

CHAPTER 32

VEGETATION

Art. I. In General, §32-1100

Art. II. Trees, §32-2100 - §32-2111

ARTICLE I. IN GENERAL

SEC. 32-1100. WEED ABATEMENT.

(a) **Purpose.** The purpose of this section is to protect the public health, safety, and welfare by preventing the spread of noxious weeds and other plants releasing dangerous pollens into the atmosphere, by reducing the danger of conflagration by fire or explosion, by reducing obstruction to vision of the traveling public from weeds and grasses and shrubbery, and by preventing blighting influences to neighborhoods that uncontrolled and unkempt weeds and grasses and shrubbery present.

(b) **Definitions.** The terms and phrases as used in this section shall be construed according to their commonly accepted meanings except that the following terms and phrases shall have the meaning ascribed to them herein:

- (1) **Agricultural or farm land** shall mean the same as that assigned to "farm" in Sec. 35-1102(b)(55) of the Moline Zoning Ordinance.
- (2) **Ground cover** shall mean any plant whose horizontal dimension tends to exceed its vertical dimension and which is easily propagated without the benefit of windy or downy seeds or the release of harmful pollens into the atmosphere and is generally used because grass is difficult to propagate at the site.
- (3) **Noxious weed** shall mean any plant declared by the State of Illinois to be a noxious weed pursuant to 505 ILCS 100/1 et seq.
- (4) **Open space** shall mean any land more than two (2) acres in area and used actually and exclusively for maintaining or enhancing natural or scenic resources, protects air or streams or water supplies, promotes conservation of soil, wetlands, beaches, or marshes, including ground cover or planted perennial grasses, trees and shrubs and other natural perennial growth trees and shrubs, and including any body of water, whether man-made or natural, conserves landscaped areas, such as public or private golf courses, enhances the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, or preserves historic sites. Land is not used for open space purposes within the meaning of this section if it is used primarily for residential purposes.
- (5) **Owner** shall have the same meaning as ascribed to it in Sec. 1-1101 of the Moline Code of Ordinances; however, when the area over which ownership is alleged is public right-of-way which is unimproved or which is commonly known as the boulevard or parkway, "owner" shall mean the owner of the real property immediately adjacent or abutting thereto.
- (6) **Property** shall mean all real property as defined in Section 1-1101 of the Moline Code of Ordinances and shall also include within its definition the area of public right-of-way immediately adjacent to or abutting said real property which right-of-way is unimproved or is commonly known as the boulevard or parkway.

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- (7) **Tenant or occupant** shall have the same meaning as ascribed to them in Sec. 1-1101 of the Moline Code of Ordinances, however, when the area over which tenancy or occupation is alleged is public right-of-way which is unimproved or which is commonly known as the boulevard or parkway, "tenant" or "occupant" shall mean the tenant or occupant of the real property immediately adjacent or abutting thereto.

(c) **Declaration of Nuisance.** All noxious weeds are hereby declared a public nuisance. In addition, all other weeds and grass allowed to grow to a height of more than ten inches (10") are hereby declared a nuisance, and all shrubbery growing on or standing uncut or otherwise uncontrolled on any property so as to constitute an obstruction to the traveling public in the City is hereby declared a public nuisance. No owner, lessee, or occupant of any property within the City shall allow any such public nuisances to exist or grow on said property or property controlled by such person(s). (Ord. No. 2002-03-03; Sec. 32-1100 (c) repealed; new Sec. 32-1100 enacted; 03/19/02)

(d) **Exceptions.** Subsection (c) above, except for the provision dealing with noxious weeds, shall not apply to agricultural or farm land or open space; shall not apply to ground cover; and shall not apply to areas such as ravines, terraced slopes, and other areas with steep slopes on which sound erosion control practices would require the propagation of dense vegetation.

- (e) **Notice to Abate.**

- (1) Once per week for two consecutive weeks in the month of April, and once per week for two consecutive weeks in the month of May, of each year, the City shall cause to be published in a newspaper of general circulation in the City, a public notice, published in advertising format in the following or a substantially similar form:

“CITY OF MOLINE PUBLIC NOTICE OF WEEDS, GRASS AND SHRUBBERY NUISANCE VIOLATIONS AND ABATEMENT”

The City of Moline asks that all property owners, tenants and occupants please take notice of the following provisions set forth in Section 32-1100 of the Moline Code of Ordinances governing weed, grass and shrubbery nuisances:

- 1) All noxious weeds are declared a nuisance;
- 2) All weeds and grass allowed to grow to a height of more than ten (10) inches are declared a nuisance;
- 3) All shrubbery growing or standing uncut or otherwise uncontrolled on property so as to constitute an obstruction to the traveling public are declared a nuisance.

