CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: **December 12, 2016**

ITEM:

First reading of proposed Amendment to Title 7, "Public Ways and Property", Chapter 10, "Trees and Shrubs", Section 7, "General Standards" of the City Code of the City of West Des Moines, Iowa.

FINANCIAL IMPACT:

With the approval of this amendment, the City will assume responsibility for the maintenance of City owned trees in the City rights-of-way. The Parks and Recreation staff conducted a financial analysis that indicated benefits in having the City assume the maintenance responsibilities of these City owned trees. While there will be financial costs with regards to City staff and equipment maintaining the trees, the financial analysis indicated an actual savings when compared to the current process. The Finance and Administration Sub-Committee approved the recommendation and the purchase of an aerial lift unit to allow this maintenance to be performed.

BACKGROUND:

In the past, maintenance of City owned trees planted in the City rights-of-way has been the responsibility of the adjacent property owner. While by Iowa law trees that are dead, diseased or dying are the responsibility of the City, current code required the adjacent property owner to trim the tree to required street and sidewalk clearances and other maintenance related responsibilities. Oftentimes trees that have not been trimmed for clearance, create both hazards and nuisances for pedestrians and vehicular traffic. In particular they can significantly impede maintenance activities such as solid waste collection, street sweeping and snow removal.

Currently the adjacent property owner is responsible for maintaining trees in the City rights-of-way. If trees are not in compliance the adjacent property owner is sent a certified letter notifying them of what maintenance needs to be completed within a 30 day period. If the work is not performed the City then conducts the maintenance and the property owner is billed for the maintenance that is performed. Council action on this amendment will allow the City to assume all maintenance associated with City owned trees in City rights-of-way.

The Public Services Sub-Committee approved this proposed amendment to the City Code at its meeting held on December 5, 2016.

OUTSTANDING ISSUES (if any): None

RECOMMENDATION:

It is recommended that the City Council approve of the first reading of this proposed Amendment.

Lead Staff Member: **Bret Hodne**

STAFF REVIEWS

Department Director	Bret Hodne, Public Works Director RBH
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Jason Wittgraf, Assistant City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Services/F&A		
Date Reviewed	December 5, 2016		
Recommendation	**Yes**	No	Split

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ORDINANCE NO._____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 7, "PUBLIC WAYS AND PROPERTY", CHAPTER 10, "TREES AND SHRUBS", SECTION 7 "GENERAL STANDARDS"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1: Title 7, Chapter 10, Section 7 is hereby amended by deleting ~~strike through~~ text and adding underline text.

7-10-7: GENERAL STANDARDS:

Any person growing a tree~~,~~ or shrub on private property, or growing a tree, shrub, garden, or other vegetative growth, or installing landscaping, structures, or other objects located within private property which encroaches upon the public right of way or that interferes with the vision triangle as provided in this code, or any person growing a public tree or shrub, shall comply with the following standards:

A. Maintenance: ~~Public trees~~ Trees or shrubs ~~located~~ planted within the public right of way that extend over public streets or sidewalks, or that obstruct traffic signs or public utilities, shall be maintained by the city. Trees or shrubs planted on private property that extend over public streets or sidewalks, or obstruct traffic signs or public utilities, shall be maintained by owners of abutting property in accordance with this section and the "City Forestry Standards of Practice and Specifications" at the cost of the property owner. Maintenance includes, but is not limited to, watering, fertilizing, insect and disease control, treatment, and pruning. The city reserves the right to perform maintenance of private or public trees or shrubs that are planted or extend into the public right of way without notice or compensation to the abutting property owner if the city forester determines that such maintenance is necessary to promote and protect the public health, safety, and general welfare. ~~The city may perform maintenance of trees and shrubs located within the public right of way at the discretion of the city forester.~~

B. Pruning: Subject to the maintenance responsibility provisions cited above, trees ~~Trees~~ or shrubs ~~in the public right of way~~ shall be properly pruned ~~by the abutting property owner and trees or shrubs on private property shall be properly pruned by the property owner~~ for the purpose of preventing the following potentially hazardous situations: The obstruction of traffic signs; the obstruction of a clear view of street and alley intersections; the obstruction of the proper lighting of public streets and places; and the obstruction of public walks, trails, or streets. The minimum vertical clearance of trees and shrubs shall be fourteen feet (14') between the surface of a street and the lowest branch. The minimum vertical clearance shall be eight feet (8') between the surface of a sidewalk, trail, or other pedestrian way and the lowest branch. All pruning shall be done in accordance with the "City Forestry Standards of Practice and Specifications". ~~The city may perform pruning of public trees or shrubs at the discretion of the city forester.~~

C. Avoid Damage or Nuisance: The planting of trees, shrubs, gardens, or other vegetative growth, or the installation of landscaping, structures, or other objects on private property which would cause a public danger or nuisance shall be prohibited.

