City of Cedar Falls

Integrated Roadside Vegetation Management Plan

May, 2016

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Approved by Cedar Falls City Council

May 2, 2016

CITY OF CEDAR FALLS, IOWA

By_____

James P. Brown, Mayor

Attest: _____

Jacqueline Danielsen, CMC

City Clerk

Integrated Roadside Vegetation Management Plan

Cedar Falls, Iowa

Preface

A. Version 1, July 2015
B. Plan Contributors
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I. Executive Program Elements

A. Goals

The City of Cedar Falls Integrated Roadside Vegetation Management (IRVM) Program has various short and long term goals. They are as follows:

Short Term Goals

- Apply for and secure funding for Iowa Living Roadways Trust Fund grants
- Control noxious and invasive weeds within the City of Cedar Falls Right-of-way (ROW)
- Train City staff in proper burning procedures
- Identify projects in the Capital Improvements Plan (CIP) where native plants can be used in the ROW
- Begin work on specified ROW areas, identified to plant native prairie seed and plants
- Seek out new educational opportunities for Cedar Falls staff
- Educate the public through public awareness for IRVM
- Implement the City of Cedar Falls' RVM plan

Long Term Goals

- Utilize prairie for storm water management
- Work with neighborhood groups to plant prairie in the ROW
- Provide City staff with training for identification and management of natives
- Manage ROWs to reduce overall brush, tree, noxious weeds and invasive weed cover
- Preserve and manage existing prairie plantings throughout the City
- Continue to identify equipment needs for the IRVM program
- Develop a roadside, tree, brush, native prairie, weed and erosion inventory

B. Program History

The City has a long history of using natives for recreational areas and stormwater management. We currently have over 190 acres of prairie plantings including now-mow areas of our municipal golf course; areas around lakes, detention basins and surface water features; over 50 bioretention cells and rain gardens; and several plantings in local parks and throughout the University of Northern Iowa, which lies within the City limits.

The Cedar Falls Public Works/Parks Division established a hardwoods nursery consisting of four different species of oak saplings. These species include the white oak, swamp white oak, red oak, and burr oak varieties. These saplings were donated as part of the University of Northern Iowa hardwoods planting project that was conducted on April 8th 2014. 6500 saplings were

planted in a post flood buyout lot along Lincoln Street, with the combined efforts of 145 UNI students, as well as, the assistance of the Cedar Falls Public Works/ Parks Division

The Cedar Falls Arborist Division staff includes the full time City Arborist, one permanent part-time employee, and two seasonal employees. This crew conducts all tree care maintenance on Cedar Falls city owned property which includes 38 parks, 3 cemeteries, all right-of-way street trees, and 37 miles of rec trails. Maintenance tasks include small and large scale pruning, complete tree removals, stump grinding, backfilling, over-seeding, tree planting, tree spading, watering operations, mulching, staking, storm damage cleanup, tree health assessments, and other tree care tasks.

Cedar Falls takes great pride in our Street Tree Replacement Program. This program is conducted annually utilizing the Cedar Falls Arborist staff, as well as, groups of volunteers if needed. The program is designed to replace any and all previous tree removals that staff has completed throughout the previous year. This program's budget fluctuates year to year as the funding usually is supplied by outside organizations. On average, the Parks division is able to plant 50 to 85 trees annually, depending on available funding. The total number of trees planted is divided equally between ornamental and over-story shade species. Below is a list of tree species that is utilized from the Cedar Falls approved species list.

SHADE: Hackberry, northern red oak, white oak, swamp white oak, shademaster locust, linden, burr oak, fiesta maple, legacy sugar maple, sienna glen maple, and others.

ORNAMENTAL: Prairiefire crabapple, Adam crabapple, Centurion crabapple, sugartyme crabapple, bradford pear, and others.

Currently the City has a partially completed field assessment that is used for tree management, Standard Operating Procedures for pesticide management, herbicide management, and an inventory for mowing/trimming operations.

Roadside vegetation complaints or visibility issues are dealt with on an as needed or reported basis.

C. Executive Summary

The City of Cedar Falls' main goal is to develop and implement a plan which addresses the many necessary guidelines of a comprehensive roadside vegetation management plan. We will reference the IRVM manual and plan our work accordingly. It will be necessary to identify all other vegetation and noxious weeds that the City of Cedar Falls has, to complete up-to-date tree, noxious weed, and other ROW inventories.

D. City of Cedar Falls Map (Appendix A)

E. Program Type

The City of Cedar Falls' is a municipality within the State of Iowa. The City's Municipal Operations & Programs (MOP) Department will be the administrators of the IRVM program.

II. Jurisdictional Recognition

A. Management

City Administrator

The City Administrator decides the City's day-today operations, sets priorities, carries out the business management duties, and performs the needed work as directed by the City Council.

City Engineer

The City Engineer assists with managing the IRVM program. The City Engineer makes recommendations to the City Council in regard to the IRVM program and roadside management.

Municipal Operations & Programs Department

Members of this department hold pesticide licenses 30T, 3T, 5 & 6.

