

CHAPTER 25

PARKS, GREENWAYS, AND TREES

PARKS AND GREENWAYS (Amd. GO 18-09)

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PARKS AND GREENWAYS
(Amd. GO 18-09)

25.01 **PARK DISTRICT AND JURISDICTION.** The City shall constitute a single park district, and all City-owned parks shall be under the jurisdiction of the Park Committee. The jurisdiction of such Committee shall extend to all parks and greenways within the City. Park and greenway policies established by the Committee must be adhered to.

25.02 **DIRECTOR OF PARKS, RECREATION AND FORESTRY.** The members of the Committee shall engage a person skilled in the operation and management of parks, who shall be the Director of Parks, Recreation and Forestry (hereinafter "Director"), to administer and enforce the policies and regulations adopted by such Committee under Ch. 27, Wis. Stats. The Director shall administer the operation of the combined departments of park, recreation, and forestry.

25.03 **PROTECTION OF PARKS AND GREENWAYS.**

(1) (Amd. GO 20-99) No person shall play ball games, golf, archery, or paintball, or use any device which propels a projectile using the force of a compressed gas or a motorized toy in public parks and greenways, except in and upon areas designed for such purposes.

(2) **DAMAGE TO OR REMOVAL OF PLANTS.** No person shall pluck or cause damage to any flowers, plants, fungi, shrubs, or trees growing in any public park or greenway. No person shall remove any plant, or parts of a plant, including fruit and seeds without permission of Park staff.

(3) **CARE OF OR REMOVAL OF ANY LIVING BIRD, ANIMAL, ANIMAL PARTS, OR NON-LIVING OBJECTS.** No person shall mistreat or collect, remove from or add to (release of animals on site) from any City park or greenway any bird, animal, mammal, fish (outside of Urban Fishing Regulations for lagoon at Wildlife Sanctuary) reptile, amphibian or insect, nor remove nests, feathers, pellets, dens, antlers, and bones (including any approved research project) without permission of Park staff.

(4) **DAMAGE TO OR REMOVAL OF PROPERTY.** No person shall damage, deface, destroy, steal, take, or carry away any equipment used in or about the City parks and greenways. No person shall place equipment or items in parks and greenways (including, but not limited to, cameras, geo caches, deer stands, blinds, traps, etc.) without permission of Park staff.

(5) **TRAIL USE IN PARKS AND GREENWAYS.** All persons are to remain on staff designated and marked nature trails for walking/hiking, and cross-country skiing. Biking shall only be allowed on trails so designated. After cross country ski trails have been groomed for the season, no activity that damages the groomed trails shall be permitted (i.e., ski skating, snowshoeing, walking, etc.) Wildlife Sanctuary nature trails are not open for public biking, skate skiing, or snowshoeing. At the Wildlife Sanctuary, walking off of the trails is not permitted unless conducting an approved research project.

25.04 **CONDUCT IN PARKS AND GREENWAYS.**

(1) **TRAFFIC.** No automobile or other vehicle shall be driven within any park, except upon drives provided for that purpose, or at greater speeds than those posted; nor shall any person park an automobile or other vehicle in the parks, except in places designated therefor, unless ordered to do so by an officer on duty in the park. Except during department-sponsored events, no person shall park any vehicle anywhere in any City park between 10:30 P.M. and 6:30 A.M.

(2) **DISORDERLY CONDUCT.** Sec. 947.01, Wis. Stats., governing disorderly conduct, is adopted by reference and incorporated herein.

(3) **ALCOHOL BEVERAGES.** (Amd. GO 40-98); (Rep. & Rec. GO 17-10)

(a) **Prohibition.** Notwithstanding paragraphs (b) and (c), no person shall possess or consume any alcohol beverages in any park, playground, athletic field or court, swimming or wading pool, or parking lot.

(b) **Exceptions for Certain Parks.** A person may possess or consume fermented malt beverages or wine in the picnic areas of Bay Beach Amusement Park, Colburn Park, or Perkins Park between 8:00 AM and 9:00 PM, and in Joannes baseball stadium pursuant to any applicable agreement.

(c) **Approval by Parks Committee and Council.** A person may request approval from the Parks Committee to possess or consume fermented malt beverages or wine in any other park. The Committee may adopt, and the Council may approve, a written policy identifying which requests may be approved without a hearing. The Parks Department shall approve any request to which the written policy applies. Any person may demand a hearing before the Committee if his or her request was not approved under the written policy. If the Committee grants the person's request, and the Council approves, the person shall comply with any restrictions placed upon the rental permit or reservation by the Committee.

(4) Glassware and glass containers shall be prohibited in all City parks and greenways.

