

MEETING DATE: 4/1/19

ITEM: 10E

AGENDA ITEM SUMMARY

Subject: Consider Second Reading of Ordinance 1129 - Tree Trimming Ordinance Change

Background Summary:

As discussed attached is an ordinance that amends the City Code section 124 & 151 which addresses licensing and would now allow abutting property owners to trim trees in the right of way. It also speaks to workmanship of the trimming to be done and states that work will be done under the supervision of the City.

CITY OF CHARLES CITY

ORDINANCE NO. 1129__

AN ORDINANCE AMENDING SECTIONS 124.03 – EXCEPTIONS, SECTION 124.06 – WORKSMANSHIP, AND SECTION 151.03 – DUTY TO TRIM TREES, OF THE CHARLES CITY CODE OF ORDINANCES FOR THE PURPOSE OF REQUIRING PRIVATE PROPERTY OWNERS TO TRIM TREES ON PUBLICLY OWNED PROPERTY OR RIGHT-OF-WAY ABUTTING THE OWNERS’ PRIVATE PROPERTY

BE IT ENACTED by the City Council of the City of Charles City, Iowa:

1. **SECTION 124.03 EXCEPTIONS** is amended to read as follows:

124.03 EXCEPTIONS. This chapter shall not apply to City employees performing tree trimming, tree removal, and cutting of trees in the course of their City employment or to private property owners trimming, removing, or cutting trees on their own property or on the publicly owned property or right-of-way abutting the owners’ private property.

2. **SECTION 124.06 WORKSMANSHIP** is amended to read as follows:

124.06 WORKSMANSHIP. All tree trimming, tree removal and cutting of trees shall be done in a careful and workmanlike manner with due regard for the welfare of pedestrians and bystanders and the property of residents on which the trees are located. The abutting property owner may be liable for damages caused by tree trimming, tree removal, and cutting of trees on or overhanging the publicly owned street and right-of-way abutting the owners’ private property.

3. **SECTION 151.03 DUTY TO TRIM TREES** is amended to read as follows:

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep trimmed the trees on, or overhanging the street, so that all branches will be at least fifteen (15) feet above the surface of the street 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.

Except as allowed in Chapter 124 and in this section, 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.

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

4. **SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

5. **WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the City Council on this _____ day of _____, 2019.

Approved this ____ day of _____, 2019.

Dean Andrews, Mayor

ATTEST:

Trudy O'Donnell, City Clerk

As certified, the foregoing was published as Ordinance No. _____ on the ____ day of _____, 201____.

City Clerk

CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees for Safety

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “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.

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

1. Alignment. All trees planted in any street shall be planted in the parking 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 nine (9) feet from the property line.
2. Spacing. Trees shall not be planted on any parking 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 thirty (30) 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, black walnut, or ash.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep trimmed the trees on, or overhanging the street, so that all branches will be at least fifteen (15) feet above the surface of the street 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 FOR SAFETY. The City may trim any tree or other vegetation located on the parking if the tree or other vegetation is creating a public hazard.

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 dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

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 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])

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CHAPTER 124

LICENSING OF TREE TRIMMERS

124.01 Purpose
124.02 License Required
124.03 Financial Responsibility

124.04 Workmanship
124.05 Revocation of License

124.01 PURPOSE. The purpose of this chapter is to assure that those persons engaged in the conduct of the business of trimming or removal of trees do so in such manner as not to endanger the health, safety and welfare of the general public.

124.02 LICENSE REQUIRED. Except as otherwise provided herein, a person shall not trim, cut, or remove any tree limbs or trees from any property within the City of Charles City without first obtaining a license from the City.

1. Exceptions. This Chapter shall not apply to City employees performing tree trimming, tree removal, and cutting of trees in the course of their City employment or to private property owners trimming, removing, or cutting trees on their own property.

