City of Lake Geneva, 626 Geneva St, Lake Geneva, WI 53147- 262.248.3673- www.cityoflakegeneva.com

TREE BOARD
TUESDAY, SEPTEMBER 20, 2022– 4:00 PM
CITY HALL, CONF RM 2A (UPPER LEVEL)

AGENDA

1. Call to Order
2. Roll call
3. Comments from the Public limited to 5 minutes and subject from the agenda
4. Discussion/Recommendation regarding the 2023 Budget
   - A: $10,000 New Trees/Replacement
   - B: $5,000 White River Tree Plantings
   - C: Wrought Iron Tree Protectors for downtown
5. Discussion/Recommendation regarding Forestry Ordinances
6. Set next meeting date
7. Adjourn

cc: Aldermen, Mayor, Administrator, Media

This is a meeting of the Tree Board.
No official Council action will be taken; however, a quorum of the Council and Board of Park Commissioners may be present.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Article III
FORESTRY

Sec. 82-61 **City forester.**
[Ord. No. 97-7, § 34.03, 5-27-1997]

(a) Designation. The city may employ a city forester, or designate its street superintendent to perform the duties thereof, who, under the supervision of the director of public works and utilities and the park board or its designated tree board committee, shall exercise designated powers and duties. City forester selection shall be based upon skills and certifications as set forth in the most recent job description for the position. The city forester shall generally receive direction from the street superintendent where the city forester is different than the street superintendent.

(b) Duties. The city forester shall have the following duties:

(1) Exercising the duties conferred in W.S.A., § 27.09.

(2) Administering and enforcing this article.

(3) Preparing an annual forestry plan to be submitted to the board, and implementing such program as adopted and amended from time to time. The forestry program shall include a comprehensive plan including maintenance, inventory and new planning with budget projections for annual and long range implementation.

(4) Supervising subordinates, overseeing other employees and administering contracts related to the forestry program and this article.

(5) Conducting or authorizing inspections, tests, planting, replacements, pruning, emergency removal, treatments and maintenance, and issuing permits as necessary to implement the forestry program and this article. Inspections of private property, defined as lands not owned, controlled or leased by the city, shall be at reasonable times with the consent of the owner or person in charge or by special inspection warrant. The annual tree removal list shall be subject to approval of the park board.

(6) Assisting any person having a permit to move a building, structure or oversized load upon a public right-of-way, defined as the part of every street between the lot line and the curb, pavement or street line, and shall include sidewalks and lawn parks, in selecting a route which will cause minimal potential damage to trees.

(7) Promulgating written guidelines for permitted work, to be filed in the department of public works and utilities.

(c) Plan. The city forester, under the direction of the director of public works and utilities, shall prepare a forestry plan which shall include one or more of the following programs: A city lawn park beautification program to provide for tree plantings and replacement in lawn parks. The program shall provide for the cost of tree planting to be borne jointly by the abutting property owner and the city, as determined by

the board.

Sec. 82-62 **Forestry permit.**
[Ord. No. 97-7, §§ 34.04, 34.07, 5-27-1997]

(a) Required; associated costs. No person shall plant, replace, prune, alter, do surgery on a tree or disturb the land within the dripline of any tree on public property, defined as public rights-of-way, city lawn parks, boulevards, parks and other lands owned, controlled or leased by the city, or cause such work to be done by others, without first obtaining a written permit for such work from the city forester as provided in this section. The permit holder shall be responsible for paying for the cost of all work performed, unless acting under contract with the city or its subunits.

(b) Exemptions. No person shall be required to obtain a permit to fertilize, water or mulch trees in a lawn park, defined as the area of public right-of-way between the street and sidewalk or private property line if a sidewalk doesn't exist, abutting their property.

(c) Application. Any person who applies for a permit shall make the application in writing, on city forms.