(5) **CONTROLLED SUBSTANCES.** No person shall possess, use, offer for sale, or sell any controlled substance, as defined in Ch. 161, Wis. Stats., within any public park.

(6) **SALES OF ARTICLES.**

(a) No person shall offer for sale or sell any article in any public park unless permission is first obtained from the Park Committee.

(b) This subsection shall be interpreted to include the advance sale of tickets or chips for material or merchandise to be delivered at a public park.

(7) **SALE OF SERVICES.** No person other than a City employee, official, or contractor shall sell or offer for sale any goods, merchandise, or services without prior approval by the Park Committee.

(8) **LITTERING.** No person shall place or leave any paper or refuse in any park except in the containers provided therefor.

(9) ANIMALS PROHIBITED IN CITY PARKS AND FARMERS' MARKET LOCATIONS. No domesticated or privately-owned animals shall be permitted in any part of any City park or Farmers' Market locations during market hours, except as may be approved from time to time by the Parks Department as part of a Parks Department program, including, but not limited to, programs for reducing fowl or other wildlife in City parks.

(a) Exceptions.

1. Dogs on a visible leash no longer than 7 feet are only allowed to be walked in parks on designated perimeter or pass through walkways or pathways, parking lots serving the walkways or pathways, and designated trails.

2. A dog owner/walker and its dog shall not loiter, stop, or stand in the parks or trails.

3. If a dog defecates while walking through a park, the dog owner/walker must clean up after the dog and remove such excreta from the park.

4. Dogs are prohibited at Bay Beach Amusement Park, Bay Beach Wildlife Sanctuary, and Ken Euers Nature Area.

5. The Director of Parks, Recreation, and Forestry, or designated staff, has the authority to issue citations in the event that verbal warnings regarding dogs in parks are ignored.

(10) TRESPASS.

(a) Personnel authorized by the Chief of Police or the Director of Parks and Recreation may eject a person from all City parks for a period of time if that person violates park rules, City ordinances, or State laws in a City park. Appeals may be made to the Director of Parks and Recreation or the Director's designee.

(b) It shall be unlawful for a person to enter a City park during the period of ejection under (a) above.

(c) Parental Violation. A parent, guardian, or other person having custody of an unemancipated minor child, who has been advised of the child's ejection from the City parks, may be cited if the child trespasses in a City park in violation of (b) above. Citations may be issued under this subsection regardless of whether the child is cited. "Custody" has the same meaning as in §895.035(1)(a) and (b), Wis. Stats.

(11) PARKS CLOSED AT NIGHT. No person shall loiter, idle, or remain in a City park between the hours of 10:30 P.M. and 6:00 A.M., unless he or she is attending a Park Department sponsored or approved activity.

(12) **SMOKING.** Smoking is prohibited as follows:

(a) In all City park shelters and facilities and within 10 feet of such shelters and facilities.

(b) At the following locations at Bay Beach Amusement Park:

1. on any amusement ride or attraction;
2. in the pavilion, train depot, any concession stand, or ticket booth; and
3. the paved areas surrounding said amusement rides and attractions, ticket booths, and concession stands.

(c) At all locations at the Bay Beach Wildlife Sanctuary.

25.05 **ENFORCEMENT.**

(1) **DUTIES OF POLICE.** The Police Department shall enforce this subchapter under the direction of the Mayor and Council.

(2) **RESPONSIBILITIES OF PATRONS.** No person shall resist or in any way interfere with any police or special officer or offer to do so while in any park, on the beach, or in the public waters, or while conveying any person from such park to the City. When called upon by any police officer, any person in any park, on the beach, or in the public waters shall promptly assist such officer.

25.06 **LAWFUL ORDERS TO BE OBEYED.** Every person using any City park shall obey immediately any lawful order or direction given by park police and special officers or by park employees.

25.09 **JURISDICTION OF PARK COMMITTEE.** The Park Committee shall determine the method by which street, boulevard, and parkway trees are selected, placed, planted, and removed.

25.21 **URBAN FORESTS.** (Cr. GO 2-07)

(1) **PURPOSE.** It is the purpose of this ordinance to promote, maintain, and improve the urban forest by addressing the planting, maintenance, and removal of trees within the City of Green Bay. This ordinance provides full power and authority over all public trees, plants, and shrubs and to trees, plants, and shrubs located on private property that constitute a hazard or threat as described herein.

(2) **DEFINITIONS.**

(a) **Agent.** A vendor or contractor hired by the City to perform assigned tasks.

(b) **City Forester.** The Director of Parks, Recreation and Forestry, or the representative thereof, oversees the duties of City Forester.

