARDS

Article

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ARTICLE 19-01

DEPARTMENT OF FORESTRY

Section

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19-0101. Establishment of department of forestry.--

- A. There is hereby created department of forestry which shall consist of the city forester and such assistants as may be authorized by the board of city commissioners.
B. Appointment of city forester--The position of city forester is hereby created and shall be filled by appointment by the board of city commissioners.

Source: 1965 Rev. Ord. 19-0101, 1642 (1975).

19-0102. Duties of city forester.--The city forester shall be the head of the forestry department and shall coordinate all tree programs in the city of Fargo, and shall perform all the duties prescribed by law and the ordinances of the city of Fargo. He shall be responsible for the care and maintenance of all trees located on the right-of-way of streets and avenues within the city and the enforcement of all laws, ordinances and regulations relating to the care and maintenance of trees. He shall also take appropriate steps to safeguard the future health and well-being of such trees and shrubs and shall report to the board of city commissioners concerning the performance and finances of the department of forestry.

Source: 1965 Rev. Ord. 19-0102, 1642 (1975).

19-0103. Operation of department of forestry by Fargo park district authorized.--The city may contract with the Fargo park district for the operation of the department of forestry upon such terms and conditions as may be agreed upon between the city and the Fargo park district; provided, however, that notwithstanding such contract, the department of forestry shall be considered a department of the city for all purposes, and the employees of such department shall be considered to be city employees.

Source: 1965 Rev. Ord. 19-0103, 1642 (1975).

19-0104. Financing--Rates and charges--Establishment--Change of rate.--The department of forestry shall be financed by a charge to be imposed by the board of city commissioners. Rates to be charged by the department of forestry as costs for specific materials and services on private property, or for the abatement of nuisances on private property, all as more particularly defined in § 19-0201 of this chapter, shall be established by resolution of the board of city commissioners upon recommendation of the city forester.

Source: 1965 Rev. Ord. 19-0104, 1597 (1974), 1642 (1975).

ARTICLE 19-02

TREES AND SHRUBBERY--PERMITS FOR PLANTING AND REGULATIONS--PUBLIC NUISANCE AND ABATEMENT THEREOF

Section

19-0201	Trees and shrubs--Public nuisance--Abatement.
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19-0206	Permit required to remove, destroy, cut, deface, trim, or interfere with trees and shrubs.

19-0201. Trees and shrubs--Public nuisance--Abatement.--

- A. Nuisance declared--The following conditions shall be declared to be public nuisances whenever found to exist within the city of Fargo and shall be abated as provided herein:
1. Any living or standing tree or part thereof infected to any degree with any disease, fungus, or insect which is, in the judgment of the city forester, harmful to said tree.
 2. Any dead tree or part thereof, including logs, branches, stumps, firewood or any portion of any diseased tree which has not been disposed of in accordance with the regulations of the department of forestry of the city of Fargo.
 3. Any tree, shrub or hedge, or part thereof, growing upon public property or upon private property but overhanging or interfering with the use of any public walk, street or highway, park or public place within the city of Fargo which, in the opinion of the city forester, endangers the life, health, safety or property of the public shall be declared to be a public nuisance.
- B. Maintaining nuisances unlawful--It shall be unlawful for any person to willfully permit any public nuisances as defined in subsection (A) hereof to remain on any premises owned or controlled by him within the city of Fargo. Such nuisances may be abated in the manner prescribed in this article.
- C. Inspection and investigation--

1. The city forester, his employees or agents, shall inspect all premises and places within the city as often as practicable to determine whether any condition described in subsection (A) hereof exists therein, it being intended that a major survey shall be made at least once each year.
 2. The city forester, his employees or agents, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this chapter.
 3. The city forester shall, when he has reasonable cause to believe that a tree is diseased, immediately procure and furnish appropriate specimens or samples to a qualified plant diagnostician for diagnosis. No action to remove such trees or wood shall be taken until positive diagnosis of the disease has been made.
 4. Within five days of receipt of the diagnosis, the owner of the property from which the specimen or sample was obtained shall be notified by the city forester of the result by registered mail.
 5. The inspection shall determine all hazards as specified in subsection (A)(3) hereof. The owner shall be notified in writing of the existence of the nuisance and be afforded a reasonable time for its removal.
- D. Abatement of nuisance on public property--
1. In abating the nuisance on public streets, alleys, boulevards or public ways as defined in subsections (A)(1) and (A)(2) hereof, the city forester shall cause the infected tree or wood to be removed or otherwise effectively treated so as to destroy and prevent as fully as possible any tree disease, fungus or harmful insect. Such abatement procedures shall be carried out in accordance with the latest technical and expert methods and plans as may be designated by the commissioner of agriculture of the state of North Dakota. The city forester shall establish specifications for tree removal and disposal methods consistent therewith.
 2. In abating tree hazards on public property as defined in subsection (A)(3) hereof, the city forester shall cause such hazards to be removed and disposed of in accordance with tree care regulations of the forestry department, the cost to be assessed as defined in subsection (1) hereof.
- E. Abatement of nuisance on private property--
1. Whenever the city forester finds with reasonable certainty that any tree disease, fungus or harmful insect exists in any tree or wood located on private property, outside of any public way in the city, he shall notify the owner or person in control of such property on which the nuisance is found by registered or certified mail within five days of receipt of the