The MOP Department utilizes the expertise of Richard Wermerskirchen as the 2015 Black Hawk County Weed Commissioner. The City of Cedar Falls' Code of Ordinances does not reference the Weed Commissioner; however it does identify noxious weeds and outlines the City's policies for dealing with nuisance vegetation in Chapter 20 – Parks and Recreation – Article VI – Trees and Shrubs Section 20-262 – Noxious weeds prohibited. See Appendix C.

The MOP Department also administers Chapter 20 – Parks and Recreation – Article VI – Trees and Shrubs, which outlines provisions for tree and shrub planting, trimming or other work in the ROW.

City Council

The City Council oversees the City Administrator and City Engineer. This group of elected officials is involved in making all non-day-to-day operations of the City and makes high level decisions regarding the IRVM program.

B. Iowa Code and Administrative Rules-State Laws and Regulations

The City of Cedar Falls' IRVM plan will be directed by laws and regulations cited in the Code of Iowa. Examples include, but are not limited to:

1. 314.17 Mowing law-no mowing before July 15 of ROW
2. 314.19 Reseeding Open Ditches
3. 314.21 Living Roadway Trust Fund
4. 314.22 Integrated Roadside Vegetation Management
5. 317 Iowa Weed Law

C. Permits

Permits are obtained at the City Inspections/Engineering Office. Individuals describe what work is being performed or the issue of concern and fill out the necessary paperwork with required information and the permit is issued to the individual. The following permits pertain to areas in the right-of-way (ROW) that may involve the need to seed the ROW after work is completed:

1. Sidewalk/Driveway Permit
2. Excavation/Sump Pump Tap Permit

There are no regulations that dictate to permit holders that they must seed the ROW with any particular seed mix or species. However, there are sections of ordinance Chapter 20 – Parks And Recreation – Article VI Trees And Shrubs that regulate the height of residential laws.

III. Program Organizational Structure and Staffing Needs

Due to the structure of the MOP department there are no employees strictly dedicated to the IRVM program. The Management structure mentioned previously will enforce conformation to the program and management thereof once adopted. Consultation from other resources, training and monitoring will be required for the program to be successful.

IV. Public Involvement

A. Partners

Partners in the City's IRVM program will vary from technical assistance to cost-share assistance. Partners shall include the Tallgrass Prairie Center at the University of Northern Iowa's campus, the Black Hawk Soil and Water Conservation District with whom the City's boarders overlap, Cedar Falls Utilities (CFU) with their Cedar Falls Trees program and other stakeholders in the community.

B. Education and Outreach

Public education will be a critical component of the IRVM progam. Maintaining program transparency and accessibility will be of upmost inportance.

Communication mechanisms will include education at future City Council meetings, informational brochure, articles published in the City's newsletter Currents and information provided on the City's website.

Maintaining transparency to this IRVM plan, grant opportunities and work schedule is significant to it's success. The plan will be presented to the City's visioning committee, Future Forward: Cedar Falls 2025, who will be meeting from June 2015 – February 2016.

XII. Inventory

A. Natural Resource Inventory

Cedar Falls does not have a roadside, tree, brush, native prairie, weed or erosion inventory. An inventory of the aforementioned items is a future goal of the City.

B. Equipment

Currently there is no equipment specifically designated to the IRVM program.

We borrow equipment from the County for planting, etc.

The City has recently hired a GIS Analyst who is currently organizing our GIS data and incorporating CADD files and other missing information into geodatabases. The Engineering department currently utilizes a GPS unit for construction staking. This unit can also be used for other data collection purposes. The City plans to incorporate hand held units for data collection at which time a more complete natural resource inventory can be collected.

The majority of pesticide applications performed by the city are completed with a GPS controlled unit. This unit has been in use for approximately 6 years. The GPS guidance eliminates any overlap and the specialized spray nozzles greatly reduce off target drifting. Spraying that is not performed with this unit is typically completed using low volume hand held sprayers in a "spot spray" type of application.

XIII. Program Operation

A. Initial Work Schedule

Year One:

- Monitor and review IRVM plan and make amendments if necessary
- LRTF grant application
- Review tree inventory and work with the IDOT for grants, training and inventory programs
- Begin work on brush, prairie and weed inventory
- Research other grant opportunities for additional funding
- Identify noxious weeds to spray
- Continue to maintain existing prairie and add any additional planted prairie, as outlined in the IRVM management plan

Year Two:

- Monitor and review the IRVM plan and make amendments if necessary
- Reapply for pesticide applicator license
- Review equipment inventory and prioritize any additional needed equipment prior to the FY17 Capital Improvement Plan (CIP) review
- Finalize the brush, prairie and weed inventories
- Identify noxious weeds to spray
- Continue to maintain existing prairie and add any additional planted prairie, as outlined in the IRVM management plan
- Continue brush, prairie and weed inventory
- Research other grant opportunities for additional funding

Year Three:

- Monitor and review the IRVM plan and make amendments if necessary
- Reapply for pesticide applicator license
- Review equipment inventory and prioritize any additional needed equipment prior to the FY18 Capital Improvement Plan (CIP) review
- Continue to maintain existing prairie and add any additional planted prairie, as outlined in the IRVM management plan
- Research other grant opportunities for additional funding
- Continue brush, prairie and weed inventory
- Research other grant opportunities for additional funding
- Set additional short and long term goals