D. Street or Alley Intersection: The planting of trees, shrubs, gardens, or other vegetative growth, or the installation of landscaping, structures, or other objects on corner lots or lots adjacent to an alley within the area bounded by street or alley lines of such lots and a line joining points along said street or alley lines twenty five feet (25') from the point of intersection of the public right of way lines, defined in this code as the "vision triangle", shall be limited to trees, shrubs, gardens, and other vegetative growth, and landscaping, structures, and other objects located within this area that shall not exceed two feet (2') in height, and the lowest branches of any trees planted outside of this area, but the branches of such trees that extend within this area, must be a minimum of ten feet (10') in height. Height shall be measured from the curb elevation and trees, shrubs, gardens, and other vegetative growth must be pruned or maintained to comply with these height restrictions to create an unobstructed view of the intersection between heights of two feet (2') and ten feet (10') above the curb elevation. Notwithstanding these height restrictions, no trees, shrubs, gardens, or other vegetative growth shall be planted within the vision triangle that create or constitute a vision obstruction to vehicular, bicycle, or pedestrian traffic. Similarly, no landscaping, structures, or other objects shall be placed within the vision triangle that create or constitute a vision obstruction to vehicular, bicycle, or pedestrian traffic. The city shall have sole discretion to determine whether a vision obstruction exists for vehicular, bicycle, and pedestrian traffic. There shall be no compensation by the city to the affected property owner for any damage to or removal of any trees, shrubs, gardens, or other vegetative growth, or any damage to or removal of landscaping, structures, or other objects, encroaching upon the public right of way or that interferes with the "vision triangle" as defined in this code.

E. Dead, Diseased, or Insect Ridden Trees or Shrubs: Dead, diseased, or insect ridden trees or shrubs shall be subject to the following conditions:
1. Public Trees or Shrubs: The city forester shall coordinate treatment or removal of any public tree or shrub which is so hazardous, diseased or insect ridden as to be deemed a nuisance and constitutes a hazard to other trees or shrubs or the public safety. Public trees that are at risk of becoming diseased or insect ridden may be treated or preemptively removed by the city as part of a management plan approved by the city council. Trees in the public right of way not identified for treatment by the city and not deemed a nuisance or a hazard may be treated by the abutting property owner with an approved permit.
2. Trees or Shrubs Located within Private Property: The code enforcement officer shall provide written notice to be served on a property owner by personal service, or by certified mail with return receipt requested and regular mail, requiring the treatment or removal within fourteen (14) calendar days of notification of any trees or shrubs located within private property which are dead, diseased or insect ridden so as to be deemed a nuisance and constitute a hazard to public trees or shrubs, other trees or shrubs on private property, or public safety. Such removal, pruning, or treatment as required by provisions of this section shall be subject to the applicable "City Forestry Standards of Practice and Specifications".

F. Prohibited Trees: Trees prohibited from being planted within public property shall be identified by the city forester and included on an official list. Copies of this list shall be made available at city offices and on the city website.

G. Appropriate Trees: <u>Any tree planted in the public right of way must first meet all requirements listed in the city's tree planting permit.</u> Trees appropriate to be planted within the public right of way are those listed in the most recent edition of Iowa State University's extension bulletin Pm-

1429e "Street Trees" and Pm-1429d "Low-Growing Trees For Urban And Rural Iowa". Copies of these lists are available at city offices and through the Polk County extension office. Other trees or shrubs not listed within these publications, but not prohibited, may be reviewed and approved at the discretion of the city forester.

SECTION 2. REPEALER. All Ordinances or parts of Ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. SAVINGS CLAUSE. If any section, provision, sentence, clause, phrase, 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 provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

PASSED AND APPROVED this _____ day of _____, 2016.

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Steven K. Gaer, Mayor

ATTEST:

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Ryan T. Jacobson, City Clerk