

CHAPTER 57

TREE ORDINANCE

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SEC. 57.1 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the city by requiring street trees to be uniformly located and maintained. The primary responsibility for maintaining street trees is placed upon the abutting property owner or his designated agent, and the director shall personally supervise any extensive trimming or cutting of said trees.

SEC. 57.2 DEFINITIONS. For use in this chapter, the following terms are defined:

1. The term "person" shall mean any individual, firm, corporation, trust, association or any other organized group.
2. The term "street" shall mean the entire width between property lines of avenues or highways.
3. The term "parking" shall mean 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.
4. The term "property owner" shall mean a person owning private property in the city as shown by the county auditor's plats of the city.
5. The term "public property" shall mean any and all property located within the confines of the city and owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.
6. The term "director" shall mean the leisure services director.

SEC. 57.3 PERMIT REQUIRED.

1. Except as allowed in Section 57.13, no person shall cut or remove any plant, tree or shrub on the streets or on public property without first obtaining a permit from the director, who shall issue said permit if the proposed work is necessary and the proposed methods and workmanship are satisfactory.
2. The director may demand the posting of bond or insurance before the permit is granted. Such bond or insurance shall be of sufficient amount to reasonably cover any damages that may occur to life or property while the provisions of the permit are being carried out.
3. Every permit granted in accordance with this section by the director shall describe the work to be done, the estimated cost, define the species, sizes and location of all trees and shrubs concerned and contain a definite date of expiration.
4. Any permit may be declared void if the terms are violated.

SEC. 57.4 BUSINESS OF REMOVING, CUTTING, TRIMMING TO BE LICENSED, FEES.

1. No person shall engage in the business of removing, cutting or trimming of trees or shrubbery in the city without first obtaining a license therefor. The applicant shall submit written application to the director setting forth his experience and qualifications. Upon determination by the director that he is qualified he shall be granted a license which shall allow the removal, cutting and trimming of trees and shrubbery in the city, which shall be an annual license commencing January 1, and terminating December 31, of each year. The license fee shall be established by resolution of the city council and shall be paid prior to the issuance of the license. No trimming, cutting or removal shall be done until the license has been obtained.
2. In addition, applicants may be required to pass a test designed and administered by the director.

SEC. 57.5 PERMITS AND LICENSES--EXEMPTIONS. The preceding section relating to permits and licenses shall not apply to the following:

1. The United States of America, the State of Iowa, any county, municipality or political subdivisions of the State, any department, bureau or agency of any of the foregoing or any official representative of any of the foregoing in pursuit of official duties.
2. Any person with reference to trees and shrubs on his own premises;
3. Any individual performing labor or services on or in connection with trees at the direction and under the personal supervision of a licensed tree trimmer while in the performance of such functions;
4. Any public utility engaged in tree trimming and/or tree removal for the purpose of line clearance in order to insure the continuity of utility service to the public.
5. Trimming or cutting which is in compliance with Section 57.13.

SEC. 57.6 BOND OR EVIDENCE OF INSURANCE. Any person, before engaging in the business or occupation of removing, cutting or trimming trees or shrubbery in the city, shall deposit with the director a good and sufficient bond or evidence of insurance in the sum of not less than ten thousand dollars

(\$10,000.00), provide evidence of liability insurance in the sum of One hundred thousand dollars (\$100,000.00), conditioned that such person shall faithfully comply with the provisions of this chapter and shall indemnify, save and keep harmless the city and its officers from any and all claims, damages and losses and actions by reason of any acts or things done under or by authority or permission granted herein.

SEC. 57.7 WORKER'S COMPENSATION POLICY. Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the city shall furnish satisfactory evidence to the director that the workers employed by that person are covered by a suitable worker's compensation policy according to the laws of that State.

SEC. 57.8 FELLING OF TREES/LIMBS ONTO STREETS. If a tree or limb will fall on any street, alley or sidewalk, the director must be notified prior to felling.

1. Safety requirements. The person to whom the permit is issued shall be responsible for placing such signs, flags, flares and barricades as are needed to warn persons of the danger of using the street, sidewalk or alley.
2. Trees or branches which are felled or trimmed onto public property must be removed immediately unless an extension of time is granted by the director in writing.
3. Stump removal cavities must be cleared and refilled with soil in the same operation. At no time shall a cavity remain unfilled overnight.

SEC. 57.9 MATERIALS USED ON TREES NEED PERMIT. No person shall fasten any sign, box, wire, rope or other material to, around or through any tree or shrub in any street, park or public place in the city except by the permission of the director or when such materials are designed to preserve such tree or shrub and have been placed under a permit granted by the director.