(c) **Forestry Program Manual.** A manual prepared by the City Forester pursuant to the ordinance containing regulations and standards for the planting, maintenance, and removal of trees, shrubs, and other plants within the City.

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

(e) Permit. The written permission of the City Forester.

(f) Person. Any individual, firm, partnership, corporation, association, company, municipal corporation or other governmental entity or organization of any kind.

(g) Pest. Any organism, insect, rodent, fungus, virus, bacteria, or other agent that causes any damage, abnormal growth or mortality of any tree, shrub, bush, or woody vegetation.

(h) Property Owner. The person owning such property as shown by the County Auditor's Plat of the City of Green Bay, Wisconsin.

(i) Public Property. Property within the City limits of the City of Green Bay and owned, maintained, and controlled by the City or implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public easements.

(j) Public Right-of-Way.

1. A strip of land occupied or intended to be occupied for a special use. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

2. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lot or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

(k) Top, Topping. The severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

(l) Tree Protection Zone. The minimum area beneath a tree that must be undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The tree protection zone will typically be represented by a concentric circle centering on the tree's trunk.

(m) Urban Forest. A collection of trees in and around the City, including park and street trees on public property and trees on private property.

(3) AUTHORITY AND POWER.

(a) Green Bay Park Committee (hereafter "the Committee"). The Committee shall be advisory in nature with the purpose of providing advice to the Mayor and Common Council as to the preservation, protection, and management of the urban forest of Green Bay in accordance with the intents and purposes of this chapter. The Committee shall advise and consult with the Department of Parks, Recreation and Forestry, the Forestry Division, and the City Forester on any matter pertaining to the City of Green Bay tree ordinance and its enforcement.

(b) The City of Green Bay Parks, Recreation and Forestry Department (hereafter “the City”).

1. The City shall have the authority and jurisdiction to plant, prune, maintain, and remove trees within the rights-of-way of all streets, alleys, avenues, lanes, and public properties and parks and tree-planting easements as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public property.

2. The City shall have the right to prune or cause the pruning of any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or sight triangle at intersections, or interferes with the passage of pedestrians or vehicles in the public right-of-way.

3. The City shall have the right to treat or cause the treatment of any diseased or infested trees on private property when such trees constitute a potential threat to the urban forest.

4. The City shall have the right to remove or cause the removal of any dead, diseased, infested, or structurally damaged tree, or portion of tree, on private property when such tree constitutes a potential hazard to life and property within the right-of-way or on public property or constitutes a threat to the urban forest.

(c) City Forester.

1. The City Forester shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on public property and, subject to private property tree and vegetation regulations, to insure safety or preserve the aesthetics of such public sites.

2. The City Forester shall have the authority to review all requests for permits for any planting, removal, pruning, and/or trimming or cutting of trees on any public property. The City Forester shall also have the authority to grant or deny and to attach reasonable conditions to all permits.

3. The City Forester has the authority and jurisdiction to review tree planting and landscaping planting plans for building and development projects that have been submitted as required by the zoning ordinance of the City of Green Bay. The City Forester has authority to modify a landscape plan as a condition of approval.

4. The City Forester shall have the authority and jurisdiction to supervise or inspect all work done under a permit issued in accordance with the terms of this ordinance.

5. The City Forester may inspect any trees, shrubs, vines, hedges, plants, logs, or branches existing or growing upon any property within the City. The City Forester may conduct surveys to determine if any destructive or communicable disease or other pest exists which may be detrimental to or endanger the good health and well being of trees or other plant life in the City.

6. The City Forester shall have the authority and jurisdiction to restrict tree maintenance activities within the City limits to reduce the spread of infectious diseases and/or insects. Restrictions are to be listed in the Forestry Program Manual and presented annually in the local media.

7. The City Forester shall enforce such rules, regulations, permit, and penalty procedures as deemed necessary and may do so by the issuance of municipal citations to effectuate the intent of this chapter. No person shall unreasonably hinder, prevent, delay, or interfere with the City Forester or his/her agents while engaged in the execution or enforcement of this ordinance.

(4) PUBLIC TREE AND VEGETATION REGULATIONS.

(a) It shall be unlawful for any person to plant, prune, or remove any tree (or portion thereof), shrub, or other plant, upon any public property without a permit.

(b) It shall be unlawful for any person to “top” any tree on public property.

