

CHAPTER 39**TREES AND VEGETATION****SUBCHAPTER 1****GENERAL PROVISIONS**

39.01 DEFINITIONS. For use in this Chapter, the following terms are defined:

1. "Parking": 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.
2. "Superintendent": means the Superintendent of Public Works or such other person as may be designated by the Council.
3. "Tree": means any woody perennial plant having a single, elongate main stem with few or no branches on its lower part and shrubs of arborescent form but does not include any shrub that is less than fifteen (15) feet in height.

39.02 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking.

39.03 VISION CLEARANCE AT STREET INTERSECTIONS. On a corner lot where set back or side yard exists, no fence, wall, shrubbery, ground, sign, billboard, marquee or other obstruction to vision, between a height of two (2) feet and ten (10) feet above the center line grade of intersecting streets, shall be erected, placed, planted, allowed to grow or maintained within the triangular yard space formed by the intersecting street lines and a line joining points on such street lines twenty-five (25) feet from the point of intersection of the streets. Public utility poles and existing trees trimmed from the ground level to a height of ten (10) feet shall not be considered obstructions to vision.

39.04 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this Chapter, the City may serve notice on the such property owner requiring him or her to do so within five (5) days. If he or she fails to trim the trees 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, 1995, Sec. 364.12 [2d & e])

39.05 UNAUTHORIZED INTERFERENCE WITH TREES OR SHRUBS. No person shall remove, prune, cut, molest, break, deface, destroy, spray, repair or do surgery work upon any tree or part thereof, or in any manner interfere with, disturb or injure any tree, shrub or plant, upon parking or

the public property of the City. No person shall permit any chemical, either solids or fluids, to seep, drain or be emptied on or about any tree, shrub or plant that is now or may hereafter be growing upon any public property of the City, without first obtaining a permit from the City Administrator.

39.06 HITCHING, ANCHORING ARTICLES TO TREES. No person shall be permitted to hitch or fasten any animal to any tree or shrub, or fasten to for the purpose of anchorage any wire, rope, chain or cable, nor shall any person nail, tie or in any manner fasten any card, sign, poster, board or any other article to any tree, shrub or plant, that is now or may hereafter be growing upon any parking or public property of the City.

39.07 PERMISSION FOR PERMANENT ANCHORAGE. Permission may be granted by the City Administrator for permanent anchorage to trees if good practice in line construction indicates the desirability and the elimination of stubs or poles will result by so doing.

39.08 GUYING POLES TO TREES IN CASE OF EMERGENCY. In the event of storms or other emergencies, poles may be guyed temporarily to trees.

39.09 PERMIT TO REMOVE TREES FOR CONSTRUCTION PURPOSES. Any person desiring to remove a live tree standing on a street or parking thereof for construction of walks, drives, buildings or any other structures for his or her own gain or purposes shall first obtain a permit from the City Administrator. If a permit is issued the permittee must pay the cost of removal of such trees and shrubs, or the permittee may remove the same at permittee's own expense.

39.10 PROTECTION DURING EXCAVATION OR CONSTRUCTION. All trees, shrubs or plants within the limits of any street, parking, or other property of the City near any excavation or construction of any building or structure shall be guarded with a good substantial frame or box not less than four feet square and six feet high. All building material or other debris shall be kept at least three feet from any tree, shrub or plant.

39.11 TREE TRIM SPECIFICATIONS.

1. Any person trimming trees or causing trees, bushes and other plants to be trimmed under the authority of this section or sections of this Code pertaining to utility franchises, if the entity wishing to trim is not itself the owner, shall:

A. Cause written notice to be given to the owner, occupant or person in control of the property at least fifteen days prior to any trimming provided however notice shall not be required if trimming is necessary to restore electrical service or relieve a public emergency resulting from storm, accident, similar casualty, or other cause which immediately threatens electrical service or public safety. The notice shall state the nature of the trimming to be performed, the person's right to trim the tree, shrubbery, bush or other plants, the date when

such trimming must be completed if the owner desires to do the trimming and whether an assessment or charge will be imposed by such person for trimming the tree, bush or other plant.