If the City observes such nuisances, it will send one written notice to the property owner, tenant or occupant describing the property and directing the owner, tenant or occupant to remove the nuisance within seven (7) days from the notice's date. If the nuisance is not removed, the City will remove the nuisance and assess a one hundred dollar (\$100.00) administrative fine plus the actual costs of removal against the owner, lesser or occupant, and additionally the City may initiate an ordinance violation prosecution in Circuit Court or before the Rock Island County Code Enforcement System. If a second violation occurs within the same calendar year, the City will take action to abate the nuisance without sending notice to the owner, tenant or occupant, and the same costs, fines and penalties will be assessed.

- (2) Any officer or employee of the City charged with the duty to inspect public rights-of-way or private property or housing or dangerous buildings, upon observing the existence of such a public nuisance or any plants located on property so as to constitute an obstruction to the vision of the traveling public, shall have the duty to issue to the owner, tenant, or occupant of property upon which such public nuisance exists or such plants are located a written notice entitled "Notice to Abate Public

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Nuisance.” The person issuing the notice shall provide a copy of same to the City’s building official. The notice shall describe the property upon which such public nuisance or obstruction exists and shall describe the nature of the public nuisance or obstruction and shall direct the owner, tenant, or occupant to abate the public nuisance or obstruction within seven (7) days from the date of the notice, or as hereinafter provided. In addition to the public notice set forth in subsection (1) above, the first notice to the owner, tenant, or occupant in a calendar year shall be the only notice provided before the City takes action to spray, cut or otherwise remove weeds, grass or shrubbery in violation of this section. The notice shall contain the following or a substantially similar warning:

"In addition to the public notice published in the newspaper during April and May of this year, this notice shall serve as the City's sole notice to you that if there are any additional occurrences of the growth of weeds and grass in excess of ten (10) inches in height, or any other public nuisance as defined under Sec. 32-1100 (c), "Declaration of Public Nuisance," such public nuisance or obstruction will be cut, sprayed or otherwise removed at the direction of the Code Compliance Division and the owner, tenant, or occupant will be assessed the cost of same as provided in Sec. 32-1100(i) without any additional or further notice and without any further waiting period after the complaint has been received by the Code Compliance Division.

“PLEASE TAKE NOTICE AND GUIDE YOURSELF ACCORDINGLY”

- (3) Upon the issuance of one (1) notice to abate to the property owner, tenant or occupant in one (1) calendar year, the City has the option, but is not required, to file suit in the Rock Island County Circuit Court, praying for a judicial determination that upon subsequent violations of Sec. 32-1100 no additional notices by the City are required prior to affecting compliance by cutting, spraying, or otherwise removing, at the direction of the code compliance division, and the owner, tenant, or occupant will be assessed the cost of same as provided in Sec. 32-1100(i). (Ord. No. 2002-03-03; Sec. 32-1100 (e) repealed; new Sec. 32-1100 (e) enacted; 03/19/02; Ord No. 3020-2005; Sec. 32-1100(e) repealed; new Sec. 32-1100(e) enacted; 02/22/05)
- (f) **Service of Notice.**
 - (1) The notice of violation under this section shall be made in person to the owner, if the property upon which a public nuisance/obstruction exists is occupied, by such officer or employee during regular business hours of City Hall, or by mailing (by certified mail, postage prepaid) to the record owner, tenant or occupant at the address of the property upon which said nuisance/obstruction exists. However, if the property upon which the public nuisance/obstruction exists is vacant or unoccupied, such officer or employee shall serve said notice upon the record owner or tenant by addressing and mailing said notice, as provided above, to the record owner or tenant at said owner or tenant's last known address, if such can be ascertained upon due diligence. If either the name or last known address of the owner or tenant of vacant or unoccupied property upon which public nuisance exists cannot be ascertained upon due diligence, service of said notice shall be made by posting the notice on the property.
 - (2) All notices of intention to pursue the matter under subsection (e)(3) above shall be made in accordance with service as provided under the Illinois Compiled Statutes, Chapter 735, Sections 5/201 through 5/213 or amendments thereto. Upon failure of the property owner to appear at a hearing for judicial determination, the City shall send a copy of said judicial determination to the property owner at the last known address of said property owner.
- (g) **City abatement.** Should said owner, tenant, or occupant fail to abate the public nuisance within the seven (7) day period provided for in the notice, the building official or his or her designee shall be authorized to enter upon the property upon which said public nuisance exists to abate same and shall be authorized to cut, spray, or otherwise remove the public nuisance and to perform any clean-up, removal of junk, or any other thing preparatory thereto. Should the public nuisance recur on the property within the same calendar year, the building official or his or