(d) Issuance, fee. When the city forester determines that any proposed work described in an application for a permit is in accordance with the provisions of this article, taking into account the public health, safety and welfare, the location of utilities above and below ground, public sidewalks, driveways, street lights and signs, the general character of the area in which the tree is located or proposed to be located, the type of soil, the characteristics and physiological need of the genus, species and variety of the tree, then a permit may be issued or denied as appropriate under the circumstances, with conditions or limitations, without a fee therefor. The applicant shall contract Digger's Hotline prior to causing any excavation.

(e) Description of intended work; duration. Every permit issued by the city forester shall include a description of the work to be done and shall specify, in the case of plantings, the genus, species and variety, size, nursery grade and location of trees to be planted. Any work done under such permit issued under this section shall expire nine months after the date of issuance.

(f) Permit violation. It shall be a violation of this article for any person to perform work under a permit contrary to the permit terms and provisions of this article. A permit violator shall be responsible for the repair and replacement of any tree, defined as tree or shrub, damaged or destroyed due to defective work or noncompliance with this article for two full growing seasons following performance of work.

(g) Annual public utility and contractor permits. Public utilities and contractors shall apply for and, if approved, may obtain, in accordance with this article, an annual forestry permit subject to the following additional conditions, unless waived for just cause by the city forester:

(1) Provide the city forester with 15 days' advanced, written notice of work to be performed.

(2) Perform the work in conformance with this article and written guidelines and directives of the city forester.

(h) Revocation. Any permit granted under authority of this article may be revoked by the city forester for just cause upon 10 days' advanced, written notice and an opportunity to be heard. The revocation of any permit may be appealed to the board within 10 days of receipt of written notice of revocation.

Sec. 82-63 **Trees in lawn parks and public rights-of-way.**
[Ord. No. 97-7, § 34.05, 5-27-1997]

The following regulations respecting trees in lawn parks and public rights-of-way shall apply, unless a variance is granted for just cause by the city forester:

(1) Genus, species, variety, size and manner of planting. The city forester shall approve the genus, species, variety, size and manner of planting of trees planted in any lawn park or public right-of-way. All trees shall be selected, cared for, and planted in accordance with ANSI A300-1995, NAA standards, and all other standards as applicable. All trees, shrubbery and planting material set out or planted in lawn parks and public rights-of-way shall be under the order, direction and supervision of the city forester.

(2) Tall growing trees under utility wires. Planting of tall growing tree species under utility wires is hereby prohibited. Tall growing trees are any tree that may grow larger than 20 feet in height. A determination as to the anticipated size of a tree species can be made by comparing mature trees of the same species within the city area and review of the city forester's lowgrowing tree approval list.

(3) Minimum size. The minimum size of any tree planted in a lawn park or public right-of-way shall be 1 1/2 inches in caliper measured at six inches above the ground.

(4) Distance limitations. No tree shall be planted in a lawn park or public right-of-way within 15 feet of a street corner, alley, street light, traffic sign or traffic signal or within 30 feet of another tree located in the lawn park or public right-of-way. No more than one tree shall be planted in a lawn park or public right-of-way abutting a lot having a frontage at the street of less than 75 feet, unless specifically approved by the city forester.

(5) Required pruning. Trees planted within any lawn park or public right-of-way shall be trimmed so that any branches or foliage projecting over any public right-of-way which is the subject of vehicular traffic provide a clearance of not less than 12 feet from the pavement and any branches or foliage projecting over any public right-of-way which is the subject of pedestrian traffic provide a clearance of not less than eight feet from the pavement or ground. This work shall typically be performed by the city. Trees shall be pruned in such a manner as to preserve their health and maintain a natural shape.

(6) Visual clearance. Visual clearance, as defined in the zoning ordinance, shall be maintained.

