

Chapter 4

TREES AND SHRUBS

[HISTORY: Adopted by the Town Board of the Town of Linn 11-13-1995 (Ch. 4 and § 5.04 of the 1995 Code). Amendments noted where applicable.]

§ 4-1. Elm wood disposition.

All dead or freshly cut elm wood shall be burned or treated with an approved spray and oil base as approved by the Town Board, and it shall be unlawful to keep any dead or freshly cut elm wood on any premises in the Town of Linn unless so treated.

§ 4-2. Dutch Elm disease; removal of trees.

The Town Board or any person designated by the Town Board may order any property owner to remove and destroy any elm trees determined to be infected with Dutch elm disease, or any elm tree in imminent danger of infestation by Dutch elm disease, or any tree of any species infested with any disease. Notice shall be given by mailing a notice to the last known address of the property owner by registered mail or by delivery of notice and service thereof by any police officer on such owner or agent of the owner.

§ 4-3. Inspection of trees.

The Town Board or person designated by the Town Board is hereby empowered to enter upon private property within the Town for the purpose of inspecting all trees thereon to determine whether any of such trees are infected or diseased or in need of other preventative measures and is further empowered to inspect such private premises to determine the presence of any infected logs, firewood, or stumps, or the presence of any dead elm trees, elm logs, elm firewood, or elm stumps.

§ 4-4. Treatment of trees.

The Town Board or person designated by the Town Board may order any property owner to spray the trees and the ground around the trees with a substance approved by the Town Board to eliminate or control Dutch elm disease and other tree infestation. Notice shall be given in the same manner as provided in § 4-2.

§ 4-5. Notice to Town of compliance.

When any property owner is directed to remove a tree or spray a tree or area, he shall advise the Town Board of his compliance within 10 days after receipt of the notice.

§ 4-6. Tree sprayer's permit.

No person shall engage in the sale of spraying service for elm trees for the prevention of

Dutch elm disease or other tree disease without first registering with the Town Board and furnishing a sample of the spraying substance for analysis, thereupon receiving a permit if such person meets with the approval of the Town Board. It shall be a condition of the permit that any police officer or person designated by the Town Board may demand a sample of the spray material from any person holding a permit from the Town Board at any time, and refusal to supply a sample of the spray material shall automatically suspend the permit.

§ 4-7. Planting and trimming of trees and shrubs.

- A. Policy. It shall be the policy of the Town of Linn to regulate and control the planting, transplanting, removal, maintenance and protection of public and private trees and shrubs in the Town in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, highways, sidewalks or property of the Town; to promote the beauty and general welfare of the Town; to protect trees and shrubs located in the public areas of the Town from undesirable and unsafe planting, removal, treatment and maintenance practices; and to control the spread of tree disease.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUSH or SHRUB — A low-spreading woody plant with several permanent stems.

PUBLIC TREES AND SHRUBS — All trees or shrubs planted on any park or other property owned or controlled by the Town or on any street, highway or sidewalk within the public right-of-way, including terrace trees and shrubs, but excluding school sites.

TREE — A woody perennial plant with one main stem or trunk having a diameter of at least two inches one foot above the ground and which is capable of attaining a height in excess of 10 feet above the ground.

- C. Public street. No person shall plant any bush, shrub or tree in any public easement, street, road, or highway or terrace.
- D. Trimming. The owner or occupant of any private property shall keep all trees standing on such property so trimmed that no bough or branch thereof shall hang lower than eight feet above the surface of a public sidewalk or 15 feet above the surface of the street or highway traveled by vehicles. Shrubs shall be trimmed so that they do not overhang any street, highway or sidewalk. The owner or occupant of any private property shall remove or cause to be removed any dead tree or dead or broken bough or branch on a tree standing on such private property and overhanging any public street, road, sidewalk or highway.
- E. Damage to trees and shrubs on public property. No person shall maliciously injure any trees growing on any public street, road or highway or impede the free passage of water or air to such trees. Similar provisions apply to trees and shrubs located on public parks and other public property.
 - (1) No person shall remove or cause to be removed any tree or shrub from any

public property.

- (2) The owner or occupant of any private property abutting on any public property may himself maintain and protect any tree standing on such public property at his or her own risk and where no objection has been voiced by any Town Board Supervisor or the Chairman, provided that in doing so there is compliance with the provisions of this section.

§ 4-8. Work performed by Town. ¹

In addition to any penalty imposed for violation of this chapter, if a property owner fails to comply with an order issued by the Town Board or its designee in accordance with this chapter, the Town Board or its designee may cause the work to be performed and recover the costs thereof from the property owner.

¹. Editor's Note: Added at time of adoption of Code (see Code Adoption Ordinance).