2. License. An annual license shall be obtained from the City Clerk on or before April 1st which will then be effective for a period of one year, terminating on the following April 1st. Each applicant must pay a fee of \$25 and show proof of financial responsibility. Any license issued after April 1st, due to late application or first time application, shall nonetheless expire on the following April 1st. Renewal of a license will require a payment of \$25 and proof of financial responsibility.

124.03 FINANCIAL RESPONSIBILITY. The City shall require, as a condition for the issuance of any license, that the applicant first file proof of financial responsibility in the form of a bond or a liability insurance policy showing coverage for injuries to persons and property during the licensing period in an amount of not less than \$1,000,000.

124.04 WORKMANSHIP. All tree trimming, tree removal and cutting of trees shall be done in a careful and workmanlike manner with due regard for the welfare of pedestrians and bystanders and the property of residents on which the trees are located.

124.05 REVOCATION OF LICENSE. The City may revoke any license issued pursuant to this Chapter whenever the licensee violates a provision of this Chapter. The City may also pursue any criminal or civil actions against the violating licensee as authorized by this Code of Ordinances.

(Chapter 124 - Ord. 1090 – May 16 Supp.)

		ROW Tree Trimming responses			2.15.19		
City	population	Responsibility to trim? City or Abutting Property owner	Who can trim?	Restrict Private abutting property owner from trimming?	How is trimming cost paid?	notes	
Charles City -Current	7652	Abutting Property Owner	Both	Yes; must use licensed and bonded trimmer	Abutting Property Owner		
Clear Lake	7777	City	Both	No; No requirement for licensed & bonded trimmers	City - Taxes/RUT	City encourages private property owner to trim trees in ROW; publish article on it in the fall.	
Forest City	4151	City	City only	Yes	City- Taxes/RUT	Want to change to require abutting property owner to pay	
Guttenberg	1919	Abutting Property Owner	Both	No; No requirement for licensed & bonded trimmers	Abutting Property Owner	City notifies individual property owners who need to trim, if not done city follows up by doing it and billing. Never had to assess.	
Hiawatha	7024	City	Both	No; No requirement for licensed & bonded trimmers	City - Taxes/RUT	Encourage abutting property owners to trim and remove if necessary; saving on city cost	
Humboldt	4690	City	Both	No; No requirement for licensed & bonded trimmers	City Taxes/RUT	city trimming is not as neat or thorough and some abutting property owners like; so those people may trim the trees themselves.	
Independence	5966	City	Both	No; No requirement for licensed & bonded trimmers	City - Electric/Telecom Utility Fees	Trimming done by city municipal electric/telecom utility	
Laurens	1258	Abutting Property Owner	Both	No; No requirement for licensed & bonded trimmers	Abutting Property Owner	notices sent to those who needed to trim requiring them to trim, if they didn't city would and bill the abutting property owner	
Monticello	3796	Abutting required	Both	No; No requirement for licensed & bonded trimmers	City - Taxes/RUT	while abutting property owner is required it is typically the city that does the trimming	
Mt. Vernon	4506	City	Both	Shoud use licensed and bonded companies; not actively enforced	City - use of Franchise fee	place fliers stating that the city will be trimming trees on certain date; private property owners have the option to trim at their expenses prior to that. And must meet city standards	
Nevada	6798	City	Both	No; No requirement for licensed & bonded trimmers	City - Taxes/RUT	Post notice of when trimming will occur to residents; allow them to trim if so desired (city trimming often less aesthetically pleasing for some	
Oelwein	6415	City	Both	No; No requirement for licensed & bonded trimmers	City - Via collected fee	"Tree Enterprise" Fund; recently increased waste fund charges by \$1.75 to cover all tree associated trimming and removal costs	
Washington	7266	Abutting Property Owner	Both	No; No requirement for licensed & bonded trimmers	City - Taxes/RUT	too much time and cost associated with getting property owner compliance	
Wilton	2802	City	Both	No; No requirement for licensed & bonded trimmers	City - Taxes/RUT	Encourage abutting property owners to trim	