

CHAPTER 20 MAINTAINING BOULEVARD AND PRIVATE PROPERTY

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WHEREAS, the Code of Iowa at 364.12(c) provides that Cities may require the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets; now, therefore, the City Council enacts an Ordinance governing the duty of property owners within the City to maintain the abutting property outside the lot and property lines and inside the curb or traveled portion of the public street.

6-20-1 DEFINITIONS. The following words and phrases whenever used in the ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Boulevard" means the property outside a property owner's lot and property lines and inside the curb lines upon the public streets, or in the absence of a curb from the traveled portion of the public street to the lot or property line.
2. "Private Property" means all real estate within the owner's property or lot lines as shown on the plats of the Auditor of Jackson County.
3. "Property Owner" means the owner of real estate as shown in the records of the Auditor of Jackson County.
4. "Inspector" means the City Inspector or his/her Designee.
5. "Public Street" means the area from curb to curb or in the absence of curbing, the traveled portion of a public street, highway, road, or alley within the City limits.
6. "Zone" and "Areas Zoned" means the Residential - 1, Residential - 2, Residential -3, Business - 1, Business -2, Industrial - 1, Industrial - 2, or Industrial - 3 districts with boundaries established under Title 5, Chapter 1 - B of the Code of Ordinances and set forth upon the District Map as it may, from time to time, be amended.
7. "Waterway" means a river, lake, pond, stream, creek, wetland, or other watercourse and adjacent banks.

6-20-2 MAINTENANCE OF BOULEVARD AND PRIVATE PROPERTY. All property owners shall maintain their property and the abutting boulevard according to the following standards:

1. In districts zoned R-1, R-2, R-3, B-1, or B-2, all grasses, weeds, vines and brush shall be cut or destroyed when said growth exceeds six inches (6") in height.
2. In areas zoned other than R-1, R-2, R-3, B-1 or B-2, all grasses, weeds, vines and brush shall be cut or destroyed when said growth exceeds ten inches (10") in height.
3. Keep the abutting boulevard free of holes, excavations, protrusions, or other obstacles which could cause injury to the public.
4. Further, it shall be unlawful to discharge into the storm sewer system any yard waste, sticks or branches, garbage or trash, sand or silt, or any other material in such a way as to obstruct the system from functioning properly. It shall also be unlawful to discharge or place such materials into a public right-of-way (such as a street) in a manner likely to cause these materials to eventually accumulate in the storm sewer system or create a safety hazard.

(Ord. 939, 7-5-02)

5. In all zoning districts, the abutting property owner is required to maintain all abutting boulevard property, except that a property owner is not required to remove diseased trees or dead wood on the publicly owned property or right-of-way. This duty to maintain abutting boulevard property includes, but is not limited to, the duty to maintain sidewalks, grass areas, and any retaining walls located on the publicly owned property or right-of-way.

(Ord 1024, passed 05-15-06)

6-20-3 EXCEPTIONS.

1. "Street Trees" as that term is defined in City Ordinance 6-14-1(1) are hereby excepted from the requirements and enforcement of this Ordinance.
2. Waterways may exceed the standards established by this Chapter, except that any growth of weeds, vines, or brush shall be cut or destroyed when such growth exceeds two feet (2') in height.
3. Farm crops, pasture, vineyards, orchards, and garden plants grown or located on private property may exceed the requirements of this Ordinance. However, weeds and brush in such areas shall be cut when the height of such weeds or brush exceeds two feet (2').
4. The owner of a hillside, waterway or gully located on private property may make application to the City Council to exceed the requirements of this Ordinance for the hillside, waterway or gully located on private property; and, upon receipt of such an application, the City Council shall make a finding whether or not the hillside, waterway or gully located on private property may be maintained at a level that exceeds the requirements of this Ordinance but does

not create a public health, safety or fire hazard; and, if the City Council makes such a finding, the Council may, by Motion, grant relief to the property owner from the requirements of this Ordinance and may establish a level of maintenance for the property that does not constitute a health, safety or fire hazard.

5. The City Inspector may make a similar application for hillsides, waterways and gullies located on publicly owned property and the City Council may act upon the application according to procedures set forth in this section.

6. A copy of the application to exceed the requirements of this Ordinance shall be mailed by regular U.S. Mail by the City Clerk to all property owners whose property abuts the property that is the subject of the application not less than seven (7) days prior to the City Council meeting at which the application is acted on by the City Council.