(c) Trees on public property shall be protected from damage or removal by any means unless otherwise authorized by a permit issued by the City Forester. Tree crowns and trunks shall not suffer any branch or bark loss. Roots shall be protected from compaction, storage of materials, and severing within a circle around the tree with the tree trunk as the focal point. The radius of the Tree Protection Zone (TPZ) shall be determined by the tree diameter listed in the following table:

<u>Tree Diameter</u> <u>4.5 feet above ground</u>	<u>Radius of TPZ</u> <u>(tree trunk in center)</u>
0 – 4.0 inches	2.0 feet
4.1 – 9.0 inches	5.0 feet
9.1 – 14.0 inches	10.0 feet
14.1 – 19.0 inches	12.0 feet
19.1 or more inches	15.0 feet

Roots located within the determined circle shall be protected by such practices as temporary bridges for vehicles or auguring for utility installation. Any factors that would cause any deviations from the above table shall be noted on the permit issued for such work and require notification of the City Forester.

(d) It shall be unlawful for any individual to place salt, brine, petroleum products, herbicides, or any other substances in such amount as to be toxic or injurious to the health, growth, or vitality of any public tree.

(e) No individual shall be allowed to drive nails, staples, screws, or fasten any rope, wire, electric attachment, sign (including any bills, advertisements, cards, or notices of any kind) or other devices to a public tree or to any guard about such tree.

(f) No individual shall deposit, place, store, or maintain upon any public property any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written permit of the City Forester.

(5) PRIVATE PROPERTY TREE AND VEGETATION REGULATIONS.

(a) The owner of any tree or shrub overhanging any street or right-of-way within the City shall prune the tree or shrub before it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign or sight triangle at intersections or interferes with the passage of pedestrians or vehicles in the public right-of-way.

1. If the owner of the property fails or refuses to take remedial action, the City Parks, Recreation, and Forestry Department, or the agent of, may perform the remedial action without compensation to such owner or any person who planted or caused to be planted such tree or shrub.

2. The City Parks, Recreation, and Forestry Department may charge the owners for the expenses incurred.

(b) If the City Forester ascertains that a tree or shrub growing on private property suffers from a communicable disease or insect infestation which threatens the health of the urban forest, the City Forester may notify the owner of the property that the tree or shrub must be treated or removed within 15 days of the notification.

1. If the owner of the property fails or refuses to take remedial action, the City Parks, Recreation, and Forestry Department, or the agent of, shall have the authority to enter the property and perform the remedial action without compensation to such owner or any person who planted or caused to be planted such tree or shrub.

2. The City Parks, Recreation, and Forestry Department shall charge the owners for the expense incurred.

(c) The City Parks, Recreation, and Forestry Department shall have the right to cause the removal of any hazardous tree (or portion of tree) on private property within the City when such tree constitutes a hazard to life or property in the public right-of-way or on public property. The City Forester shall notify the owner of the property that the hazard must be alleviated or removed within 15 days of the notification.

1. If the owner of the property fails or refuses to take remedial action, the City Parks, Recreation, and Forestry Department, or the agent of, shall have the authority to enter the property and perform the remedial action without compensation to such owner or any person who planted or caused to be planted such tree.

2. The City Parks, Recreation, and Forestry Department shall charge the owners for the expense incurred.

(6) PERMITS.

(a) No person shall plant, spray, fertilize, preserve, prune, remove, cut or otherwise disturb any public tree, or portion thereof, without first submitting a written request and procuring a permit from the City Forester.

(b) Public utility companies shall notify the City Forester in writing prior to pruning any public tree for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted arboricultural standards.

(c) No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of 15 feet from any public tree without first submitting a written request and procuring a permit from the City Forester.

(7) VIOLATIONS.

(a) (Amd. GO 32-12) Any person found to disturb the root zone, prune, remove, or cause the removal or death of any public tree, shrub, or other plant without a permit shall be subject to a forfeiture of not less than \$500 per incident nor more than the greater of \$1,500 or the calculated value lost according to the latest edition of the Council of Tree and Landscape Appraisers Guide for Plant Appraisal.

(b) (Amd. GO 32-12) Any person violating any other provision of this section shall be subject to a forfeiture of not less than \$25 per incident nor more than the greater of \$1,500 or the calculated value lost according to the latest edition of the Council of Tree and Landscape Appraisers Guide for Plant Appraisal.

(8) EMERGENCIES. The Mayor, with approval of the City Council, in the case of emergencies, such as windstorms, ice storms, or other disasters, may waive the requirements of this ordinance so that they in no way shall hinder private or public work to restore order in the City.

(9) SEVERABILITY CLAUSE. Should any section, subsection, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance in whole or in any part thereof other than the part so declared to be invalid.

PENALTY

25.25 **GENERAL PENALTY**. Any person who shall violate any provision of this chapter or any rule, regulation, or order made hereunder shall be subject to a penalty as provided in §40.05, Green Bay Municipal Code.