Subject: Consider First reading of ordinance 1133 amending tree trimming ordinance and consider waiving of second and third readings and adopt and publish

Background Summary:

A change to our tree trimming regulations was recently adopted by ordinance. Some of the sections that were referenced in that were incorrect, however, and this ordinance will correct those errors. Since this is not a substantive change and more along the line of correcting a scrivener’s error, you may consider waiving the second and third readings of this corrective ordinance and just adopt it at this meeting.
ORDINANCE NO. 1133

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 1129 OF THE CITY OF CHARLES CITY, IOWA, AND MODIFYING CHARLES CITY CODE OF ORDINANCES SECTIONS 124.02 – LICENSE REQUIRED, SECTION 124.04 – WORKSMANSHIP, AND SECTION 151.03 – DUTY TO TRIM TREES, 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. Ordinance Number 1129 of the City of Charles City is hereby repealed in its entirety.

2. SECTION 124.02 LICENSE REQUIRED, Subsection (1), Exceptions, is amended to read as follows:

   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 or on the publicly owned property or right-of-way abutting the owners’ private property.

3. SECTION 124.04 WORKSMANSHIP is amended to read as follows:

   124.04 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.

4. 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])

5. 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.
6. **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.

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Dean Andrews, Mayor

**ATTEST:**

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Trudy O’Donnell, City Clerk

As certified, the foregoing was published as Ordinance No. ________ on the ___ day of ____________________, 201__.

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City Clerk