SEC. 57.10 POLLUTANTS TO TREES NOT ALLOWED. No person shall deposit, place, store or maintain upon any street, park or public place in the city any stone, brick, sand, concrete or other material which shall impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein except by permission of the director or when such materials are designed for the construction of sidewalks, pavement, gutters or other public improvements under a permit granted by the city or some department thereof.

SEC. 57.11 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Location.
 - a. Whenever possible trees should be planted inside the property lines and not between the sidewalk and the curb.
 - b. All trees and shrubs hereafter planted in any street shall be planted midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall not be planted within 10 feet from the near edge of the road.
 - c. Trees shall not be planted on the parking if said parking is less than 12' in length and 4 feet 9 inches in depth (sidewalk to curb), or contains less than 50 square feet of exposed soil or grass surface.

- d. Trees shall not be planted closer than 20 feet to the street intersections (property lines extended) and 4 feet 9 inches from any driveway.
 - e. No tree that will attain a mature height of 30' tall may be planted under existing utility lines.
2. Nuisance. The following trees are not permitted to be planted in any street or public place in the city:

Boxelder	Siberian Elm	Chinese Elm
Cottonwood	White Poplar	Lombardy Poplar
Boileana	Poplar Willows	Tree of Heaven
American Elm	Silver Maple	Catalpa
Black Locust	Weeping Birch	European Mt. Ash
Poplar	Fruit Trees (except ornamentals)	

or any species of Ash.

**No conifers or evergreens should be planted between the sidewalk and the curb of any city street for safety and visibility considerations. See director for trees recommended for planting.

- 3. Method of support. Trees may be guyed or supported in an upright position according to accepted arboricultural practices. The guys or supports shall be fastened in such a way that they will not girdle or cause serious injury to the trees or endanger public safety.
- 4. Trimming or pruning.
 - a. All public tree trimming or pruning shall utilize Natural Target Puning Practice now commonly accepted by the United States Forest Service. All efforts to protect the Branch Collar will be the responsibility of the tree trimmer or pruner.
 - b. All limbs over 1 inch in diameter must be bottom cut first to prevent striping of bark as limbs fall. Any limbs which endanger other limbs, trees or property shall be lowered to the ground - not felled.
 - c. To avoid the spreading of disease, tools shall be disinfected with alcohol before use on another tree.

SEC. 57.12 REMOVAL OF TREES. The director shall remove, on the order of the council, any tree on the streets of this municipality which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitutes a threat to the public, or which may otherwise be declared a nuisance by the director. The Director or his Designee has the right to determine a Hazardous tree on private property that is a threat to public safety, and issue a 30 day notice to remove to the owner. If not removed in 30 days, the city shall remove it at the owner's expense and bill accordingly on their property taxes. The owner has the right to appeal said decision in front of the Forestry Committee within the 30 day period.

SEC. 57.13 DUTY TO TRIM TREES. The owner of property abutting a street shall keep the trees on his property or on the parking and overhanging the street, trimmed so that all branches will be at least (16) feet above the surface of the street and at least (8) eight feet above the sidewalks.

SEC. 57.14 CONTAINER PLANTING. No individual or firm shall establish a container either above or below ground for plants or trees on public property without a permit from the director. The petitioner shall submit a request complete with a design detail to the director prior to the issuance of said permit.

1. Requirements.

- a. Provisions in Section 57.11. Arboricultural specifications and standards of practice, must be met.
- b. The planting medium must be of sufficient size to support and sustain the plants and the container shall not be less than 24 inches in depth and 30 inches in diameter, inside dimensions.
- c. All costs arising from the establishment, maintenance or removal of plants or plant containers will be born by the abutting property owner.
- d. Plants, containers and their contents must be maintained in the conditions specified by original design at all times. Any planter not serving its designed aesthetic function shall be replanted or removed.

2. Notice to replant or remove. Any container and plant material not maintained to quality and designed standard as required by the director is hereby declared a nuisance, and must be abated by abutting property owner.

3. Freedom from liability. Any individual or firm granted the right to place or establish containers on public property pursuant to this section shall execute an indemnification agreement, which indemnifies and holds harmless the City of Waverly from any and all liability which may be incurred as a result of the placement of said containers and their contents.

SEC. 57.15 ERECT BARRIERS FOR PROTECTION OF TREES. During all building and construction operations, the contractor or builder shall erect suitable protective barriers around all trees and shrubs in any street, park or public place in the city in order to prevent said trees from being injured.

SEC. 57.16 DESTROYING OF TREES. No person shall break, deface, injure, kill or destroy any tree or shrub or set fire or permit any fire to burn where such fire or heat thereof will injure any portion of any tree or shrub in any street, park or public place in the city. Topping of any city owned tree is prohibited except when authorized.

SEC. 57.17 PENALTY. Anyone violating any of the provisions of this ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding \$100.00.