

City of Red Oak

Tree Ordinance

Know Your Responsibility

A citizens guide to selecting, planting, and caring for existing trees in Red Oak, Iowa.

Effective date of May 17, 2010

Why Have a Tree Ordinance?

Tree ordinances reflect the value of a community and the worth of a community's trees or "urban forest." A tree ordinance encourages tree planting and care for beautification, air cooling and purification, noise abatement, property value enhancement, wildlife habitat, and other benefits within the community.

For a successful, long-term shade or community forestry program, Iowa communities should develop a tree ordinance. An ordinance is simply legal provisions adopted by the local or community government to provide authority, define responsibility, offer guidance to residents, and establish minimum standards for a community's tree program.

ORDINANCE NO. 543

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RED OAK, IOWA BY AMENDING PROVISIONS PERTAINING TO TREES

BE IT ORDAINED by the City Council of the City of Red Oak, Iowa, that:

SECTION I. SECTION MODIFIED. Chapter 151, Trees, hereby be amended by repealing the chapter in its entirety and adopting the following in lieu thereof:

TREES

151.01 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. Under this ordinance, the primary responsibility for maintaining street trees is placed upon the abutting property owner. The Board, or the Board's designee, shall supervise the cutting or trimming of street trees.

151.02 DEFINITIONS. The following terms shall have the following meanings for use in this chapter:

1. "Board" means the Red Oak Park and Tree Board.
2. "Parking" means that part of the public property or street located outside the lot and property lines and inside the curb lines. On unpaved streets it refers to the area between the lateral lines of the street and the adjacent lot and property lines.
3. "Park Trees" means trees, shrubs, bushes and all other woody vegetation located in public parks or other public areas owned by the city to which the public is granted access either as a matter of right or by permit.
4. "Person" means every natural person, firm, partnership, association, or corporation.
5. "Street" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public either as a matter of right or by permit, for purposes of pedestrian or vehicular traffic, whether self-propelled or moved by human power, including those areas typically referred to as streets, avenues, highways, ways, alleys and recreational trails.
6. "Street Trees" means those trees, shrubs, bushes, or any other woody vegetation located in any part of a street within the city, including the parking.
7. "Stump" means the portion of a tree, shrub, bush or other woody vegetation left in the ground after the upper part and branches of the plant have been removed.
8. "Top" or "Topping" means to severely cut back limbs of a tree to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

151.03 AUTHORITY OF RED OAK PARK AND TREE BOARD

The Red Oak Park and Tree Board shall study, investigate, develop, update and administer a plan for the care, preservation, planting, removal and disposition of street trees and park trees, and trees, shrubs, bushes and all other woody vegetation located in any other public area in the City of Red Oak. Such plan will be presented annually to the Red Oak City Council and upon acceptance and approval shall constitute the official comprehensive city tree plan for the City of Red Oak, however if a new plan is not presented, the existing plan will remain in effect until a new plan is presented and accepted by the City Council, or until the existing plan is formally rescinded by the City Council. The Board, when requested by the City Council, shall consider, investigate, make findings and report and recommendation to the City Council upon any special matter or question coming within the scope of work defined in this ordinance.

151.04 STREET TREE SPECIES PERMITTED AND PROHIBITED

1. Permitted Trees. The City Council, upon advice and consent of the Board, shall adopt by Resolution a list of trees, shrubs, bushes and other woody vegetation allowed to be planted as Street Trees within the City of Red Oak. This list may be amended from time to time but will be adopted pursuant to the authority granted in this ordinance and will be maintained for public use and inspection at City Hall, City of Red Oak, and at such other place and places designated either by the Board, City Council, or the designee of either of said bodies.
2. Prohibited Trees. The City Council upon advice and consent of the Board shall establish by Resolution a list of trees, shrubs, bushes and other woody vegetation prohibited from being planted in any street in the city. This list may be amended from time to time but will be adopted pursuant to the authority granted in this ordinance and will be maintained for public use and inspection at City Hall, City of Red Oak, and at such other place and places designated either by the Board, City Council, or the designee of either of said bodies.

3. Variation. Upon approval of the Board or its designee, an abutting property owner or the city may obtain consent to a variation from either permitted or prohibited street tree planting upon conditions established by the City Council upon advice and consent of the Board if such planting has been designed and approved by a landscape architect licensed under the laws of the State of Iowa or other state. Such variance shall be by permit of the Board and shall include consent to type of species planted and location.