B. Trim trees, bushes and plants to the extent necessary to remove obstruction to protect lives and property.

C. Employ persons skilled in tree trimming so that the life and general aesthetic qualities of the tree are preserved.

2. The owner of any tree, shrub or plant protruding into or overhanging a street or sidewalk shall trim the branches thereof to remove any obstruction of the view of any street lamp, street sign, traffic control device or street intersection. A clear space of ten feet above the surface of a street or sidewalk must be maintained. All trimming shall conform to the specifications in Subsection 1 of this section and to those required pursuant to the City's Traffic Code.

3. The City Administrator may order the removal of any tree, shrub or plant or any part thereof which does not conform to the specification of Subsection 2 of this section. Notice shall be given to the owner of the property as set forth in Subsection 1 of this section. If the owner, occupant or person in control fails to comply with the notice, the Administrator shall cause the obstructing branches or foliage to be removed and shall submit the costs incident to the service of notice and removal to the City Council, which shall certify the same to the county auditor for collection with and in the same manner as general property taxes. Provided, however, that in the event the Administrator determines that a hazardous condition exists which constitutes an immediate danger to public safety because of the extensive nature or location of an obstruction caused by any tree, shrub, plant or any part thereof, the Administrator may cause the removal thereof forthwith without notice and in such event, costs may be assessed in the same manner as provided above, after notice to the property owner and opportunity for hearing before the City Council is given.

4. Except as provided by Subsection 3 of this section no tree, bush or shrub shall be removed without the written consent of the owner of the property upon which the tree, bush or shrub is located.

5. Nothing in this section shall be construed to affect the rights of a landowner as against a neighboring landowner.

39.12 OBSTRUCTION OF ENFORCEMENT. No person shall hinder, obstruct or otherwise interfere with the Superintendent or his/her representatives while engaged in carrying out the provisions of this Chapter.

39.13 PERMIT TO PLANT IN STREETS.

1. No person shall plant or set out any tree, shrub or plant in or on any parking, public highway or street, or other city property without first obtaining a permit from the City Administrator which shall designate where such plantings may be done.
2. The permit shall be denied if such planting is likely to create a public danger or nuisance and shall not provide the permittee with any guarantee or assurance that the tree, shrub, or plant will be protected from subsequent trimming or destruction if such is required for health, welfare, or safety of the City's residents.

39.14 ASSESSMENT FOR PLANTING OR CARE OF TREES. The cost of planting, pruning, caring for, removing or maintaining trees and shrubs, in whole or in part, upon the parking or public streets of the City may be assessed against the lots and parcels of land in front of which such trees or shrubs are planted and maintained.

39.15 PLANTING NEW TREES; ASSESSMENT. No plantings of new trees or shrubs shall be made and assessed against the abutting property owners except by action of the City Council. Notice of a proposal to plant new trees or shrubs must be made by publication in two newspapers of general circulation in the City fifteen (15) days prior to final action thereon.

39.16 SCHEDULE OF ASSESSMENTS. The cost of planting new trees and shrubs and the maintenance thereof, including removals and partial removal of trees and shrubs, shall be certified to the City Council by the Superintendent in a scheduled form setting forth the nature of the work done, the amount of the special assessment, the lots of specific portions thereof against which assessed, and the names of the owners thereof as far as practicable.

39.17 FILING ASSESSMENT SCHEDULE FOR PUBLIC INSPECTION. A schedule of assessments for planting of new trees and shrubs and maintenance, including removals and partial removal of trees and shrubs, shall be filed with the Clerk for public inspection.

39.18 OBJECTIONS TO ASSESSMENT SCHEDULE. Before final adoption of the schedule of assessments provided for in this Subchapter the City Council shall give notice by two publications in each of two newspapers published in the City, stating that the schedule is on file in the office of the City Clerk and that within 20 days after the first publication all objections thereto or to the prior proceedings, on account of errors, irregularities or inequalities, must be made in writing and filed with the Clerk.

39.19 ADOPTION OF ASSESSMENT SCHEDULE. After the expiration of the twenty (20) day period mentioned in section 39.18 of this Code, the City Council shall consider objections to the schedule of assessments, make the necessary corrections and make, approve and adopt the special assessments as shown in the schedule.

