

CHAPTER 151: TREES AND VEGETATION

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GENERAL PROVISIONS

151.01 SCOPE.

The provisions of this chapter shall apply to all trees, shrubs, weeds, vines and brush planted in or upon any public area and in certain instances on private property within the city and any existing trees that violate other sections of this chapter.

State legislation or State Department of Transportation rules take precedence over this chapter if along a state-designated highway.

151.02 REMOVAL OF WEEDS, VINES AND BRUSH.

All areas of the city are to be kept free of any noxious weeds and shall also be kept free of any other weeds, vines or brush for health and safety reasons as required by Ordinance Chapter 50; NUISANCE ABATEMENT PROCEDURE.

151.03 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARK. Any property owned in whole or in part by the city used in whole or in part for recreational purposes, wildlife purposes or other municipally-owned public purpose related to recreation or wildlife.

PROPERTY OWNER. The contract purchaser if there is one of record, otherwise the record holder of legal title.

PUBLIC AREA. Parks, Right-of-Way and other lands owned or leased by the city.

SHRUB. A woody plant with several stems and usually with a low mature height of eight feet or less.

RIGHT-OF-WAY. Right-of-Way shall be as defined in Hiawatha Ordinance Chapter 140; **RIGHT-OF-WAY.**

UTILITY EASEMENT. The area of private property that allows utility companies access to the property for the purpose of installing, repairing and maintaining utility lines.

TREE. Any woody perennial plant of any age with a main trunk and many branches, and includes living or dead trees and standing or fallen trees.

TREES

151.04 INJURING OR DAMAGING.

(A) No person shall in any public area of the city break, injure, mutilate, kill or destroy any tree or shrub; permit any animal under his or her control to do so; permit any fire to injure any portion of any tree or shrub; or permit any toxic chemicals or materials to seep, drain, be emptied on or otherwise enter into any tree or shrub.

(B) It shall be unlawful for any person to cut, damage, carve, transplant or remove any tree, or injure the bark of any tree located in a public area, except for authorized city personnel in the performance of his, her or their duties.

(C) During building operations, commercial promotions or public promotions, the builder or sponsor shall erect suitable protective barriers around public trees and shrubs that may be injured.

151.05 FASTENING MATERIALS.

No person shall fasten any sign, rope, wire or other materials to or around or through any trees or shrubs in any public area, except in emergencies such as storms or accidents.

151.06 RESERVED

151.07 PUBLIC UTILITIES.

Public utility work affecting trees or shrubs, including cutting, trimming, pruning and the use of approved growth inhibitors, shall be limited to the actual necessities or protection of the services of the company and such work shall be done in a professional manner and in accordance with proper arboricultural standards. Trees growing on private land, but encroaching public right-of-way or utility easements, may be trimmed for the protection of the services of the company.

151.08 RIGHT-OF-WAY PLANTING PERMIT.

(A) A Right-of-Way permit is required for the planting of trees in the street right-of-way in accordance with City Code Section 135.09. The permit fee shall be set by resolution of the City Council. Exception: The insurance and bond requirements in 135.09 do not apply to home owners completing the work in the right-of-way abutting their own property.

(B) (1) Trees shall be subject to conditions of the permit. Conditions of the permit shall include a requirement for diversity of species within, the planting area, as well as other conditions as may be provided elsewhere in this subchapter and,

(2) The Planting Guidelines: Chapter 165 Appendix A and,

(3) Chapter 165.47 for new developments within Hiawatha and,

(4) The Design Guideline as adopted by Resolution 10-249 for the applicable street corridors

151.09 CERTAIN SPECIES PROHIBITED.

(A) (1) It shall be unlawful to plant any tree species on or adjacent to any right-of-way in the city that has been identified on a list of prohibited species included in Chapter 165 Appendix A. The City Council may issue a special decorative planting permit for planting evergreen and deciduous shrubs with a mature height greater than 12 inches within the right-of-way area for decorative purposes.

(2) Each request will be reviewed upon its own merits, and the proposed plantings at mature height shall not interfere with pedestrian and vehicular safety or the free use of the street or sidewalk.

(B) It shall also be unlawful to plant any tree species that bears fruit, except for male sterile varieties, on a right-of-way or on private property in a location where the tree will overhang a sidewalk.

(C) Any plant species prohibited by this section, but in place on the effective date of this Ordinance, need not be removed by virtue of its mere existence unless interference with other sections of this chapter so requires.