Year Four and beyond:

- Monitor and review the IRVM plan and make amendments if necessary
- Reapply for pesticide applicator license
- Review equipment inventory and prioritize any additional needed equipment prior to the FY19 (any beyond) Capital Improvement Plan (CIP) review
- Continue to maintain existing prairie and add any additional planted prairie, as outlined in the IRVM management plan
- Research other grant opportunities for additional funding
- Continue brush, prairie and weed inventory
- Research other grant opportunities for additional funding
- Set additional short and long term goals

B. Work Area Types

The City of Cedar Falls' IRVM works within Cedar Falls' city limits, which has several land uses, as indicated in Appendix B. Appropriate vegetation and plantings will be chosen for specific areas. The City will consult with the Black Hawk County Soil and Water Conservation District and the University of Northern Iowa's landscaping and TPC staff for recommendations on plantings.

XIV. Methods

The City will continue to seek advice from professionals for methods used for roadside maintenance and plantings. Meeting with other roadside managers in other communities/counties will also occur. Utilizing the IRVM manual will be an integral part of the program.

A. Vegetation Establishment

a. Site Preparation

Site preparation may include some or all of the following methods: mowing, spraying, disking and cultipacking.

b. Seed Mixes and rates

As frequently as possible, the City will utilize the IRVM manual for recommendations on native seed and plants. An application for the Iowa Living Roadways Trust Fund will be submitted

c. Seeding Techniques

The seeding process will be determined by each specific site. Each site will be inspected before any preparation or work begins. Once the inspection is completed, the City will utilize the above listed resources and existing native plant knowledge to determine the proper method for planting. The City has utilized drilling, hydroseeding and plug installation for previous plantings.

B. Ongoing Maintenance

a. Erosion and Sediment Control

Erosion and sediment control will also be determined by each specific site. The City will utilize trained City staff to assist with these measures. Kevin Cross, the Park Development and Arborist Supervisor, was certified as an ICICSP3 (Iowa Certified Installer of Construction Site Pollution Prevention Practices). This is a certification program provided through ISWEP, the Iowa Storm Water Education Partnership, an organization that provides education and outreach opportunities along with training for municipalities across the state.

b. Vegetation Establishment Maintenance

All newly planted areas are mowed short (4-6 inches) monthly. After the inaugral year is completed, the City may choose to re-evaluate the planting. The City will continue to mow the area for the first several years and will make a site specific determination on wheather or not the plants are strong enough for the mowing to be discontinued.

c. Noxious Weed and Brush Control

The City of Cedar Falls currently utilizes weed control in several of the City ROW areas. Noxious weeds are contained by mowing ditch and ROW areas as needed as well as applying pesticide. A combination of pesticide and mowing is necessary to maintain some of the City ROW areas.

Controlled burning is allowed in Black Hawk County with a permit. The City would utilize this management practice in a limited format as many of the areas managed through the IRVM plan will be incondusive to burning due to proximity to roadways and structures.

XV. Material Procurement

A. Sourcing

Materials will be obtained from local sources when possible. Procedures for obtaining seed and plants will be followed from the IRVM manual.

B. Material Handling and Storage

Materials will be handled and stored according to the IRVM manual.

Pesticide Purchasing: Pesticides are purchased annually using a bid process. This is regularly done in the fall when distributers offer the greatest discounts for early ordering. These purchases fall under the general MOP budget and can vary from year to year depending upon scheduled projects or renovations. City wide the amount typically spent on pesticides/fertilizers is around $40,000.

Haz Mat/ Pesticide Storage: Pesticides are most often designated hazardous when involved in transportation in volumes above a DOT specified threshold. All pesticides ordered by the city are delivered by the distributor and is their responsibility until possession is taken of the products. Pesticides are stored in a locked building with keys provided to only those with authorized access. This building is clearly labeled as a pesticide storage area and has the required NFPA placards. Additionally, the building was designed for pesticide storage and provides secondary containment of potential spills. It also has a ventilation system and contains an emergency eye wash station and spill response kit.

A formal SOP for material sourcing has not been developed to date. When purchasing turf grass seed, local bidding procedures are followed. Grass seed is purchased a palette at a time to reduce costs. For prairie seed purchases, a certified natively grown seed will be specified for purchase. Seed is stored inside in the Public Works cold storage facility.

XVI. Budget

A separate budget specifically for the IRVM program will not be planned for as parts of the City's IRVM plan will be absorbed into the MOP, Engineering or other departments who currently oversee similar work and projects.

