

32 when a tree is pruned. As of the March 21, 2025 pruning, City staff did not have any concerns about the
33 tree. At the time of this alleged incident on October 21, 2025, the City had no prior notice of a current
34 defect in this tree.

35 The City is immune from liability for the claimant’s alleged damages pursuant to Wis. Stat.
36 §893.80. In short, state law confers broad immunity from suits on municipalities for acts that are
37 considered “discretionary” in nature. In the case of maintaining trees, the task of deciding which trees need
38 pruning, maintenance, or removal and when such actions should be taken are all discretionary acts requiring
39 judgment on the part of the arborist. Given the discretionary nature of these acts, the City cannot be held
40 liable for failing to prune or remove a tree or a tree branch before its fall.

41 In some cases, the City could be held liable if it was given notice of a defect and its failure to
42 remedy such defect was unreasonable. Here, there is no evidence that, at the time of this alleged incident,
43 the City knew of a current defect in the tree. Regular inspection of this particular tree was conducted
44 annually for several years preceding that date, along with periodic pruning as recently as March 2025, and
45 there is no evidence of any defect being entered into the City’s database at that time. Since these annual
46 inspections and periodic prunings revealed no defects and the City did not have prior notice of any defect,
47 the City did not have a ministerial duty to service this tree, and the City cannot be held liable for this tree
48 falling.

49 For the reasons set forth above, the City is immune from liability and the claim should be
50 disallowed.

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52 **BUDGETARY IMPACT:**

53 Assuming the recommendation to disallow this claim is adopted, this item would have a \$0.00
54 impact on the City's budget.

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56 **RECOMMENDED ACTION:**

57 That the disallowance of this claim be recommended for approval.
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