

CHAPTER 19
PARKS AND TREES

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19.01 PARK MANAGEMENT. The Recreation Director shall be responsible for the day to day operation of City parks in accordance with policies established by the Recreation Commission and the Council.

19.02 PARK, DEFINITION. As used in this chapter, the term "park" is defined to mean all lands and water heretofore and hereafter acquired by the City for park or recreational purposes, or placed under the jurisdiction of the Recreation Commission, and includes, without limitation, parks, parkways, street terraces, greenways, recreational facilities and structures, and privately owned lands, the use of which has been granted or leased to the City for park, recreational or like public purposes.

19.03 PICNIC AREA, DEFINITION. As used in this chapter, the term "picnic area" is defined to mean a cluster of 5 or more picnic tables in an area.

19.04 UNLAWFUL CONDUCT PROHIBITED. It shall be unlawful for any person to commit any of the following acts in or upon any public park within the City.

(1) VANDALISM. To soil, deface, injure, remove, damage, upset or destroy any building, fence, fountain, bench, table, receptacle, fireplace, tree, bush, flower or other object situated, used or kept upon park grounds.

(2) FIRES. To build or attempt to build a fire except in the fireplaces provided in the parks or in charcoal burners brought to the park areas for such purpose. All coals from such charcoal burners brought to the park shall be deposited in receptacles provided therefor.

(3) DEFACING PARK PROPERTY. To intentionally break, destroy or deface any park properties, features, facilities or structures, including natural objects, upon or within the parks.

(4) LITTER. To leave, throw or break any bottle, box, refuse or other object, except in clearly marked refuse receptacles provided for that purpose; or throw, discharge or otherwise place or cause to be placed in the water of any river or other body of water or on the ice thereof in or adjacent to any park, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters. Where receptacles for rubbish are not provided, all waste shall be carried away from the park by the person responsible for it.

(5) SWIMMING POOL. To be within the fenced area of the City swimming pool or bath houses at any time said pool is closed.

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(6) MOVING PARK EQUIPMENT. To remove benches, seats, tables or other park equipment from any park or park facility unless prior approval of the Recreation Director is obtained.

(7) FIREWORKS. To set off fireworks of any kind, except when a public display permit has been issued by the Mayor pursuant to sec. 12.10 of this Code.

(8) GAMES, ATHLETICS AND SPORTS. To engage in any athletic contest, game or activity whereby large areas of public grounds are usurped by the participants to the exclusion and at the peril of injury to others.

(9) SALES. To vend, sell or offer for sale any food, beverage or other commodity or article to the public within any park without written authorization from the Commission.

(10) LOUD AND UNNECESSARY NOISE. To make any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street adjacent to any City park or within any City park, or to operate a loudspeaker from any vehicle within any City park except upon written permit issued by the Commission upon such terms and conditions as will ensure that the public peace will not be disturbed.

(11) RULES. To fail, refuse or neglect to obey the regularly posted rules and regulations of the Recreation Commission for the use or enjoyment of any facility.

(12) DOGS REGULATED. To take, have, keep or permit any dog in any park, except on a leash. No dogs shall be permitted in picnic areas.

(13) MOLESTING ANIMALS. To molest, disturb, chase or throw objects at any animal or bird within any park.

(14) SIGNS. To paste, glue, tack or otherwise post any sign, placard or advertisement, or solicit business of any nature in any park without authorization from the Recreation Director.

(15) CAMPING PROHIBITED. Except at Black Bridge Park, Pecatonica River Trail Park, and the Fairgrounds, to set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in the park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as house trailers, camp trailers, camp wagons or similar structures.

(16) DISORDERLY CONDUCT. To engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance, endangers other persons or property, or interferes with the use of the park by others.

(17) ALCOHOL BEVERAGES. (a) Prohibited. No alcohol beverage may be brought into or consumed in any City park except as provided in par. (b) below.

(b) Exceptions. 1. Fermented malt beverages may be consumed in picnic areas during park hours.

2. Fermented malt beverages may be consumed at City Ball Park in designated area only 6:00 P.M. to 11:00 P.M.

3. Organizations which have been issued a Class "B" fermented malt beverage picnic license under sec. 11.02 of this Code may sell fermented malt beverages in City parks in accordance with the terms of such license.

4. (Ord. #2013-03) Alcoholic beverages may be consumed at individual campsites at Pecatonica River Trail Park campground.