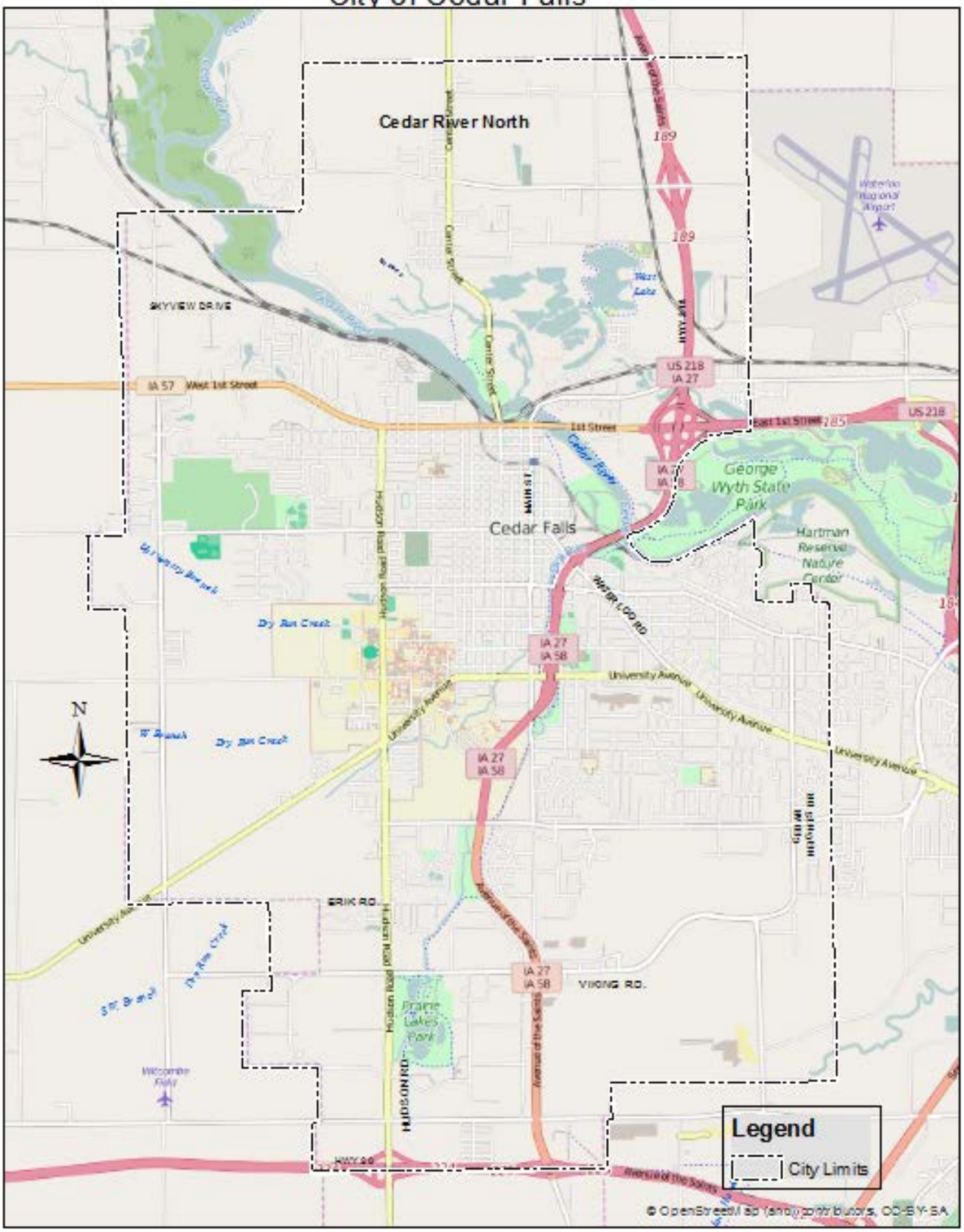
XVII. Program Evaluation

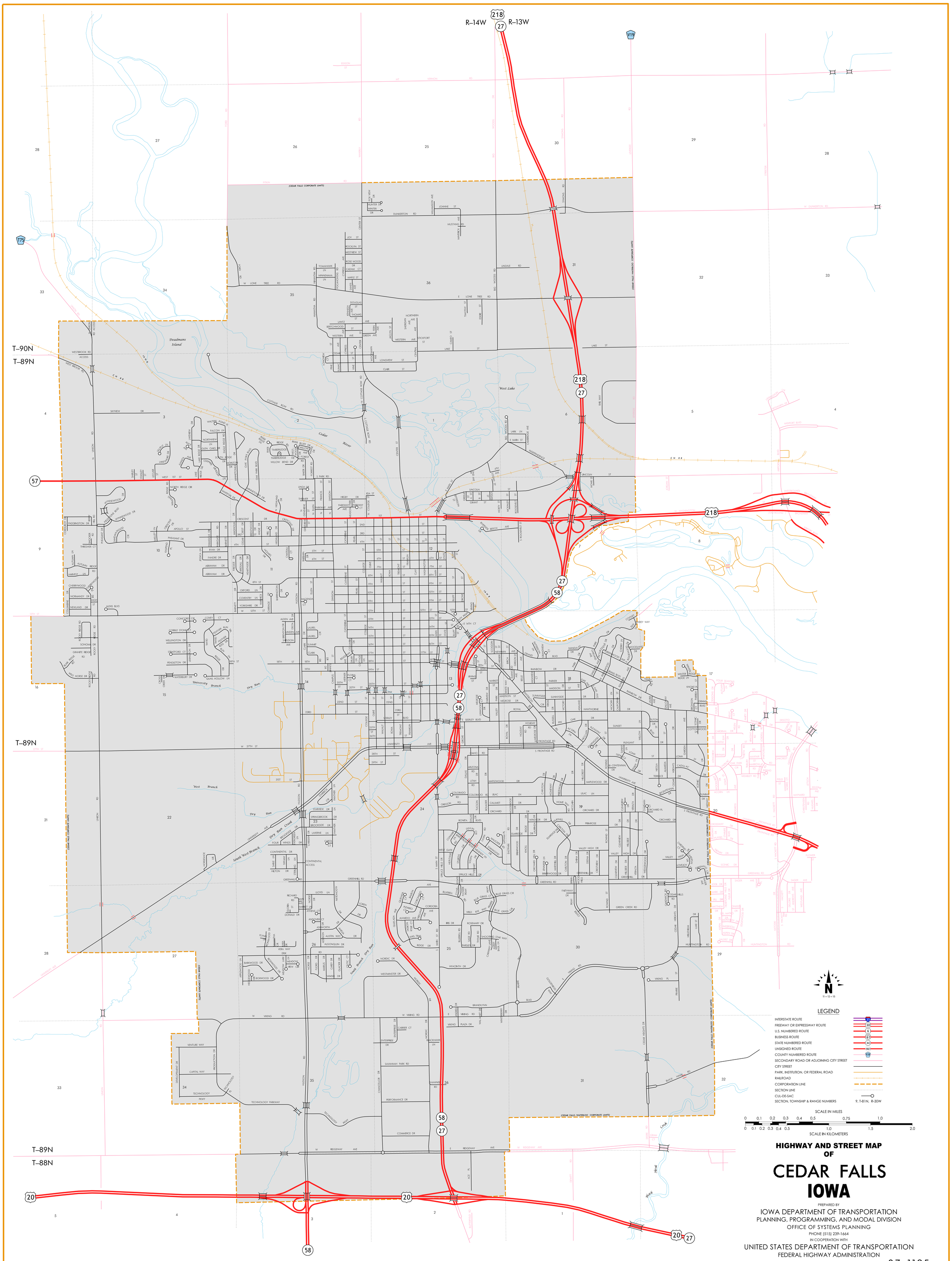
The IRVM plan and program will be evaluated annually for accuracy and needed updates.