7. A property owner or abutting property owner who is aggrieved by the action of the City Council under this subsection shall have the right of appeal to the District Courts if that appeal is taken within thirty (30) days of the action of the City Council upon the application. If the appeal is not filed within thirty (30) days of the action of the City Council, then the applicant and abutting property owner shall have waived all right of appeal of the action of the City Council.

6-20-4 FAILURE TO COMPLY.

1. If the property owner fails to maintain the property as required under this chapter after notice is given as provided in this chapter, the inspector shall order the work to be done by City employees or by a Contractor.

2. The total cost and expense of the work done, including any administrative fees, shall be paid by the property owner. Failure to pay shall result in the cost being assessed against the property for collection in the same manner as a property tax.

6-20-5 NOTICE TO OWNERS.

1. Notice to the owner or person in control of lands within the city subject to the provision of this article shall be as follows: The City Manager or his/her designee shall cause to be published at least once per mowing season (preferably on or before April 15 of each year) in a newspaper of general circulation within the city a notice stating that work of cutting or destroying weeds, vines, brush or other growth is required to be done during the months of May through October, inclusive, and a statement that property owners have three (3) days, not including Saturdays, Sundays, holidays, within which such owners may cause the work to be done. Further, the notice shall state that failure to comply after publication of the notice will result in the work being done by the city, and the costs incurred by the city shall be assessed against the property in the manner provided by law. No further notice shall be required. In addition, this notice shall inform the property owner that he/she has the right to appeal that matter to the City Manager under Title 6, Chapter 20, Section 7.

2. The City may also issue courtesy reminders to property owners as additional notice.

(Ord. 902, Passed 8-3-98)
(Ord. 939, Passed 7-5-02))

6-20-6 BILLING. Each owner shall be sent by first-class U.S. mail to the address noted on the tax rolls of the city a bill for the work performed informing the owner of the cost of such work and the council intent to assess the cost if not paid in ten (10) days to the city clerk. Any bill remaining unpaid after the ten (10) day period may be assessed against the property in the manner provided by law.

(Ord. 939, Passed 7-5-00)

6-20-7 APPEALS.

1. If the property owner objects to the Notice of Action required under this Ordinance or to a statement of costs, the objection shall be filed by the property owner with the City Clerk in writing within seven (7) days of the date of the Notice or Statement. The objection shall be heard by the City Manager or his/her Designee without unnecessary delay and the City Manager shall make a decision regarding the Notice or Statement and shall immediately notify the property owner of the decision in writing. Failure to appeal within the time specified constitutes a waiver of all rights to a hearing.

2. A property owner aggrieved by the decision by the City Manager or his/her Designee may appeal the decision to the City Council by making a request in writing that states the objection to the decision within seven (7) days of the date of the decision. The City Council shall hear the appeal at the next scheduled Council meeting and the City Council may uphold or modify or overrule the decision of the City Manager. An appeal from the decision of the Council must be filed in the District Court within ten (10) days of the date of the Council's decision.

6-20-8 EMERGENCY. If the Inspector determines that a clear and compelling emergency exists, the Inspector may cause the necessary maintenance required under this chapter to be done immediately without prior notification to the property owner. Before the cost of the work can be assessed to the affected property, the property owner shall be notified as provided in this chapter and offered the opportunity to appeal as provided in this chapter.

6-20-9 VIOLATION-PENALTY.

1. It shall be a violation of this Ordinance, and the conditions of owner's property is hereby declared a public nuisance, if a property owner fails to do the action required to remedy a violation of the terms of this Ordinance as stated in the Notice under 6-20-5 of this Ordinance and has failed to state an objection to the Notice as provided 6-20-7.

2. A violation of this chapter shall constitute a municipal infraction. Violators shall be subject to any and all penalties provided for by Maquoketa Ordinance 1-3-1.

(Ord. 1142, Passed June 2, 2018)

6-20-10 SEVERABILITY CLAUSE. If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

6-20-11 REPEALER. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

6-20-12 EFFECTIVE DATE. This Ordinance shall be in full force and effective after its final passage and publication as by law provided.

(Ord. 858, passed 8-7-95)

(Ord. 939, Passed 7-5-02)