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her designee shall be authorized to take the action described herein without the necessity of additional notice to the owner, tenant or occupant.

(h) **Building Official authorized to contract for same.** The building official or designee may execute annual contracts in order to provide for City abatement as provided for in subsection (g) above; provided the fees charged shall be based upon an easily recognizable unit such as per hour or per square foot and the special charges for extra work are clearly identified. A minimum charge shall be permitted, however.

(i) **Liability for costs incurred by abatement.** The owner, tenant, and occupant shall be jointly and severally liable to the City for the actual costs (including without limitation the contract fee plus any fees for record searches) incurred by it in abating the nuisance and shall also be liable for an administrative fee of one hundred dollars (\$100.00). In addition to these fees, they shall be jointly and severally liable for a late payment fee of three dollars (\$3.00) for each month said amounts remain unpaid, if not paid within thirty (30) days from the first billing.

(j) **Violation and penalty.** Any owner, tenant, or occupant of property within the City who fails to abate any nuisance described in the notice to abate public nuisance within the time prescribed therein shall be guilty of an offense which shall be punishable as set forth in Sec. 1-1107 of the Moline Code of Ordinances or by referral to the Rock Island County Code Enforcement System pursuant to Article VI of Chapter 2 of the Moline Code of Ordinances. (Ord. No. 2001-06-03; Sec. 32-1100(e), (f), (g), (h), (i), and (j) repealed; new Sec. 32-1100(e), (f), (g), (h), (i), and (j) enacted; 06/05/01)

ARTICLE II. TREES

SEC. 32-2100. DEFINITIONS.

For the purpose of this chapter, the following definitions are adopted:

- (1) **Arboricultural Specifications and Standards of Practice for Moline** (hereinafter "Arboricultural Specifications Manual). A manual prepared by the City of Moline Park and Recreation Board pursuant to the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon City-owned property.
- (2) **Park and Recreation Board**. The City of Moline Park and Recreation Board or its assigned representatives.
- (3) **City-owned property**. Property within the City limits of Moline, Illinois, and:
 - a. owned by the City in fee simple absolute; or
 - b. implied or expressly dedicated to the public for present or future use for purposes of vehicular pedestrian traffic, or for public easements; or
 - c. any street, alley, parkway, boulevard or public right-of-way.
- (4) **Premises**. Any lot or tract of land within the City of Moline now owned by said City or dedicated for public use.
- (5) **Property owner**. The record owner or contract purchaser of any parcel of land.
- (6) **Trees, shrubs and other plants**. All vegetation, woody or otherwise, except lawn grass and flowers less than twenty-four (24) inches in height, but specifically including stumps and any wood piles consisting of portions of any such tree.
- (7) **Urban Forestry Plan**. A document prepared by the Park and Recreation Board which outlines and describes the urban forestry activities (tree inventory, plantings, tree removals, beautification projects and educational projects) to be undertaken by the City during the next five (5) years. It includes the

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reasons for those activities, the possible funding source(s), the means of accomplishing the activities, alternatives to the City to fund or accomplish the activity, the projected dates of completion and the consequences if the activity is not completed.

- (8) **License.** Authorization from the City for a person, association or company engaged in the business of cutting or pruning of trees, to complete tree work within the City.
- (9) **Dangerous tree.** Any tree which overhangs any sidewalk, street or other public place in such a way as to impede or interfere with traffic or travel on such public place, or any limb of a tree growing on private property which, in the Park and Recreation Board's view, has become likely to fall on or across any public way or place.
- (10) **Licensing procedures.** A document prepared by the Park Board outlining the rules, regulations and application requirements in the issuance of a tree license to a person, association or company.
- (11) **Public Nuisance and Abatement Declaration.** A document prepared by the Park and Recreation Board outlining those instances where public nuisances may be declared and prescribing the means for the abatement of those nuisances. (Ord. No. 3018-2008; Sec. 32-2100(11), "Permitting Process," repealed and subsection (12) renumbered to subsection (11); 03/04/08)

SEC. 32-2101. PARK AND RECREATION BOARD.