XVIII. Appendices

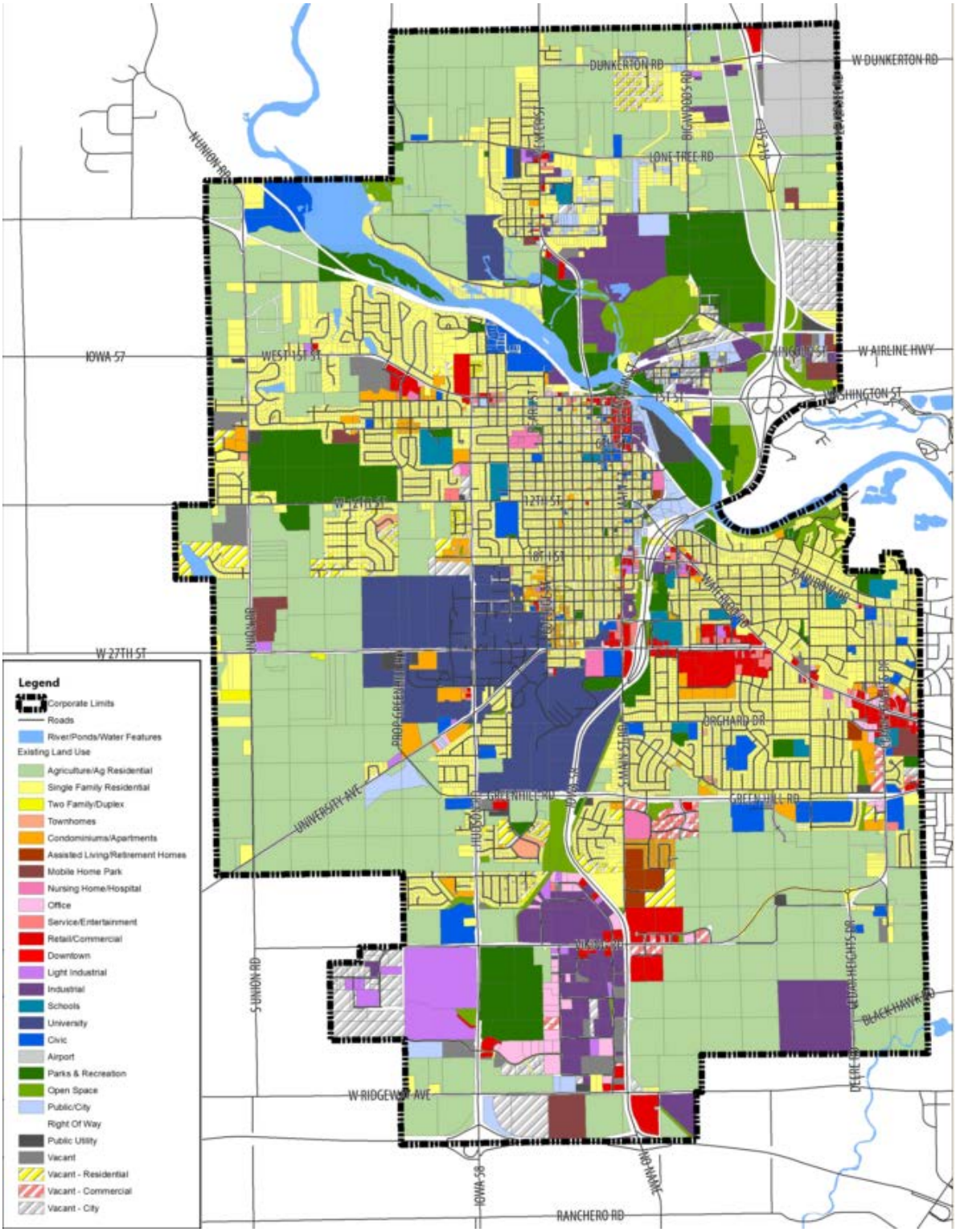
A. City of Cedar Falls Map
B. Land Use Map
C. CHAPTER 20 – PARKS AND RECREATION – ARTICLE VI
TREES AND SHRUBS SECTION 20-262 – NOXIOUS WEEDS PROHIBITED