4. Distance from curbs and sidewalks. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size class, and no tree may be planted closer to any curb, curb line, or the lateral line of a roadway where no curb is present, than the following distances:

- A. Small tree, two feet;
- B. Medium tree, three feet;
- C. Large tree, four feet;

5. Distance from street corners and fire hydrants. No street tree shall be planted closer than thirty-five feet to any street corner measured from the point of the nearest intersecting curb, curb line or the lateral lines of the intersecting roads or roadways. No street tree shall be planted closer than ten feet to any fire hydrant.

6. Distance from Utilities. No street tree other than those of the species listed as Small Trees in the Resolution adopted by the City Council pursuant to this ordinance, may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. The abutting property owner shall have the responsibility to assure compliance with this section.

151.05 STREET TREE PLANTING SPECIFICATIONS

No trees, shrubs, bushes or other woody vegetation shall be planted in any street, except in accordance with the following specifications:

1. All trees, shrubs, bushes or other woody vegetation planted in any street shall be planted in the parking midway between the outer line of the sidewalk (line of sidewalk furthest from property line) and the curb line. In the event a curb line is not established, this vegetation shall be planted on a line parallel to and ten feet from the property line.

2. Spacing. The planting of Street Trees will be in accordance with the species size classifications adopted in the Resolution of the City Council establishing Street Trees permitted to be planted. No tree species may be planted closer to another tree than is permitted by the following:

- A. Small trees, thirty feet;
- B. Medium trees, forty feet;
- C. Large trees, fifty feet.

151.06 PUBLIC TREE CARE

1. The city shall have the right to plant, prune, maintain, remove and replace trees, shrubs, bushes and any other vegetation within any street, public park, or any other areas owned by the city, or to which the public has access as a matter of right, as may be necessary to ensure public safety or to preserve, protect or enhance the symmetry and beauty of such public areas. To facilitate this provision, the Board or the city acting on advice and consent of the Board, may remove or cause or order to be removed, any tree, shrub, bush or other woody vegetation, or any part thereof, which is either in an unsafe condition or by reason of its nature is or may be injurious to utilities located either above ground or under ground, or to other public improvements within the street, or which is affected with any disease or injurious insect or other pest.

2. Any property owner desiring to plant a street tree in the street abutting the property owners' property, shall do so in accordance with this ordinance and in accordance with the resolutions adopted by the City Council setting forth those species which are permitted and those which are prohibited, as provided for in Sections 151.04(1) and 151.04(2) of this ordinance.

151.07 TREE TOPPING

It is unlawful for any person to top any street tree, park tree, or other tree on public property within the city. Trees damaged by storms or other causes, or trees located under utility installations or near by other obstructions where pruning practices are impractical may be exempted from this section upon order of the Board on application by an abutting property owner or other interested person.

151.08 DUTY TO TRIM TREES

1. The abutting property owner of any street tree or tree located on the abutting property owner's property overhanging in a street within the city shall prune the branches so that the branches shall neither cover all or any portion of any street land, nor obstruct the view of any street intersection. The abutting property owner shall keep the trees on or overhanging the street trimmed so that all branches are at least fifteen feet (15') above the highest surface of the abutting street and eight feet (8') above the sidewalk.

2. The city shall notify the owner of private property to prune any tree, bush, shrub or other woody vegetation located on private property when such plant interferes with the proper diffusion of light along the street from a street lamp, or interferes with visibility of any street intersection, or with visibility of any traffic control device or sign governing traffic moving on or along the street.

3. The City shall notify the abutting property owner, by written notification letter or by warning citation (fix-it-ticket), of the tree trimming/removal code violation. The initial notification shall give 30 (thirty) days for performance of the necessary trimming/removal. At the conclusion of the 30 days a follow-up review will be done by the City. If the abutting property owner fails to trim the tree or trees on or adjacent to the abutting property owner's property, the city may serve notice on the abutting property owner requiring that such action be taken within five days. If the action is not taken within that time, the city may perform the required action and assess the costs thereof against the abutting property for collection in the same manner as a property tax. The city may accumulate individual assessments under this section and may periodically certify the assessments to the county treasurer under one or more assessment schedules.

4. Without advance permission from the Board, no oak tree species shall be pruned during the period from April 1 to October 1 of any calendar year in order to prevent the spread of Oak Wilt Disease.

5. The city upon advice and consent of the Board may from time to time issue additional orders prohibiting pruning or other maintenance activities on street trees or park trees when necessary to prevent the spread of disease or for other public purpose.

6. It shall be the duty of the city to remove all dead, diseased, or dangerous trees, or broken or decayed limbs within the street or upon other public areas when necessary to protect the safety of the public.