(18) HORSES AND OTHER ANIMALS PROHIBITED IN PARKS. (Ord. #04-2001) (a) To ride, take, have, keep or permit any horse, mule, or donkey in any park except as provided in par. (b) below.

(b) A permit for a special event to allow horses, mules, or donkeys on park lands may be granted by the Director of Parks and Recreation upon an application stating the name and address of the applicant, name and address of the person, persons or entity sponsoring the activity, the day and hours for which the permit is desired, the park or portion thereof for which the permit is desired, and any information reasonably necessary to make a determination as to whether a permit should be issued hereunder.

(19) DARLINGTON AREA VETERANS MEMORIAL. (Ord. #2013-03) No person shall use any play vehicle upon any portion or part thereof at the Darlington Area Veterans Memorial which is located within Veteran's Memorial Park on Main Street. For the purpose of this chapter, a "play vehicle" shall be defined as a coaster, skate board, roller skates, in-line skates, sled, toboggan, unicycle, bicycle or toy vehicle upon which a person may ride.

19.05 HOURS. All City parks, except the Black Bridge Park and Pecatonica River Trail Park, shall be open from 6:00AM to 11:00PM.

19.06 UNAUTHORIZED MOTORIZED VEHICLES PROHIBITED IN PARKS. (Ord. #03-2001) (1) No person, except emergency and park personnel, shall drive or park a motorized vehicle in any park or on any bicycle/pedestrian trail, except on such roads, parking lots, designated recreational trails, and areas specifically designated for the use of motor vehicles.

(2) Subsection (1) shall not apply to motorized wheelchairs or similar vehicles used by handicapped persons.

(3) No person shall operate a motor vehicle in park areas at a speed in excess of 15 miles per hour or in excess of any other posted speed limit, whichever is less.

(4) No person shall operate a motor vehicle in park areas in a reckless or imprudent manner or in any manner which may tend to create a disturbance or endanger the safety of persons using the parks.

19.07 SNOWMOBILES PROHIBITED. Except on the marked trail in Black Bridge Park, it shall be unlawful for any person to operate a snowmobile in any park.

19.08 OFF-THE-ROAD VEHICLES PROHIBITED. It shall be unlawful for any person to operate any mini-bike, go-cart, unlicensed motorcycle or other off-the-road vehicle in any park.

19.09 PARK RULES ADOPTED BY REFERENCE. Park rules adopted by the Recreation Committee and on file in the office of the Clerk-Treasurer relating to use of park facilities, user fees and concessions are hereby adopted by reference. Any major amendment or addition to said rules shall be submitted to the Council for approval.

19.10 TREES AND SHRUBS. (1) **INTENT.** It is the intent of this section to exercise jurisdiction in regard to the planting, maintenance and removal of trees and shrubs growing in public places in the City and to define public nuisances and provide for their abatement.

(2) **DEFINITIONS.** In this section, unless the context clearly requires otherwise, the following words and terms shall have the meaning given herein:

(a) Director of Public Works. The designated City official assigned to carry out the enforcement of this section.

(b) Clear Vision Triangle. See Ch. 9 of this Code.

(c) Public Area. That part of every street, highway, roadway or alley between the lot line and the curb, and any other land owned or controlled by the City.

(d) Public Nuisance. Any tree or shrub which is specifically designated a public nuisance in this section or which is on public or private property which, by reason of its condition, interferes with the use of any public place; is infected with an injurious tree disease; is detrimental to the construction of public improvements; or endangers the life, health, safety or welfare of the public.

(e) Street Tree. Any tree located in a terrace.

(f) Terrace. The part of every street between the lot line and the curb line.

(3) DIRECTOR OF PUBLIC WORKS, POWERS AND DUTIES. It shall be the duty of the Director of Public Works, under the supervision of the Recreation Commission, to enforce the provisions of this section. The powers and duties of the Director are as follows:

(a) The Director shall have the jurisdiction, authority, control and supervision over all trees and shrubs growing in public areas to include, but not be limited to, planting, removal, maintenance and protection.

(b) The Director shall have the authority to grant a permit under the provisions of this section and rules and work standards adopted hereunder. He shall supervise all work done under any permit issued under the provisions of this section and may void any permit if the provisions of this section are not complied with.