The Park and Recreation Board or its designee, among its duties as required elsewhere, shall:

- (1) Supervise the care of all trees and all other woody plants growing on City-owned property.
- (2) Provide for such care through the park and recreation department and its representatives.
- (3) Develop, and each subsequent year, update the Urban Forestry Plan.
- (4) Develop and periodically review and revise, as necessary, the Arboricultural Specifications Manual.
- (5) Cause the Urban Forestry Plan and the Arboricultural Specifications Manual, and all amendments and revisions to it, to be published and made available for public inspection in the office of the city clerk. Notice that such information is available for public inspection shall be published in a newspaper of general circulation in Moline.
- (6) Administer the Urban Forestry Plan, this chapter, and the provisions of the Arboricultural Specifications Manual.
- (7) Perform whatever acts are necessary, to include the planting and maintenance of trees; the removal of undesirable trees, shrubs and other plants located on City property; and shall ensure that all trees, shrubs and other plants located on such property conform with the Urban Forestry Plan, the Arboricultural Specifications Manual and this chapter. Pursuant to this duty, the Park and Recreation Board's designee, in accordance with normal City procedures regarding contracts, may arrange contractual agreements.
- (8) Establish a program of public information and education that will encourage the planting, maintenance or removal of trees, shrubs and other plants on private property in the furtherance of the goals of the Urban Forestry Plan.
- (9) Not allow any work to be performed on any woody plant on City-owned property, without its prior written permission.

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- (10) Upon the request of any person who disagrees with the decision of the park and recreation department regarding City forestry work, shall hear all issues of disputes which arise between the City and any person whenever those issues involve matters or the interpretation or enforcement of this chapter. The decision of the majority of the appointed members of the park and recreation board with regard to such dispute shall be binding upon the City. Nothing in this section shall be construed to limit the jurisdiction of any court of law with respect to such dispute.
- (11) Develop and periodically review and revise, as necessary, the Licensing Procedures Document, the Permitting Process Document and the Public Nuisance and Abatement Declaration Document. (Ord. No. 3018-2008; Sec. 32-2101(8) re: permits repealed and the remaining subsections consecutively renumbered; 03/04/08)

SEC. 32-2102. LICENSES.

(a) No person/association/company engaged in the business of cutting or pruning of trees, shall remove, cut or prune any tree or shrub standing in any street, alley, parkway, boulevard or other public place or on private property, whether commercial or residential, in the City without first obtaining a license therefor from the Finance Department. Persons doing trimming on their own property shall be exempt from this license.

(b) All licenses required shall have an annual fee of fifty dollars (\$50.00.)

(c) All license applications shall conform to the Licensing Procedures and Guidelines document and shall conform to all standards identified in the Arboricultural Specifications Manual.

(d) No license shall be issued without evidence that applicant has in effect insurance by a reputable insurance company (requires an A- or Better Best rating for writing insurance) authorized to do business in the State of Illinois, covering public liability of five hundred thousand dollars (\$500,000) each occurrence and one million dollars (\$1,000,000) total annual aggregate limit with coverage to include bodily injury, property damage, personal injury, and advertising injury. In addition, thereto, said applicant shall show sufficient evidence of insurance coverage for worker's compensation claims. Said insurance coverage shall be kept in effect at all times while said licensee is engaged in the business as aforesaid within the City.

(e) The provisions of this section shall not apply to:

- (1) The United States of America, the State of Illinois, Rock Island County, or the City of Moline or any department, bureau or agency of any of the foregoing.
- (2) Any person who engages in trimming exclusively on his own premises.
- (3) Any public utility, including its authorized employees and agents, when engaged in tree trimming for the purpose of line clearance and in order to ensure the continuity of utility service to the public. (Ord. No. 2002-06-19; Sec. 31-2102 repealed; new Sec. 31-2102 enacted; 06/25/02)

SEC. 32-2103. RESERVED.