151.09 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

The city shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The Board or city upon advice and consent of the Board shall notify in writing the property owner of the property on which such tree,

shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within sixty days. Notice shall either be given by ordinary mail, by hand delivery, by personal service or by certified mail with return receipt barring the signature of the property owner. In the event the property owner fails to comply with the notice, the city may force compliance by legal process and if granted authority to perform the required action, may there after assess the costs against the property for collection in the same manner as a property tax.

151.10 REMOVAL OF STUMPS

Any stump of any street tree or park tree shall be removed below the surface of the ground so that the top of the portion of the stump does not project above the surface of the surrounding grade.

151.11 INTERFERENCE WITH CITY TREE BOARD

No person shall prevent, delay or interfere with the Board or any of its designees, or the city or any of its employees, designees, or agents while engaged in planting, cultivating, mulching, pruning, spraying, removing, replacing, or otherwise maintaining or repairing any street tree or park tree within the city.

151.12 INSURANCE CERTIFICATE

Any person desiring to engage in the business or occupation of pruning, treating, removing or replacing street trees or park trees within the city, shall first provide to the city evidence of liability insurance with minimum limits of one million dollars each occurrence and two million dollars annual aggregate for bodily injury or property damage endorsed to protect the city, the Board, and each of its officers and members, from claims of personal injury or property damage caused by or resulting from acts of the person in the performance of any such tasks.

151.13 APPEAL

1. If the Board receives a request for hearing on the issue of whether a violation of this ordinance exists on any property within the city, the Board shall schedule same for hearing at any regular or special meeting and shall provide at least ten days advance notice of the hearing to the person making the request for hearing. Notice of hearing shall be given by certified mail with return receipt, hand delivery, personal service in the manner of original notices under the Iowa Rules of Civil Procedure, or regular mail with written acknowledgment or acceptance of notice signed by the person requesting hearing.
2. Upon hearing, the Board shall issue a written order which may require abatement or which may modify the abatement notice. The owner or the owner's representative shall be given the opportunity to present evidence at the hearing, both in writing or by testimony. A copy of the order of the Board upon hearing shall be given to the property owner either by hand delivery, certified mail with return receipt, personal service under in the manner of original notices under the Iowa rules of civil procedure, or by regular mail with written acknowledgement or acceptance of service of the order signed by the recipient.
3. The Board shall keep an accurate summary of the testimony of any witness at the hearing and shall cause the hearing to be audio recorded. Either the Board or the property owner may cause the hearing to be reported by a certified shorthand reporter, if desired. The cost of a certified shorthand reporter shall be paid by the party requesting that service.

4. The property owner may have an adverse decision reviewed by the City Council upon written request delivered to the City Clerk, City Hall, Red Oak, Iowa, within ten (10) days after the date of delivery of a copy of the decision of the Board. Upon request, the City Council shall be delivered a copy of the summary of testimony, audiotape or transcript of the hearing and shall make a final determination based on the record submitted. The decision of the City Council on review of the Board's determination shall be final and if adverse to the property owner, the property owner shall have ten days following the determination of the City Council to perform the act or acts required of the Board, or the property owner may be prosecuted for a violation of this ordinance.

151.14 PENALTY

Any person violating any provision of this ordinance shall upon conviction or admission of violation, be subject to the standard penalty provisions of this Code of Ordinances, or such violation may be prosecuted as a municipal infraction in the discretion of the city.

SECTION II. 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.

SECTION III. WHEN EFFECTIVE

This Ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed this 17th day of May, 2010

RESOLUTION NO. 2010-18

RESOLUTION AND ORDER DESIGNATING TREE SPECIES PROHIBITED AS STREET TREES AND PARK TREES WITHIN THE CITY OF RED OAK

BE IT RESOLVED, by the Park and Tree Board of the City of Red Oak, Iowa:

WHEREAS, the Park and Tree Board has considered various tree species prohibited to be planted as street trees and park trees referred to in Chapter 151, Code of Ordinances, City of Red Oak, Iowa, and has determined the species not allowed for such planning due to susceptibility to insects, disease, severe storm damage or other problems;

NOW, THEREFORE BE IT RESOLVED that the following tree species are prohibited as street trees and park trees within the City of Red Oak, Iowa:

All Ash Trees	American Elm	Mulberry
Black Locust	Bolleana Poplar	Siberian (Chinese) Elm
Boxelder	Tree of Heaven	Weeping Birch
White Poplar	Scotch Pine	Austrian Pine
Lombardy Poplar	Any Fruit Bearing Tree	Norway Maple
Cotton Bearing Cottonwood	Silver Maple	Russian Olive
Any other Evergreen (conifer)***	Willows	

***Prohibited only as street trees

BE IT FURTHER RESOLVED that the City Clerk of the City of Red Oak shall make a copy of this Resolution and Order available to any person requesting permission to plant either a street tree or a park tree within the city and shall further notify the person of the existence of Chapter 151 of the Code of Ordinances.

