

CHAPTER 6 – STREETS & PUBLIC PLACES

ARTICLE 4 - LOCATION AND TRIMMING OF TREES

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Section 6-4-101 to 199, inclusive. Location and trimming of trees - general provisions.

Section 6-4-101 Location of trees - distance from street corners and fireplugs.

No street tree shall be planted closer than 5 feet of any street corner, measured from the property line extended. No street tree shall be planted closer than 10 feet of any fireplug.

Source: R.O. Pierre, 1957, 13.0602 Ord No. 1091, 1982; Rev. of Ord., 1990.

Section 6-4-102 Shade trees not permitted within limits of the street - unlawful to injure grass, trees, shrubs, flowers and plants - penalty.

It shall be unlawful for persons owning or occupying lots or parcels of land within the city to embellish the same by planting shade trees within the limits of the street adjoining such premises. Shade trees may be planted between the sidewalk and the curb but not within three feet of the curb.

Source: R.O. Pierre, 1957, 13.0603; Rev. of Ord., 1990.

Section 6-4-103 Lots and land from viaduct to Missouri Avenue exempt from tree location ordinance. (Repealed)

Source: Ord. No. 671, 1966; Ord. No. 1088, 1982.

Section 6-4-104 Trimming of trees required - city trimming at owner's expense.

The occupant of any private premises or the owner of the same if not occupied, abutting on any public street, road or alley within the city shall keep all trees standing upon such premises or between the same and the center of the adjoining street, road or alley so trimmed that no bough or branch thereof shall be lower than fourteen above the surface of the street, road or alley eight feet above the surface of any sidewalk thereon and shall keep all such trees trimmed so that no trunk, limb or branch thereof shall

in any way or at any time interfere with the movement of delivery, maintenance, garbage disposal, and emergency service vehicles or come in contact with any street lighting, power, or other electrically charged wire when such wires are lawfully strung on posts located on any public street, road or alley or between the lot lines and curb of any street. Said occupants or owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public, and shall trim any tree or shrub which interferes with visibility of any traffic control device or signs; provided that upon the failure of any occupant or owner to trim such trees as in this section provided, the commissioner of streets and public property of the city of Pierre shall have the authority to remove them or cause them to be removed under its supervision, whether such trees be growing on privately owned property or on public property. The commissioner may cause the same to be trimmed and the expense charged to the occupant or owner of such property.

Source: R.O. Pierre, 1957, 13.0601; Rev. of Ord., 1990; Ord. 1456, 1999; Ord. 1860, 2023

Section 6-4-105 Declaration of policy on removal of trees infected with Dutch Elm disease.

The City Commission does hereby determine that the health of elm trees within the corporate and territorial limits of the City of Pierre is threatened by a fatal disease known as Dutch Elm disease; and it has further determined that the loss of elm trees growing upon public and private property would substantially depreciate the value of property within said limits and impair the health, safety, general welfare and convenience of the public. It is declared to be the intention of the Pierre City Commission to control and prevent the spread of this disease and this Ordinance is enacted for that purpose.

Section 6-4-106 Public nuisances declared.

The following are hereby declared to be public nuisances:

- A) Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus, *Ceratocystis ulmi*, or which harbors the European Elm Bark Beetle, *Scolytus multistriatus* (Eichb.) and/or the American Elm Bark Beetle, *Hylurgopinus 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 not covered with plastic approved by the Parks and Recreation Director.

Source: Ord. No. 845; Ord. No. 1062, 1981; Ord. No. 1876, 2025

Section 6-4-107 Nuisances prohibited.

No person shall permit any public nuisance as defined in this article to remain on the premises owned or controlled by him within the city.

Section 6-4-108 Inspection.

The Parks and Recreation Director shall inspect or cause to be inspected all premises and places within the city at least twice each year to determine whether any public nuisance as defined in 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 or any elm bark bearing material reported or suspected to be infected with either species of the elm bark beetles.

Source: Ord 1876, 2025

Section 6-4-109 Abatement of nuisances.