diagnosis. The city forester shall direct that the diseased tree be removed and effectively treated in a manner approved by the city forester within 10 days after receipt of such notice. If such owner cannot be found, a copy of said notice shall be posted upon said infected tree. If said tree is not so removed and/or treated as specified within 10 days after posting of the notice, the city forester shall remove and/or treat said tree. The owner or person in charge may be charged with a violation of this ordinance for maintaining a nuisance and the city, by and through its office of the city forester, may abate the nuisance, the cost thereof to be assessed as defined in section (1) hereof.

2. The procedure for the abatement of tree hazards on private property shall be as follows:

The nuisance as defined in subsection (A)(3) hereof shall be abated by the owner following notification of the existing nuisance. If not corrected or removed within the time allotted, the city forester shall authorize the removal or correction to be done in accordance with recommended procedures of the office of the city forester, the property owner to bear the cost thereof.

F. Spraying--

1. Whenever the city forester shall determine that any tree or part thereof is infected with any tree disease, fungus or harmful insect, and is in a weakened condition, he may cause all such trees within a 1,000-foot radius thereof to be treated with an effective concentrate as may be recommended by the state entomologist.
2. In order to facilitate the work and minimize the inconvenience to the public of any treating operations conducted under this article, the city forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be treated at least 24 hours in advance.
3. When appropriate warning notices have been given and posted in accordance with subsection (2) hereof, the city shall not allow any claim for damages to any vehicle or other property resulting from such treating operations.
4. When trees on private property are to be treated, the city forester shall notify the owner of such property and proceed in accordance with the requirements of this article.

G. Transporting or keeping elm wood prohibited--It shall be unlawful for any person to transport or keep within the city any bark bearing elm wood without having obtained a permit therefor from the city forester. The city forester shall grant such permits only when the purpose of this article shall be

served thereby and may impose such restrictions as he may deem necessary.

H. Interference prohibited--It shall be unlawful for any person, firm or corporation to prevent, delay or interfere with the city forester, his employees or agents while they are engaged in the performance of the duties imposed by this article.

I. Costs--The costs for abating of the public nuisances as defined in subsection (A) shall be borne as follows:

1. For abatement under subsection (A)(1), where the nuisance occurs on public land, park district lands and Fargo school board lands, the cost will be borne by the office of the city forester.

For abatement under subsection (A)(1), where the nuisance occurs on private land, the cost shall be borne by the private owner.

2. For abatement under subsection (A)(2), the costs shall be borne as defined in subsection (1) above.

3. For abatement under subsection (A)(3), where the nuisance occurs on public land, park district lands and Fargo school board lands, the cost will be borne by the office of the city forester.

4. The cost of spraying for abatement of nuisances as defined in subsections (A)(1) and (A)(2) shall be borne by the office of the city forester when such nuisances are on public property, park district lands and Fargo school board lands, and shall be borne by the private owner when spraying is required on private land.

5. The cost of tree planting for replacement of diseased trees on public property will be borne by the office of the city forester, and on private property will be borne by the owner thereof.

The cost of tree planting for replacement of diseased trees on any street, alley, boulevard or other public way will be borne by the office of the city forester.

Source: 1965 Rev. Ord. 19-0201, 1642 (1975), 2511 (1990).

19-0202. Duty to trim trees.--It shall be the duty of all property owners to keep the shade trees which are located on private property and adjoin public right-of-way trimmed so as to avoid interference with travel on streets, avenues and sidewalks.

Source: 1965 Rev. Ord. 19-0202, 1642 (1975).