Appendix A
City of Cedar Falls




R-14W
R-13W
T-90N
T-89N
T-89N
T-89N
T-88N
(CEDAR FALLS CORPORATE LIMITS)
(CEDAR FALLS / WATERLOO CORPORATE LIMITS)
Deadmans Island
West Lake
Cedar River
University Branch
Dry Run
West Branch
Dry Run Creek
South West Branch
South Branch Dry Run
LEGEND
INTERSTATE ROUTE
FREEWAY OR EXPRESSWAY ROUTE
U.S. NUMBERED ROUTE
BUSINESS ROUTE
STATE NUMBERED ROUTE
UNSIGNED ROUTE
COUNTY NUMBERED ROUTE
SECONDARY ROAD OR ADJOINING CITY STREET
CITY STREET
PARK, INSTITUTION, OR FEDERAL ROAD
RAILROAD
CORPORATION LINE
SECTION LINE
CUL-DE-SAC
SECTION, TOWNSHIP & RANGE NUMBERS 9, T-81N, R-30W
SCALE IN MILES
SCALE IN KILOMETERS
HIGHWAY AND STREET MAP
OF
CEDAR FALLS
IOWA
PREPARED BY
IOWA DEPARTMENT OF TRANSPORTATION
PLANNING, PROGRAMMING, AND MODAL DIVISION
OFFICE OF SYSTEMS PLANNING
PHONE (515) 239-1664
IN COOPERATION WITH
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
07-1185

APPENDIX B
CURRENT LAND USE PLAN



APPENDIX C
CHAPTER 20 – PARKS AND RECREATION – ARTICLE VI
TREES AND SHRUBS SECTION 20-262 – NOXIOUS WEEDS PROHIBITED

- ARTICLE VI. - TREES AND SHRUBS
- Sec. 20-246. - Definitions.
- Sec. 20-247. - Penalty for violation of article.
- Sec. 20-248. - Permit for planting, trimming or other work.
- Sec. 20-249. - Tree trimmer's license.
- Sec. 20-250. - Exemptions from license and permit requirements.
- Sec. 20-251. - Temporary cutoff of electricity for purpose of pruning or removal.
- Sec. 20-252. - Planting of certain trees prohibited.
- Sec. 20-253. - Fastening signs, wires, etc.
- Sec. 20-254. - Deposit or storage of materials impeding passage of water and air to roots.
- Sec. 20-255. - Other injurious acts.
- Sec. 20-256. - Protection during building operations.
- Sec. 20-257. - Trees and shrubs overhanging street or sidewalk.
- Sec. 20-257.1. - Street tree planting regulations.
- Sec. 20-258. - Diseased or infected trees declared nuisance.
- Sec. 20-259. - Maintenance of infected trees prohibited.
- Sec. 20-260. - Disposal of elmwood bark.
- Sec. 20-261. - Failure to destroy infected trees or wood; destruction by city.
- Sec. 20-262. - Noxious weeds prohibited; exceptions.
- Sec. 20-263. - Failure to destroy noxious weeds; right to hearing; destruction by city.
- Secs. 20-264—20-274. - Reserved.

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- **ARTICLE VI. - TREES AND SHRUBS**

- **Sec. 20-246. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park means all public parks having individual names.

Public place means all of the grounds owned by the city.

Tree damage means any damage to trees such as bruising, scarring, tearing or breaking of stems and branches.

Trees and shrubs means all woody vegetation.

(Code 1971, § 18¾-199)

- **Sec. 20-247. - Penalty for violation of article.**

Any person violating or failing, refusing or neglecting to comply with any provision or requirements of any section or subsection of this article, in addition to any other remedy, shall be subject to punishment as provided in section 1-8 of this Code.

(Code 1971, § 18¾-243)

- **Sec. 20-248. - Permit for planting, trimming or other work.**

(a)

Required. No person shall plant, move, spray, fertilize, brace, trim, cut above or below ground or otherwise disturb any tree or shrub in any street, park or other public place in the city, or cause such action to be done by others, without first obtaining a written permit from the parks services division manager or arborist supervisor, who shall issue the permit if, in the judgment of the parks services division manager, the desired work is necessary and the proposed method and workmanship thereof are of satisfactory nature; provided that a permit will not be required for the trimming or maintaining of shrubbery growing on any street, park or other public place if such shrubbery does not constitute a public nuisance.