(7) Tree removal. The park board or director of public works and utilities, on approval from the board, shall approve all nonemergency tree removals. Trees which are cut down shall be removed with the root stump grubbed or ground out to a depth at least nine inches below grade. Surface roots beyond the main stump are to be removed to a depth at least five inches below grade. All wood and debris shall be removed from the site and no wood or debris shall be permitted to remain on the street or sidewalk when work on any day is concluded. Holes must be safeguarded by a barricade if not immediately filled. The city will fill holes as soon as practicable, which shall be topped with a minimum of two inches of topsoil and seeded. The site shall be barricaded to protect the public at any time work is in progress. A permit may be issued by the board or the director, with concurrence of the board chairman, to an abutting property owner to remove a lawn park tree having a diameter in excess of six inches measured 54 inches from grade, shall also be conditioned upon proof of liability insurance covering death and personal injury and property loss or damage in the amount of $250,000. Trees shall be dropped away from the parkway or street to protect all other public trees. A permit may be issued by the city forester without

proof of insurance for removal of trees less than six inches in diameter.

(8) Sidewalks. Sidewalks, paving and other surfaces impervious to water shall not be constructed within two feet of the base of any tree without approval of the city forester. It is the property owner's responsibility to maintain sidewalks adjacent to trees.

(9) Roots. Roots greater than two inches in diameter shall not be severed without the permission of the city forester. When removed from "live" trees, all roots shall be cut cleanly. The city may grind roots interfering with sidewalk replacement upon seven days' advanced notice. The critical root zone, defined as 12 times the tree diameter at breast height (DBH), shall also be protected from activity which could result in damage. This includes heavy vehicle and construction equipment traffic. Protection may include placement of 12 inches of mulch or other measures as required by the city forester.

(10) Boring. Boring shall be done under a tree only when necessary, and at a minimum depth of 30 inches below grade to avoid the roots of trees. Refer to the city construction manual for additional information.

(11) Sidewalk excavation. Sidewalk excavation shall be allowed to a maximum depth of six inches.

(12) Curb excavation. Curb excavation shall be allowed to a maximum depth of 18 inches.

(13) Notice of planting and removal. Whenever the city forester proposes the planting or removal of any tree, he shall give two weeks' advance written notice to the owner of record or person in charge of the lot or parcel of land adjacent to the land on which such tree stands or will stand. The written notice shall advise that written, detailed objections may be sent or served upon the city forester within the two-week period. The notice shall specify in detail the street, avenue or boulevard from which trees are proposed to be planted or removed and the general nature and character of the changes and improvement contemplated. After reviewing any written objections which may be submitted, the city forester may modify planting plan or forward objections to removals to the board for final decision. No prior notices by the city forester are required for the trimming of living trees or for the emergency removal of dead or dangerous trees. The absence of a timely notice shall not render any work performed invalid.

(14) Sanitary sewers clogged with tree roots. Abutting property owners shall be responsible for cleaning and repairing sanitary sewer laterals which are clogged with the roots from lawn park trees. The abutting property owner, when performing any work within the dripline of a healthy tree, shall take such measures as directed by the city forester to protect trees from injury and damage, up to and including tunneling. Cost for removal of any tree to accommodate a sanitary sewer repair shall be the property owner's responsibility.

Sec. 82-64 **Public nuisances on private premises.**
[Ord. No. 97-7, § 34.06, 5-27-1997; Ord. No. 08-05, § 1, 4-28-2008]

(a) Notice to abate public nuisance. Whenever the city forester shall find that any tree or part thereof growing or located upon private property, defined as a private tree, is a public nuisance, defined as any tree or part thereof which by reason of its condition interferes with the use of any public area including as defined in subsection **82-63(5)** for public trees; or which is infected with a plant disease, or which is infested with injurious insects or pests which threaten public or private property, particularly Dutch Elm Disease, Oak Wilt Disease, and Emerald Ash Borer infestation, or which endangers the public health, safety and welfare, he shall notify the owner thereof, in writing, that the nuisance must be abated as

directed in the notice the time specified, which time shall not be less than 30 days, unless the city forester shall determine that immediate action is necessary to preserve the public health, safety and welfare, in which event a lesser period of time for abatement shall be provided.