(Ord. No. 2002-06-19; Sec. 32-2103 (a) repealed; new Sec. 32-2103 (a) enacted; 06/25/02; Ord. No. 3018-2008; Sec. 32-2103 repealed in its entirety and section reserved for future use; 03/04/08)

SEC. 32-2104. OBSTRUCTIONS TO TREES.

(a) It shall be unlawful to attach any sign, advertisement or notice to any tree in any street, parkway or other public place.

(b) It shall be unlawful to attach any wire or rope or other foreign object to any tree without permission of the park and recreation board or its designee.

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(c) Any person or company given the right to maintain poles and wires in the streets, alleys or other public places in the City shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees in such places so far as may be possible, and shall keep all such trees properly trimmed and subject to the supervision of the park and recreation board or its designee, so that no injury shall be done to the poles or wires and trees by contact.

(d) Any person or company maintaining any gas pipe in the City shall, in the absence of provision in the franchise concerning the subject, keep such pipes from leaks.

SEC. 32-2105. EXCAVATIONS AND CONSTRUCTION.

(a) In making excavations in streets or other public places, no digging will be allowed within five (5) feet (5') of any tree, unless specific permission is granted otherwise by the park and recreation board or its designee. In all such excavations, proper care shall be taken to avoid injury to the roots of any tree, wherever possible.

(b) During any type of construction work of building, structure, or street work, the applicant shall place guards of substantial fence, frame or box not less than four (4) feet high around all nearby trees to prevent injury to such trees, especially injury that may occur to oak trees because of disturbances within the drip-line. All building material, dirt or other debris shall be kept outside the barrier.

(c) Whenever it is necessary to remove a tree(s) from a treelawn on City-owned property in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the person so removing shall replant such tree(s) or replace them. Provided the conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the Arboricultural Specifications Manual are planted in an attractive manner on the adjoining property.

SEC. 32-2106. INSPECTION.

The park and recreation board or its designee is hereby authorized and directed to enter on and upon private property wherein there are located any species of tree having the appearance of, or suspected of, being diseased with any of the so-called wilt diseases affecting these trees, including, but not limited to: Dutch Elm Disease, Verticillium Wilt, Phloem Necrosis, Bronze Birch Borer and Oak Wilt, for the purpose of inspecting such suspected tree or trees and removing therefrom samples or portions thereof to be treated to establish whether said tree or trees are in fact diseased.

SEC. 32-2107. PUBLIC NUISANCES AND ABATEMENT.

The park and recreation board or its designee shall identify those circumstances under which a public nuisance may be declared and shall direct any owner, occupant or agency to abate such nuisance, or may itself abate in its entirety said nuisance as identified in the Public Nuisances and Abatement Document.

SEC. 32-2108. ABUSE/MUTILATION OF PUBLIC TREES.

Unless specifically authorized by the park and recreation board or its designee, no person shall intentionally damage, cut, carve, transplant or remove any public tree, attach any rope, wire, nails, advertising posters or other contrivance to any public tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with any public tree, or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.

SEC. 32-2109. INTERFERENCE WITH CITY FORESTRY OPERATIONS.

No person shall hinder, prevent, delay or interfere with the park and recreation board or its agents while engaged in the execution or enforcement of this chapter provided, however, that nothing herein shall be construed as an

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attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.

SEC. 32-2109.1 TREE TRIMMINGS REMOVED BY LICENSEE

The licensee shall remove or cause to be removed all trimmings and debris; and no such trimmings or debris shall be left to be picked up by the City. (Ord. No. 2002-06-19; new Sec. 32-2109.1, "TREE TRIMMINGS REMOVED BY LICENSEE," enacted; 06/25/02)

SEC. 32-2110. VIOLATION AND PENALTY.

Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine of not less than fifty dollars (\$50.00), nor more than seven hundred fifty dollars (\$750.00), for each separate offense; each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub or other plant located on City-owned property is caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens," as published by the International Society of Arboriculture. (Ord. No. 98-10-1; §32-2100 repealed; new §32-2110 enacted; 10/06/98)

SEC. 32-2111. SEVERABILITY.

If any provision of this chapter or application thereof to any person or circumstance is held invalid by any court, other provisions or applications of the chapter which can be given effect without the invalid provision of application shall not be affected, and to this end the provisions of this chapter are declared to be severable.