(b)

Bond. The parks services division manager or arborist supervisor may demand the posting of bond or insurance before the permit is granted. Such bond or insurance shall be of sufficient amount to reasonably cover any damages that may occur to life or property while the provisions of the permit are being carried out.

(c)

Contents. Every permit granted in accordance with this section by the parks services division manager or arborist supervisor shall describe the work to be done and the estimated cost, define the species, sizes and locations of all trees and shrubs concerned, and contain a definite date of expiration.

(d)

Violation of terms. Any permit may be declared void if the terms are violated.

(Code 1971, §§ 18¾-221, 18¾-222)

- **Sec. 20-249. - Tree trimmer's license.**

(a)

Required; issuance. No person shall engage in the business of removing, cutting or trimming of trees or shrubbery in the city without first being granted a license as a tree trimmer. Such license shall allow the removing, cutting and trimming of shade trees over 30 feet in height standing in any street or other public or private place in the city, upon payment of an annual license fee of such amount as is established by the city council from time to time, which shall become due and payable on January 1 of each year.

(b)

Bond. Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the city, shall deposit with the city clerk a good and sufficient bond or evidence of

insurance of such amount as is established by the city council from time to time, conditioned that such person will faithfully comply with the provisions of this article, and further conditioned to indemnify, save and keep harmless the city and its officers from any and all claims, damages and losses and actions by reason of any acts or things done under or by authority or permission granted in this section.

(c)

Proof of workers' compensation. Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the city, shall furnish satisfactory evidence to the arborist supervisor or parks services division manager that the workers employed by him/her are covered by a suitable workers' compensation policy according to the laws of the state.

(d)

Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the city, shall file with the city clerk a certificate of general liability insurance written by a company authorized to transact business in the state, in limits for property damage and for a combined single limit for any person, in amounts established by the city council from time to time, said certificate to be written on a standard form and carrying an endorsement naming the city and its employees as additional insureds as its interest may appear and conditioned upon the faithful performance of all duties required of such contractor by any ordinances, rules and regulations of the city. It shall be a further condition of said certificate of insurance that the obligator will hold the city harmless from any and all damages sustained by reason of neglect or incompetency on the part of such contractor, his/her agents or employees in the performance of the work done under a license or permit issued upon the filing of said certificate. Said certificate of insurance shall be issued on or before engaging in the business or occupation described above and shall be refiled annually and kept in continuous full force and effect. That it is the intent and purpose of said certificate of insurance to also bind the individual, company, firm, association or partnership, whether it be trade name, corporation, or other business association or arrangement with which the principal is associated.

(Code 1971, §§ 18¾-223, 18¾-225, 18¾-226; Ord. No. 2181, §§ 1, 2, 3-24-97; Ord. No. 2421, § 1, 3-10-03; Ord. No. 2443, § 1, 8-25-03)

- **Sec. 20-250. - Exemptions from license and permit requirements.**

Sections 20-248 and 20-249 concerning permits and licenses shall not apply to:

(1) The United States of America, the state or any county, municipality or political subdivision of the state, or any department, bureau or agency thereof or any official representative thereof, in pursuit of official duties.

(2) Any person with reference to trees on his/her own premises.

(3) Any individual performing labor or services on or in connection with trees at the direction and under the personal supervision of a licensed tree trimmer while in the performance of such functions.

(4) Any public utility engaged in tree trimming or tree removal for the purpose of line clearance, in order to ensure the continuity of utility service to the public.

(Code 1971, § 18¾-224)

- **Sec. 20-251. - Temporary cutoff of electricity for purpose of pruning or removal.**

Whenever the arborist supervisor determines that it is necessary, in order to prune or remove any tree or shrub in any street, park or other public place in the city, or for any other reason, to temporarily cut off the electricity from any service wire, he/she shall serve written notice on the owner of such wire to protect such wire, and the owner shall comply with such order within 24 hours after the service of such notice.

(Code 1971, § 18¾-230)

- **Sec. 20-252. - Planting of certain trees prohibited.**

The following trees are declared unsuitable for planting and shall not be permitted to be planted in any street, park or other public place in the city:

(1) Black locust.
(2) Box elder.
(3) Catalpa.
(4) Chinese elm.
(5) Cottonwood.
(6) Fruit trees of all types (except ornamentals).
(7) Poplar.
(8) Soft maple.
(9) Tree of heaven.
(10) Russian olive.
(11) Willow.
(12) Mulberry.
(13) Nut bearing trees of all types except oaks and Ohio Buckeye.
(14) Ash.

(Code 1971, § 18¾-229; Ord. No. 2181, § 3, 3-24-97; Ord. No. 2628, § 1, 5-29-07)

State Law reference— Cottonwoods declared nuisance, I.C.A. § 657.2.

- **Sec. 20-253. - Fastening signs, wires, etc.**

No person shall fasten any sign, box, wire, rope or other material to, around or through any tree or shrub in any street, park or other public place in the city, except by permission of the arborist supervisor of parks services division manager, or when such materials are designed to preserve such tree or shrub and have been placed under a permit granted by the arborist supervisor.

