

## ORDINANCE 1973

### AN ORDINANCE AMENDING CHAPTER 150 (STREET USE AND MAINTENANCE) AND CHAPTER 166 (TREES) OF THE MUNICIPAL CODE OF THE CITY OF ANKENY, IOWA TO UPDATE THE REQUIREMENTS FOR THE MAINTENANCE OF TREES AND IRRIGATION LINES WITHIN THE STREET RIGHTS-OF-WAY.

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**BE IT ORDAINED**, by the City Council of the City of Ankeny, Iowa, that:

**Section 1.** Section 150.09 MAINTENANCE OF PARKING OR TERRACE of the Chapter 150 is hereby amended by removing the existing heading and paragraph within this section and replacing it with the following:

#### **150.09 MAINTENANCE OF PARKING**

1. For use in this chapter, “parking” means that part of the public right-of-way in the City not covered by the sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the public right-of-way lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. It shall be the responsibility of the abutting property owner to maintain all property within the parking, except that the abutting property owner shall not be required to remove dead, diseased, or dying trees on the publicly owned property. Maintenance includes, but is not limited to, timely mowing, trimming of trees and shrubs, removing tree debris, and removing litter.
3. Underground irrigation systems are allowed in the parking with the understanding that it is at the abutting property owner’s risk. Any maintenance, repair, or replacement of the irrigation system caused by City maintenance or construction activities within the parking will be the responsibility of and at the expense of the abutting property owner.

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

**Section 2.** The table of contents for CHAPTER 166 TREES is hereby amended by removing the seven (7) entries and replacing them with the following eight (8) entries:

- 166.01 Definition**
- 166.02 Permit Required**
- 166.03 Permit Application**
- 166.04 Permit Plans Required**
- 166.05 Permit Specifications**
- 166.06 Permit Inspection**
- 166.07 Duty to Trim Trees**
- 166.08 Inspection and Removal**

**Section 3.** Section 166.01 DEFINITION is hereby amended by removing this section and replacing it with the following new section:

**166.01 DEFINITION.** For use in this chapter, “parking” means that part of the public right-of-way in the City not covered by the sidewalk and lying between the lot line and the curb line; or, on streets without curbs, that part of the public right-of-way lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**Section 4.** Section 166.02 PLANTING RESTRICTIONS is hereby amended by removing this section and replacing it with the following new section:

**166.02 PERMIT REQUIRED.** It is unlawful for any person to commence or proceed with the planting of any tree within the parking, without first obtaining a permit therefor.

**Section 5.** Section 166.03 PERMIT REQUIRED is hereby amended by removing this section and replacing it with the following new section:

**166.03 PERMIT APPLICATION.** The application for a permit for the planting of any tree within the parking, as provided in this chapter, shall be made by the owner, duly authorized in writing, or by his or her agent to the Public Works Director or designee.

**Section 6.** Section 166.04 DUTY TO TRIM TREES is hereby amended by removing this section and replacing it with the following new section:

**166.04 PERMIT PLANS REQUIRED.** Before the issuance of the permit required by this chapter, the applicant therefor shall submit with the application in a form satisfactory to the City, a plan of the work as proposed to be made, showing in detail the type of tree and its location along the street with reference to the street, sidewalk, driveway, any light poles, traffic signs, fire hydrants, mailboxes, and property lines. No permit shall be issued until such plans are filed with the Public Works Director or designee and approved by the City.

**Section 7.** Section 166.05 TRIMMING TREES TO BE SUPERVISED is hereby amended by removing this section and replacing it with the following new section:

**166.05 PERMIT SPECIFICATIONS.** The minimum tree diameter size, minimum planting area, tree alignment, tree separation, and allowed street trees shall be defined in the Street Tree Planting Permit Guidelines.

**Section 8.** Section 166.06 DISEASE CONTROL is hereby amended by removing this section and replacing it with the following new section:

**166.06 PERMIT INSPECTION.** All trees planted in the parking shall be planted in compliance with the Street Tree Planting Permit Guidelines. The applicant shall notify the Public Works Director or designee after proposed tree locations have been marked, for the City to inspect.

**Section 9.** Section 166.07 INSPECTION AND REMOVAL is hereby amended by removing this section and replacing it with the following new section:

**166.07 DUTY TO TRIM TREES.** The owner or agent of property abutting public right-of-way shall keep any trees, shrubs, or other plantings overhanging the street, alley, or sidewalk trimmed so that all branches will be at least fifteen (15) feet above the surface of the street or alley and eight (8) feet above the surface of the sidewalk. If the abutting property owner fails to trim the trees, shrubs, or other plantings, the City shall follow the Nuisance Abatement Procedures (see Chapter 50).

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

**Section 10.** Chapter 166 TREES is hereby amended by creating a new Section 166.08 INSPECTION AND REMOVAL as follows:

**166.08 INSPECTION AND REMOVAL.** The Public Works Director or designee shall inspect or cause to be inspected any trees in the public right-of-way reported or suspected to be dead, diseased or dying, and such trees may be removed by the City. The Public Works Director or designee may also order the removal of any trees in the parking which interfere with the making of improvements or with travel thereon.

(Code of Iowa, Sec. 364.12[3b & h])

**Section 11.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 12.** This ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

**PASSED** at Ankeny, Iowa, this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Gary Lorenz, Mayor

**ATTEST:**

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Debra M. Arend, Interim City Clerk

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