19-0203. Permit required before planting, trimming or removing trees on public right-of-way or installing any utility--Application.--No person, firm or corporation shall hereafter plant, cause to be planted, remove, destroy, cut, deface, trim, or interfere with any tree or shrub within the limits of any street, alley, boulevard or other public way of the city, nor shall any person, firm or corporation install, repair or replace any utility installations of any type on any public right-of-way without first having obtained a written permit from the city forester; provided, however, that in the event of emergency repair, the necessity of first obtaining a written permit is hereby waived and such permit may be obtained after the repair work has been accomplished. Application for such

permit shall be in writing on forms which shall be provided by the city forester. After the receipt of such application, the city forester shall investigate the location named in such application and shall grant a permit for planting of trees or shrubs only if the location is such as to allow the normal growth and development of such trees or shrubs and shall grant permits for trimming or removing only if such is consistent with the public safety and welfare. The permit shall be in writing and shall specify the location and variety of trees or shrubs to be trimmed. The permit shall be good only for the season stated on the same and the year issued, and no charge shall be made for such permit. In making application for such permit, all public utilities, persons, firms or corporations shall submit to the city forester the names of all tree care personnel used by them to assure that said personnel have been certified by the office of the city forester.

Source: 1965 Rev. Ord. 19-0203, 1642 (1975).

19-0204. Size requirement of trees--Other restrictions.--No tree measuring less than one and one-half inches in diameter of trunk, one foot above the ground, shall be planted or located on any street, alley, boulevard or other public way of the city. In issuing permits for planting or location of trees or shrubs the city forester may, in the furtherance of uniformity, convenience and public safety, designate the variety, the location and the method of planting such tree or shrub, and may prohibit the planting of trees or shrubs which are carriers of or transmitters of plant disease, including smut and rust. In the issuance of such permit for the location or planting of any tree or shrub upon the streets, alleys, boulevards or other public ways of the city, the city forester shall be guided by the necessity of preserving an unrestricted view at intersections for the safe and convenient passage of traffic on any street, alley and other public way.

Source: 1965 Rev. Ord. 19-0204, 1642 (1975).

19-0205. Construction activity on city boulevards.--Trenching operations or other construction activities on boulevards shall not be permitted without first obtaining a permit from the city forester. Application for such permit shall be in writing on forms which shall be provided by the city forester and shall specify the location and the type of installation and construction activity. Any installation and construction activity shall be accomplished in accordance with regulations of the office of the city forester, which regulations shall be clearly specified on the permit issued by the city forester.

Source: 1965 Rev. Ord. 19-0205, 1642 (1975).

19-0206. Permit required to remove, destroy, cut, deface, trim, or interfere with trees and shrubs.--No person, firm, or corporation shall remove, destroy, cut, deface, trim, or in any way injure or interfere with any tree, shrub, or other vegetable growth located upon any street, alley, boulevard, or other public way of the city without first obtaining a written permit from the superintendent of parks.

Source: 1952 Rev. Ord. 19-0206.

ARTICLE 19-03

TREES AND SHRUBBERY--MISCELLANEOUS PROVISIONS

Section

- 19-0301 Nonliability of city for removal of trees or shrubs.
19-0302 Forestry personnel--Qualifications.
19-0303 Permission necessary to travel on lawns and boulevards.

19-0301. Nonliability of city for removal of trees or shrubs.--The city shall not be liable to any property owner or other individual, firm or corporation for damages or costs for the removal or destruction of any tree, shrub or other vegetable growth located on any street, avenue, alley, boulevard or other public way.

Source: 1965 Rev. Ord. 19-0401, 1642 (1975), 2511 (1990).

19-0302. Forestry personnel--Qualifications.--All personnel involved in the care and maintenance of trees in the city of Fargo, whether employed by the office of the city forester or otherwise, must show a degree of proficiency in accordance with the regulations of the office of the city forester and must receive authorization from the city forester before practicing tree care and maintenance; provided, however, that for tree care and maintenance crews, only the job supervisor shall be required to be authorized by the city forester and said job supervisor shall be responsible for any violations of this ordinance by any personnel under his direction and control.

Source: 1965 Rev. Ord. 19-0402, 1642 (1975), 2511 (1990).

19-0303. Permission necessary to travel on lawns and boulevards.--No person shall go upon, cross, or otherwise travel upon the grass or turf of any land or lot abutting on a public street within the city where the same is used for lawn or park purposes, without permission from the owner or person in charge thereof.

Source: 1952 Rev. Ord. 19-0403, 2511 (1990).