BE IT FURTHER RESOLVED, that in the event any person planting or desiring to plant a street tree or a park tree within the city fails to comply with this Resolution and order such person may be prosecuted for a violation of Chapter 151 of the Code of Ordinances, or its successor, and upon conviction shall be punished accordingly.

RESOLUTION NO. 2010-17

RESOLUTION AND ORDER DESIGNATING TREE SPECIES PERMITTED AS STREET TREES AND PARK TREES WITHIN THE CITY OF RED OAK

BE IT RESOLVED, by the Park and Tree Board of the City of Red Oak, Iowa:

WHEREAS, the Park and Tree Board has considered various tree species allowed to be planted as street trees and park trees referred to in Chapter 151, Code of Ordinances, City of Red Oak, Iowa, and has determined the proper species to be permitted for such planting;

NOW, THEREFORE BE IT RESOLVED that the following tree species are permitted as street trees and park trees within the City of Red Oak, Iowa:

SMALL TREES	MEDIUM TREES	LARGE TREES
Flowering Peach	Shingle Oak	Red Oak
Redbud	American Yellowwood	Bur Oak
Bradford Pear	Linden (Basswood)	Ohio Buckeye
Flowering Crabapple***	Basswood	Sycamore
Amur Maple	Flowering Pears	Black Maple
American Hornbeam	Chinkapin Oak	Kentucky Coffeetree
Pagoda Dogwood		Thornless Honey Locust
Japanese Lilac Tree		White Oak
		Swamp White Oak
		London Planetree

***Flowering Crabapple trees must be scab, fire blight, and cedar apple rust resistant. It is also recommended that they be fruitless varieties.

BE IT FURTHER RESOLVED that persons desiring to plant either street trees or park trees within the City of Red Oak, Iowa, are hereby directed and ordered to make such plantings in accordance with the foregoing table of permitted species, and in keeping with all other provisions of Chapter 151 of the Code of Ordinances of the City of Red Oak;

BE IT FURTHER RESOLVED that the City Clerk of the City of Red Oak shall make a copy of this Resolution and Order available to any person requesting permission to plant either a street tree or a park tree within the city and shall further notify the person of the existence of Chapter 151 of the Code of Ordinances.

BE IT FURTHER RESOLVED, that in the event any person planting or desiring to plant a street tree or a park tree within the city fails to comply with this Resolution and order such person may be prosecuted for a violation of Chapter 151 of the Code of Ordinances, or its successor, and upon conviction shall be punished accordingly.

CONDITION OF TREES

Street tree conditions as defined the DNR foresters are the following categories:

GOOD

Trees fit into the good category if they fit some or all of the following characteristics:

- Limited need for pruning
- solid trunk, no appearance of internal decay, no mower damage
- good branch structure.

FAIR

Trees fit into the fair category if they fit some or all of the following characteristics:

- need for pruning due to poor structure and/or safety clearance
- limited decay in trunk and dieback of crown (less than 20%)
- large tree planted under power line
- mower damage on trunk of tree

POOR

Trees fit into the poor category if they fit some or all of the following characteristics:

- multi-stemmed tree with included bark on main portion of the stem, and difficult to repair with pruning
- appearance of significant internal decay in trunk
- dieback of crown between 20% and 45%
- severely pruned due to location under power lines
- severe mechanical damage caused by mowers

DEAD/DYING

- A tree with greater than 45% crown dieback.

DNR COMMENTS CONCERNING TREES IN RED OAK

Tree topping is evident in Red Oak. This poor practice is due to faulty tree placement under wires and attempts to decrease tree size following storm damage. It is important to educate both public officials and private homeowners about proper tree placement and proper pruning techniques - tree topping is not an accepted form of proper pruning. Topping can shorten the life of the tree, introduce internal decay creating a future hazard tree situation. If necessary, ban the practice of tree topping of public trees that are not underneath utility wires through a section in the tree ordinance.

Apply wood chip mulch to all new tree plantings over the last two years. This helps conserve soil moisture, reduce mower damage, and reduce turf grass and weeds. Mulch should not contact the tree trunk and be no more than 4" deep. Mulch donut rings are the best while volcanoes cause long term damage to trees. Refer to ISU Community Tree Planting and Care Guide.

Hold annual tree care workshop for homeowners and public works employees

Expand a public education program in Red Oak to encourage private homeowners to select and care for trees in their yards through community workshops, news stories, demonstration projects, enlisting youth group, etc.

A tree ordinance is designed to protect your rights to have a healthy tree!