(D) Tree species recommended for right-of-way plantings shall be in accordance with Chapter 165 Appendix A.

151.10 SPACING AND PLACEMENT IN RIGHT-OF-WAY AREAS.

(A) All trees planted on any right-of-way in the city shall be located and spaced in accordance with the applicable standards in:

(1) Chapter 165.47 Landscaping,

(2) Chapter 165 Appendix A and, .

(3) Design Guidelines as adopted by Resolution 10.249

(B) Other special considerations may exist along State Highways and a special permit must be secured from the state's Department of Transportation; contact the local state's Department of Transportation Engineer.

151.11 RESERVED

151.12 DISEASED TREES AND SHRUBS. The Council shall 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. Removal from 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, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. 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. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, it shall be considered a nuisance. The Council shall cause the condition to be abated in accordance with Nuisance Ordinance Chapter 50.

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

151.13 UNAUTHORIZED TRIMMING PROHIBITED IN PUBLIC AREAS; PERMIT REQUIRED.

It shall be unlawful to trim or cut in any manner, unless otherwise allowed in this subchapter, any tree in any public area in the city without the person receiving a permit from the City of Hiawatha. Property owners, agents or occupants may trim limbs or branches from trees on right-of-way areas abutting their property without a written permit. Such cutting or trimming shall conform to the arboricultural specifications and standards of practice adopted by the City.

151.14 TRIMMING AND REMOVAL OF HAZARDOUS RIGHT-OF-WAY TREES.

(A) The city shall be responsible for removing dead, diseased or public safety concern trees from all public areas within the city. Trees in the right-of-way shall only be removed by the city, by an agent of the City or a person or firm approved by the City and has a right of way permit issued in accordance with City Code Section 135.09 . No permit shall be required of any public service company or city employee doing such work under contract with the City or as an employee of the city in the pursuit of their public service

(B) The abutting property owner, agent or occupant shall be responsible for trimming and maintaining the trees on the right-of-way abutting his, her or their property. Trees shall be so trimmed that the overhanging branches shall be at least 15 feet above the surface of the street and at least eight feet above the surface of the sidewalk so as not to interfere with the street lighting or the free and safe use of the street and sidewalk by the public, taking into consideration tree maturity and size. A permit is not required for this maintenance work.

(C) The city may serve notice to abate a nuisance as per City Code Chapter 50 to the abutting property owner, agent or occupant to trim or otherwise maintain the trees on the abutting right-of-way that are not in compliance with the provisions of this subchapter.

(D) The city shall have the authority to trim or remove any tree, shrub or other plant material planted on any city right-of-way for non-compliance of this subchapter. This work shall be done at city expense unless abatement proceeding has been initiated in accordance with Ordinance Chapter 50.

151.15 REMOVAL AND TRIMMING ON PRIVATE PROPERTY.

(A) The property owner, agent or occupant of any lot or parcel of land shall keep the trees on his or her property so trimmed that the overhanging branches shall be at least 15 feet above the surface of the street and at least eight feet above the surface of the sidewalk within the right of way so as not to interfere with the street lighting or the free and safe use of the street and sidewalk by the public and shall be kept free of dead limbs and branches, taking into consideration the tree maturity and size.

(B) The city shall have the authority to trim or remove any tree or shrub or other plant material on private property for non-compliance of this subchapter. This work shall be done at the expense of the property owner and in accordance with the procedures for nuisance abatement in Ordinance Chapter 50..

(C) Diseased or dangerous trees shall be regulated in accordance with section 151.12 of this ordinance.

151.16 BARRICADES AND OTHER PROTECTIVE DEVICES REQUIRED.

When necessary for the protection of the public, guards, barricades or other protective devices or warnings shall be maintained on any sidewalk, street or other public places where trees are being trimmed or removed. Barricades and other protective devices shall meet the standards set forth by Statewide Urban Design and Specifications (SUDAS). Traffic on any street shall not be barricaded without first obtaining a right-of-way permit from the City in accordance with City Code Section 135.09 and shall comply with all notice requirements specific to traffic control in section 135.09 (4).

151.50 PENALTY.

Violation of any section of this chapter shall be deemed a nuisance or a municipal infraction and may be enforced as specified in Ordinance Chapter 50; NUISANCE ABATEMENT PROCEDURE and Ordinance Chapter 4; MUNICIPAL INFRACTIONS.