(c) The Director shall have the authority to cause a public nuisance to be abated in accordance with the provisions of this section.

(d) The Director shall perform such other duties as are provided by the laws, rules or regulations of the State, particularly §27.09, Wis. Stats.

(4) TREE PLANTING REQUIREMENTS. (a) Permit Required. No person shall plant any tree or shrub in a public area without the written permission of the Director.

(b) Master Street Tree List. The Recreation Commission shall prepare a master street tree list consisting of those trees approved for planting in and on City streets along with a determination of site factors to be considered in selecting trees and placement of such trees for planting on a particular street.

(c) Improper Planting a Public Nuisance. Any tree planted in violation of this section shall be deemed a public nuisance.

(5) TREE MAINTENANCE. (a) No person shall remove, maintain or protect any public tree or shrub or cause such work to be done without obtaining a written permit therefor from the Director of Public Works. No permit is required to cultivate, water or fertilize any public tree or shrub or take the necessary action to guard the public safety or clear the public way in the event of a storm, accident or other emergency. Property owners required to trim trees for clearance purposes as provided in par. (e) below may do so without a permit; however, public trees may not be trimmed for any other purpose without a permit.

(b) Any person desiring to remove, maintain or protect any public tree or shrub shall apply, in writing, to the Director of Public Works for a permit to do such work. The application shall specify the location and description of the proposed work. If the Director determines that the proposed work is necessary and in compliance with the purposes of this section, he shall issue the permit.

(c) Permits shall be issued by the Director of Public Works on a standard form and shall include a description of the work to be done. Any work done under such permit shall be performed in strict compliance with the terms thereof. The Director shall inspect all work performed. Permits shall expire 3 months after issuance.

(d) Whenever a public utility, its contractors or any contractor for the City must perform work on or about any public tree or shrub necessitating the alteration above or below ground, trimming or removal of such tree or shrub, a written permit from the Director of Public Works is required, as provided above. Any person performing work on a tree in a public place, by permit, contract or otherwise, shall assume full responsibility for damage to property and to any person, and shall save the City harmless from any liability therefor.

(6) PROTECTION OF TREES. Except as authorized by written permission from the Director, it shall be a violation of this section to perform or cause to be performed the following acts in any public place within the City.

(a) To attach any sign, poster, handbill, electrical installation wire or other device or material to, around or through a tree.

(b) To permit or cause fire to burn where it may kill or injure any tree.

(c) To allow any toxic chemical, smoke, oil, gas or other substance that may kill or damage any tree to come in contact with its leaves or roots.

(d) To use tree spurs or climbers when working on healthy trees.

(e) To remove any guard, stake, pole or other device intended for the protection or stabilization of a public tree, or close or obstruct any open space around the base of a public tree designed to permit access to air, water and fertilizer.

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(f) To excavate any ditch, tunnel, hole, trench or place any drive within the radius of 5 feet from any tree in a public area except by written permit from the Director of Public Works or when an emergency situation exists. The Director may require the posting of an adequate surety bond or other sufficient security by any person proposing to make any such excavation to cover the cost of replacement of any tree destroyed as the direct result of the excavation, as reasonably determined by the Director.

(7) OBSTRUCTION OF VIEW AT INTERSECTIONS. No person shall plant, grow or maintain any tree, shrub or other vegetation on any City street corner lot within the clear vision triangle which may obstruct the vision of the operator of any motor vehicle or pedestrian approaching such intersection. Any tree, shrub or other vegetation obstructing such view which exceeds 2 feet in height above street grade shall be deemed a public nuisance.

(8) PUBLIC NUISANCES. No person shall permit any public nuisance enumerated in this section to remain on any property owned or controlled by him, including public areas.

(a) Notice of Public Nuisance. Whenever the Director of Public Works shall find and declare any tree or shrub a public nuisance, he shall notify the property owner or his agent in writing that the nuisance must be abated and the procedure required for the abatement.

(b) Abatement Procedure and Cost. See secs. 13.09 and 13.10 of this Code.

(9) APPEALS. Any person aggrieved by any order or action of the Director of Public Works may file a written complaint with the Recreation Commission within 10 days. Within 5 days, the Commission shall hold a hearing thereon and shall issue a written decision, if requested, within 3 days after the hearing.

19.15 PENALTY. Any person who shall violate any provision of this chapter may be subject to a penalty as provided in sec. 25.04 of this Code.