If the Parks and Recreation Director, in person or by some qualified person acting for him, shall determine upon inspection or examination that any public nuisance as herein defined, exists in or upon any public street or alley, and city park, including the parking between curb and lot line, not abutting upon property of another governmental subdivision, he shall immediately cause it to be removed and burned or otherwise abate the same.

Source: Ord 1876, 2025

Section 6-4-110 Notice to abate.

If the Parks and Recreation Director, in person or by some qualified person acting for him, upon inspection or examination, shall determine with reasonable certainty that any public nuisance as herein defined exists in or upon private premises within the city, he shall immediately serve or cause to be served, either personally or by U.S. Certified Mail, upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice to abate such nuisance within fifteen (15) days of service of said notice.

Source: Ord 1876, 2025

Section 6-4-111 Determination of disease.

If the Parks and Recreation Director, is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with Dutch Elm disease, he is authorized to remove or cut specimens from said tree, and shall forward such specimens for diagnosis and report to the plant pathology department of the South Dakota State University and shall proceed as herein provided upon receipt of a positive report from the department.

Source: Ord 1876, 2025

Section 6-4-112 Abatement by city.

If the owner or occupant of the property upon which any nuisance exists in violation of this

article shall fail to abate such nuisance within the time specified in the notice so to do, the Parks and Recreation Director shall cause the same to be removed and burned or otherwise abate. No damages shall be awarded to the owner or occupant for destruction of any elm tree, elm wood or any part thereof pursuant to this section.

Source: Ord 1876, 2025

Section 6-4-113 Effect of abatement.

All abatements made under the provisions of this article shall be made in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease or the insect pests or vectors known to carry such disease fungus.

Section 6-4-114 Assessment of cost of abatement.

The costs of abating any public nuisance as defined in this article shall be borne as follows:

- A) The entire cost of any abatement of a public nuisance as herein defined on trees in or upon any public street or alley and city park, including the parking between curb and lot line, not abutting upon property of other governmental subdivisions, shall be borne by the City.
- B) The cost of any abatement of a public nuisance as herein defined on property belonging to another governmental subdivision and upon the parking between curb and lot line abutting upon property of another governmental subdivision shall be borne and paid by the owner thereof.
- C) The cost of any abatement of a public nuisance as herein defined on any private property shall be borne by the owner or owners of said property and shall be assessed against said property as hereinafter provided. If any part of a tree constituting a nuisance hereunder shall be located on a property line, the owners of said property on either side of said line shall share equally in the cost of abatement.

Section 6-4-115 Reporting of costs.

The Parks and Recreation Director shall keep strict account of the costs of work done under this article for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Parks and Recreation Director shall include in his report to the City Commission the aggregate amounts chargeable to each lot or parcel as recorded by him and such amounts shall be levied and assessed against said parcels or lots in the same manner as provided in Section 7-4-104 for destruction of noxious weeds.

Source: Ord 1876, 2025

Section 6-4-116 Financing.

The cost of the City of Pierre in performing the functions required hereunder may be financed from a special fund as authorized by state law, from general revenue or other special funds, or from any combination of these sources.

Section 6-4-117 Transporting of elm wood controlled.

It shall be unlawful for any person to transport within the city any bark-bearing elm wood without first obtaining approval from the Parks and Recreation Director.

Source: Ord 1876, 2025

Section 6-4-118 Sanitized equipment.

All equipment used in pruning or otherwise working upon elm trees shall be sanitized before such use.

Section 6-4-119 Tree Topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Parks and Recreation Director or by some qualified person acting for him.

Source: Rev. of Ord., 1990; Ord 1876, 2025

Section 6-4-120 Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The Parks and Recreation Director will notify in writing the occupants of the premises or the owner of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the case of an Emerald Ash Borer (EAB) infected tree(s), removal shall be done by said owners at their own expense after Labor Day, and before Memorial Day the following year, and after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees at the expense of the occupant or owner.

Source: Rev. of Ord., 1990; Ord 1876, 2025

Section 6-4-121 Removal of Stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Source: Rev. of Ord., 1990.

Section 6-4-122 to 6-4-199, inclusive. Reserved.