39.20 CERTIFYING ASSESSMENT SCHEDULE FOR COLLECTION. upon final adoption of special assessments as shown in the schedule of assessments the City Council shall cause the same

to be certified to the county treasurer with directions that the cost of the improvements or services as scheduled shall be assessed against the parcels of property designated therein, in the amounts set forth thereby, and that such amounts shall be collected as other special assessments.

SUBCHAPTER 2**DEAD AND DISEASED TREES**

39.21 ENFORCEMENT - RIGHT TO ENTER, TEST AND INSPECT. The Superintendent of Public Works shall enforce the provisions of this Subchapter. To secure enforcement hereof, the Superintendent or a duly authorized representative shall have the right and are hereby empowered to enter upon the property of any person, firm, co-partnership, association, corporation or trust within the City for the purpose of testing, inspecting and obtaining samples of any trees, brush, wood or debris thereon.

39.22 PERMITTING DEAD OR DISEASED TREES OR PLANTS TO STAND.

1. No property owner shall maintain or permit to stand upon his or her property any tree, shrub, plant or part thereof which is dead, diseased, or so damaged as to be a menace to public safety.
2. When the Superintendent determines that any tree, shrub, plant or part thereof is dead, diseased, or so damaged as to be a menace to public safety, the Superintendent may request the City Council to direct the property owner to remove the same within thirty (30) days, or to appear before the City Council for hearing on the matter during said period to show cause why the tree, shrub, plant or the appropriate part thereof should not be removed by the City with the cost of removal assessed against the property owner. Such notice to show cause and notice of the proposed City Council action shall be by certified mail to the property owner of record.
3. If, after hearing, the City Council approves removal, the Clerk shall send a copy of the resolution by certified mail to the property owner directing such removal within 30 days or the City shall remove and assess the cost of removal against the property owner.

39.23 REMOVAL OF TREES, SHRUBS AND PLANTS. The Superintendent may remove or cause to be removed all trees, shrubs, plants or parts thereof upon the public streets or highways or other City property within the City when removal shall be beneficial to the public peace, health and safety, or for public improvements or if such trees, shrubs or plants constitute a public nuisance or are dead or diseased, or detrimental to the growth of adjacent trees, plants or shrubs growing in the public streets or other City property.

39.24 REMOVAL OF TREES INFECTED WITH DUTCH ELM DISEASE OR OAK WILT.

1. In accordance with Section 364.12, Code of Iowa, any owner, occupant or person in control of any property shall remove at his or her own expense any tree,

brush, wood or debris infected with Dutch elm disease or oak wilt or any dead oak or elm which retains bark, found thereon when so notified by the Superintendent. The Superintendent shall cause to be mailed to such owner, occupant or person in control written notice that they may appear before the City Council at an appointed time not less than fourteen (14) days from the date of mailing to show cause why the infected tree, brush, wood or debris should not be declared a public nuisance. At that meeting the City Council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant or person in control within thirty (30) days from the date of service of a copy of the resolution and order on the owner, occupant or person in control, provided however upon timely receipt of a request in writing from the property owner showing inability to perform, hardship or other good cause, the City Administrator may grant an extension of time to a maximum of an additional thirty (30) days for said removal by the owner, occupant or other person. No extension of time exceeding sixty (60) days may be granted without prior approval by the City Council.

2. If the owner, occupant or person in control fails to comply with the resolution and order of the City Council to so remove previously specified public nuisance, the Superintendent shall cause that public nuisance to be removed and shall submit the costs incident to the service and removal to the City Council, which shall certify the same to the county treasurer for collection with and in the same manner as general property taxes.

39.25 DISEASED TREE INSPECTION FEES.

1. Fees for the city inspection of a tree or trees shall be paid to the City Treasurer in an amount set therefor by resolution of the City Council, provided fees for inspections not requested by the owner or the owner's representative shall be assessed only against those trees showing evidence of disease which requires removal of the tree.

2. For the purpose of this section, "private property" is defined as property not owned by the City.

39.26 PENALTY. Any person, firm, co-partnership, association, corporation or trust violating any provision of this Chapter shall be guilty of a misdemeanor. Each day said violation continues shall be considered a separate offense.