

## Chapter 238

### TREES

#### ARTICLE I

##### Tree Trimming and Sanitation

- § 238-1. Trees to be kept trimmed.
- § 238-2. Hazardous and infected trees.
- § 238-3. Cottonwood and box elder trees.
- § 238-4. Planting of certain trees restricted.
- § 238-5. Violations and penalties.

#### ARTICLE II

##### Dutch Elm Disease

- § 238-6. Public nuisances declared.

- § 238-7. Nuisances prohibited.
- § 238-8. Inspections; right of entry.
- § 238-9. Abatement of Dutch elm disease nuisances.
- § 238-10. Spraying of elm trees.
- § 238-11. Assessment of abatement and spraying costs.
- § 238-12. Transporting elm wood.
- § 238-13. Interference with Village Board prohibited.
- § 268-14. Violations and penalties. Boulevard Tree Selection and Planting Guide

[HISTORY: Adopted by the Village Board of the Village of Fall Creek as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Nuisances -- See Ch. 184.

---

#### ARTICLE I

##### Tree Trimming and Sanitation

[Adopted 10-4-1960 as Ch. 6, Sec. 6.07 of the 1960 Code]

- § 238-1. Trees to be kept trimmed.

Trees standing in and upon any public street or place or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley will provide a clearance of not less than 14 feet and a clearance of not less than 10 feet over any other public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.

- § 238-2. Hazardous and infected trees. [Amended 10-2-1979]

Any tree or part thereof, whether alive or dead, which the Director of Public Works shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs

growing within the village or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located. The Director of Public Works shall give written notice to said owner to remedy the situation, which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 14 days, as determined by the Director of Public Works on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limit, the Director of Public Works shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk-Treasurer, who shall thereupon enter such cost as a special charge against the property.

**§ 238-3. Cottonwood and box elder trees.**

No person shall plant or maintain within the Village of Fall Creek any female tree of the species *Populus deltoides*, commonly called the "cottonwood," or any tree commonly called the "seed-bearing box elder" or "*Acer negundo*," which may now or hereafter become infested with box elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within 30 days after receiving written notice from the Director of Public Works, the Director shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer, who shall place such charge upon the next tax roll as a special charge against the premises.

**§ 238-4. Planting of certain trees restricted.**

No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Village of Fall Creek unless he shall first secure written permission from the Director of Public Works, who shall not approve any such planting if in his opinion said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public or the operation of any sewer or water system. The Director of Public Works shall cause the removal of any tree planted in violation of this subsection.

**§ 238-5. Violations and penalties.**

The penalty for violation of any provision of this article shall be as provided in Chapter 1, General Provisions, § 1-19 of this Code.

## ARTICLE II

**Dutch Elm Disease****[Adopted 1-7-1964 (Ch. 6, Sec. 6.09 of the 1960 Code)]****§ 238-6. Public nuisances declared.**

The following are hereby declared to be public nuisances wherever they may be found within the Village of Fall Creek:

- A. Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus *Ceratocystis Ulmi* (Buisman) Morsau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylurcopinus rufipes* (March.).
- B. 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 insecticide.

**§ 238-7. Nuisances prohibited.**

No person, firm or corporation shall permit any public nuisance defined in ~ 238-6 of this article to remain on any premises owned or controlled by him within the Village of Fall Creek.

**§ 238-8. Inspections; right of entry.**

- A. The Village Board shall inspect or cause to be inspected all premises and places within the village at least twice each year to determine whether any public nuisance as defined in § 238-6 of this article exists thereon and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the Dutch elm disease fungus or any elm bark-bearing material reported or suspected to be infested with the elm bark beetle.
- B. The Village Board shall have the authority to enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this article.

**§ 238-9. Abatement of Dutch elm disease nuisances.**

- A. Whenever the Village Board shall find with reasonable certainty on examination or inspection that any public nuisance as defined in this article exists within the Village of Fall Creek, the Board shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or factors known to carry such disease.
- B. Before abating any nuisance on private premises or in any terrace strip between the lot line and the curb, the Village Board shall proceed as follows:
  - (1) If the Village Board shall determine that danger to other elm trees from said nuisance is not imminent because of elm dormancy, it shall make a written report of its findings to the Board of Public Works, which shall proceed as provided in W.S.A. s. 27.09.

- (2) If the Village Board shall determine that danger to other elm trees within the village is imminent, it shall notify the owner or abutting owner of the property on which such nuisance is found, in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the village, that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice, unless the Board shall find that immediate action is necessary to prevent the spread of infection. If the owner fails to comply with the notice within the time limit, the Director of Public Works shall cause the abatement thereof.
- C. No damage shall be awarded to the owner for destruction of any elm tree, elm wood or elm material or any part thereof pursuant to this section.

**§ 238-10. Spraying of elm trees.**

- A. Whenever the Board shall determine that any elm tree or elm material within or near the village is infected with Dutch elm disease fungus, it may cause to be sprayed all high-value elm trees within a one-thousand-foot radius thereof with an effective elm bark beetle destroying concentrate, provided that such spraying shall be performed prior to July 15 or after October 15 of any year.
- B. Before causing the spraying of any elm trees on private property in accordance with this section, the Director of Public Works shall notify the owner as provided in § 238-9B(2) of this article.

**§ 238-11. Assessment of abatement and spraying costs.**

- A. The entire cost of abating any public nuisance as defined in § 238-6 of this article or of spraying any elm tree in accordance with § 238-10 may be charged to and assessed against the parcel or lot upon which such tree stands in accordance with W.S.A. ss. 66.60(16) and 27.09. The cost of abating any such nuisance or spraying any elm tree or part thereof which is located in or upon any park or public grounds shall be borne by the village. [Amended 10-2-1979]
- B. The Village Board shall keep strict account of the costs of work done under this article and shall report monthly to the Village Clerk-Treasurer all work done for the land, lots, parts of lots or parcels of land and the amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against said parcels or lots in the same manner as other special taxes.

**§ 238-12. Transporting elm wood.**

No person, firm or corporation shall transport within the Village of Fall Creek any bark bearing elm wood or material without first securing the written permission of the Village Board.

**§ 238-13. Interference with Village Board prohibited.**

No person, firm or corporation shall prevent, delay or interfere with the Village Board or any of its agents or village employees while they are engaged in the performance of duties imposed by this article.

**§ 238-14. Violations and penalties.**

Any person, firm or corporation which shall violate any of the provisions of this article shall, upon conviction thereof, forfeit not less than \$10 nor more than \$100, together with the costs of prosecution, and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not exceeding 60 days.

**Boulevard Tree Selection and Planting Guide follows**