

CHAPTER 151

TREES AND GRASS

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151.01 DEFINITION. For use in this chapter, “boulevard” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any boulevard or street except in accordance with the following:

1. **Alignment.** All trees planted in any street shall be planted in the boulevard midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. **Spacing.** Trees shall not be planted on any boulevard which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. **Prohibited Trees.** No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least eighteen (18) feet above the surface of a street, twenty (20) feet above the surface of a primary highway, and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d, & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

(Code of Iowa, Sec. 364.12[3b & h])

151.07 RULES FOR REMOVAL. All weeds, vines, brush or other growth which constitute a health, safety or fire hazard shall be cut or destroyed by the property owners when and as needed (as determined by the City Council or its authorized representative, if the property owner fails to do so), but in any event at least once by May 1 of each year and thereafter by no later than the first day of each succeeding month through and including October 1 of each year.

151.08 DEFINITIONS. For the purpose of this chapter, the following items, phrases, words, and their derivations have the meanings given herein.

1. "Noxious weeds" means primary and secondary classes of weeds as defined by the *Code of Iowa*, and all additions to this list as so declared by the State Secretary of Agriculture.

2. "Boulevard" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and curb line; on unpaved streets, the boulevard is the part of the street, avenue, or highway lying between the lot lines and that portion of the street usually traveled by vehicular traffic.

3. "Right-of-way" means the entire width of a platted street or alley in use or undeveloped.

4. "Public Official" means the person designated by the Mayor or City Clerk to enforce this chapter.

5. "Weed(s)" means any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of four (4) inches or more, except as otherwise provided in this chapter.

151.09 AUTHORITY FOR ENFORCEMENT. The Mayor or City Clerk or any person designated by the Mayor or City Clerk is responsible for enforcement of this chapter and shall have all the necessary authority to carry out the enforcement of this chapter.

151.10 INTERFERENCE WITH PUBLIC OFFICIAL. No person shall interfere with the Mayor, City Clerk or designee or any appointed assistant while engaged in the enforcement of this chapter.

151.11 NUISANCES. Except as provided elsewhere in this chapter, the following provisions shall apply:

1. Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the Public Official, all noxious weeds, weeds, vines, brush or other growth constituting a health, fire or safety hazard thereon and shall keep said lands free of such growth.
2. Each owner and each person in possession or control of any property shall be responsible to keep said lot, including along with boulevard adjacent thereto, alleys, public ways or areas up to the centerline of said ways free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than four (4) inches in height. However, grass and weeds located on undeveloped and unplatted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than 12 inches in height.
3. Each owner and each person in the possession or control of any lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.
4. Where waterways or watercourses are found upon any developed or undeveloped lot, the owner or person in possession or control shall keep the flat or level part of the bank of said waterway free of any weeds or grasses more than 18 inches in height. Should any such waterways or watercourses be found within the right-of-way of a street or alley, the adjacent property owner or person in possession or control shall be responsible to keep the flat or accessible portion of creek bank free of any weeds or grasses more than 18 inches in height.
5. No owner or person in possession or control of any developed or undeveloped lot shall allow plant growth or the accumulation of plant materials on such lot to remain in such a state so as to constitute a fire hazard. In no instance shall cut plant material accumulations be located within 150 feet of a building, structure, recreation area (not including the width of any intervening street) or within 125 feet of a street right-of-way.

151.12 ENFORCEMENT. The Mayor, City Clerk or designee may inspect all areas alleged to be in violation and in the case of a founded violation notify the last known owner or person in possession (or control) of the area of violation of this chapter. Said notice shall be by posting notice upon the entrance to the structure on the property or by certified mail and allow forty-eight hours (48) for posted notice, or seventy-two hours (72) for mailed notice after mailing said notice as a period of time to eliminate said violators. Return receipt with signature is not required for said mailed notice. The Mayor, City Clerk or designee shall charge an administrative fee in the amount of fifty dollars (\$50.00) for each founded violation. Upon failure of the owner or person in possession or control to act within the prescribed time period, the City may perform the required action and assess costs against the property for collection in the same manner as a property tax. In the event such action is taken, the Mayor, City Clerk or designee may obtain competitive quotes to have the required action performed. If no quotes are obtained, the City may have the City personnel perform the required action at rates which shall be established by resolution of the Council from time to time, which rates shall constitute costs to be assessed against the property as provided herein. In addition to the foregoing remedy and other remedies by law, the Mayor, City Clerk or designee may file misdemeanor charges against such individuals or municipal infractions.

151.13 EMERGENCY CONTROL MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgement of the Mayor, City Clerk or designee an emergency exists

creating a health, safety or fire hazard which may require weed or grass control without prior notice, control measures shall be taken and costs assessed against the property for collection in the same manner as property tax. However, prior to such assessment, the City shall give the property owner notice by certified mail and an opportunity for a hearing before the Council.

151.14 CONTROL OF WEEDS OR OTHER VEGETATION. The Clerk shall annually on or before May 1 through August 1 of each year publish a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this Code of Ordinances. The Mayor, City Clerk or designee may cause a Notice to Abate Nuisance to be served upon any property owner who fails to comply with the published notice or any person who at any other time has weeds or other vegetation in violation of this Code of Ordinances and shall submit the cost to the Council for assessment as provided in Section 364.12 of the *Code of Iowa*. In the event of an emergency as set forth in 364.12, the notice requirement may be dispensed with. In abating a nuisance under this Code of Ordinances, the Mayor, City Clerk or designee are hereby authorized and directed to employ such persons and rent any and all equipment necessary for the abatement of the nuisance and the cost thereof shall be assessed.

151.15 HABITUAL VIOLATORS. If the owner or person in control of any land has previously received a notice to abate nuisance relating to weeds or grass within the preceding 24 months, then the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this chapter and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following 24-month period of time and that the full cost of said contract together with an administrative fee of two hundred fifty dollars (\$250.00) will be assessed against the property.

(Sections 151.07-151.15-Ord. 682-17-Jan.18 Supp.)