(b) Service of notice. Notice shall be served on the owner of record of the lot identifying those conditions which constitute a public nuisance and demanding abatement by a time certain in the manner and to the extent prescribed by the notice. Service shall be by personal service or by certified mail-return receipt. If the owner cannot be served or if there is no certified mail-return receipt, the order may be served by posting it on the main entrance of the building or structure, if any, or where no building or structure is present, by posting a sign on each side of the lot, and by publishing as a class 1 notice under W.S.A., ch. 985.

(c) Failure to abate. If the owner fails to remedy or improve the public nuisance described in the written notice, then the city forester shall, after the expiration of the period specified in the written notice, cause the nuisance to be abated.

(d) Abatement by city. The abatement may be performed by city personnel or by a contractual agreement with others entered into by the city and cost charged to the owner as described under section **82-68**.

(e) Hearing. The owner, upon written request to the city forester, served and postmarked during the notice period, shall be granted a hearing before the city forester. Where possible, the hearing should be within 10 days following the request therefor. The hearing shall give the owner the opportunity to contest the existence of facts sufficient to form the basis for the finding of a public nuisance as described in this section. Following the hearing, a written statement of the findings of the city forester shall be sent by regular mail to the owner at the address given by the owner at the hearing. The city forester may, for good cause, extend the period of time for abatement of the nuisance.

(f) Appeal. The written order of the city forester, where a hearing has been held, may be appealed to the park board upon written request to the city forester, served or postmarked within 10 days of the date of the written order. Where possible, the appeal should be heard at the next scheduled meeting of the board, provided that the request for review is received by the city forester at least seven days prior to the next scheduled meeting of the board.

(g) Special assessment. Following abatement of the public nuisance, the city forester shall bill the owner for the cost of abatement. If such bill is not paid within 30 days, the bill shall be processed as a special assessment against the property.

(h) Emergency procedure. The notice procedure specified in subsection **(b)** of this section does not apply when circumstances arise which require immediate action to protect the public from imminent harms, such as sickness, disease or personal injury. In determining imminent harm, there must be a balancing of the rights of the landowner to notice and appeal procedures with the right of the public to be protected from a risk of harm which could be avoided by prompt action. However, where possible, the landowner should be given a minimum of 24 hours' written or oral notice prior to city abatement action. This article shall otherwise apply, except for the notice and appeal procedures, which shall be as stated in this section.

Sec. 82-65 **Injury to trees.**
[Ord. No. 97-7, § 34.09, 5-27-1997]

No person, upon public property, shall:

(1) Injure, destroy, damage, mutilate, top, deface or commit any act which will prevent the growth or cause the death of any tree.

(2) Secure, attach, fasten, nail or run through any rope, cable, wire, sign or fixture to, around or through any tree.

(3) Deposit, place or permit the deposit of any toxic or hazardous substance on or about any tree. This includes construction-related activity which could adversely impact upon public trees, either chemical in nature or placement of poles of excavated material, topsoil, etc., within the critical root zone.

Sec. 82-66 **Administrative remedies.**
[Ord. No. 97-7, § 34.11, 5-27-1997]

Until the provisions of this article, including the conditions on any permits issued pursuant to this article, have been fully met, the city shall withhold issuance of any conditional use permit, building permit, certificate of occupancy or inspection required under the current city building code or issue stop-work orders for any land development or activity involving tree removal.

Sec. 82-67 **Penalty for violation of article.**
[Ord. No. 97-7, § 34.12, 5-27-1997]

(a) Any city department which observes a violation of this article shall bring the violations to the attention of the city forester.

(b) Any person who by himself or by his/her agent or employee shall violate any of the provisions of this article shall be subject to penalty as provided in section **1-12**. A separate offense shall be deemed to have been committed on every day on which a violation occurs or continues.

Sec. 82-68 **Special assessment.**
[Ord. No. 97-7, § 34.13, 5-27-1997]

(a) Pursuant to W.S.A., § 27.09(5), the entire or any part of the costs of forestry for trees and shrubs in front of each lot or parcel of land abutting may be chargeable to and assessed upon such lots or parcels of land.

(b) Prior to assessment, a public hearing shall be held on the proposed assessment and notice given by publication of a class 2 notice under W.S.A., ch. 985.