(Code 1971, § 18¾-227)

- **Sec. 20-254. - Deposit or storage of materials impeding passage of water and air to roots.**

No person shall deposit, place, store or maintain upon any street, park or other public place in the city any stone, brick, sand, concrete or other material which will impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein, except by the permission of the arborist supervisor or parks services division manager, or when such materials are designed for the construction of sidewalks, paving, gutters or other public improvements and have been placed under a permit granted by the city or some department thereof.

(Code 1971, § 18¾-228)

- **Sec. 20-255. - Other injurious acts.**

No person shall set fire or permit any fire to burn where such fire or heat thereof will injure any portion of any tree or shrub in any street, park or other public place in the city. No person shall knowingly permit any leak to exist in any gas pipe or main in the root zone of any such tree or shrub. No person shall knowingly permit any wire designed to carry electric current to come into contact with any such tree or shrub unless protected by approved methods. No person shall permit any toxic chemical to seep, drain or be emptied on or about any public tree or shrub.

(Code 1971, § 18¾-232)

- **Sec. 20-256. - Protection during building operations.**

(a)

Protective barriers required. During all building and construction operations, a contractor or builder shall erect suitable protective barriers around all trees and shrubs in any street, park or other public place in the city to prevent such trees from being injured.

(b)

Liability for damages; valuation of damage. All contractors and builders operating in any street, park or other public place shall be liable for damage to publicly owned trees as follows:

(1)

The damage to public-owned trees shall be determined by reference to the guidelines of the 1992 edition of the Evaluation of Landscape Trees, Shrubs, and Other Plants—A Guide to the Methods and Procedures for Appraising Amenity Plants. Said 1992 edition is hereby adopted by reference and is incorporated in the Code of Ordinances of the City of Cedar Falls, Iowa as if fully set out in this section. An official copy of said 1992 edition, including a certificate by the city clerk as to its adoption and effective date, is on file in the office of the clerk. Copies of said edition adopted by this section shall be kept available at the office of the city clerk for public inspection and for sale at cost to the public. A copy of said 1992 edition, as adopted, shall be furnished at the municipal library and University of Northern Iowa Library.

(2)

Trees less than breast height (4.5 feet) will be calipered one foot aboveground. The city reserves the right to use nursery replacement costs as a basis of valuation of trees up to five inches in diameter.

(3)

The total amount of damages will be deducted from the final payment owing to the contractor or builder. All damaged or destroyed trees will remain the property of the city.

(c)

Treatment of damaged trees. In addition to the payment for damages required under subsection (b) of this section, all trees which have been damaged shall be repaired by a qualified tree surgeon, to be hired at the expense of the contractor or builder. Repair shall include shaping of wounds, removal of badly damaged limbs and sealing of all wounds and cuts with an approved tree dressing.

(d)

Other landscape damage. For damage to shrubbery and other vegetation and ground covers, the valuation of damages will be based on the replacement and restoration of costs.

(e)

Shade tree evaluation formula. The International Shade Tree Conference has established a shade tree evaluation formula which can be used as an additional guide for determining the value of damaged or destroyed trees.

(Code 1971, § 18¾-231; Ord. No. 2181, § 4, 3-24-97)

- **Sec. 20-257. - Trees and shrubs overhanging street or sidewalk.**

(a)

Declaration of nuisance. Any tree or shrub or part thereof located on, overhanging or interfering with the use of any street, park or other public place in the city that, in the opinion of the council or the arborist supervisor, endangers the life, health, safety or property of the public, shall be declared a public nuisance.

(b)

Trees and shrubs at a certain height. Any tree or shrub or part thereof overhanging any sidewalk and closer than ten feet above such sidewalk, whether on public or private property, and any or all trees or shrubs overhanging any street or roadway at a height less than 16 feet over such street or roadway, are hereby declared public nuisances and may be abated as provided in this section.

(c)

Abatement. The owner shall be given not less than ten days' notice in writing or by publication in a local newspaper of the existence of the nuisance, and shall be given no less than ten days from the date of such notice for its correction or removal. If not corrected or removed within the time allotted, the arborist supervisor shall cause the nuisance to be corrected or removed, and the cost shall be assessed as provided by law. However, if such tree is considered a public nuisance and emergency measures must be taken prior to ten days' notice, then in such event personal service of notice upon the owner to immediately correct and remove the nuisance shall be permitted, and, upon failure of the owner to comply forthwith, the arborist supervisor shall cause the nuisance to be corrected or removed and the cost assessed as provided by law.

(Code 1971, §§ 18¾-188, 18¾-233)

- **Sec. 20-257.1. - Street tree planting regulations.**

Trees to be planted in street right-of-way must conform to categories A or B and/or C, said categories to be adopted and/or amended by resolution adopted by the city council. Street tree planting regulations are as follows:

(1)

Trees should be spaced so there will be little or no interference with their full development. The minimum spacing shall be 20 feet for category A; 30 feet for category B; 50 feet for category C measured from center on each street tree.

(2)

At least nine square feet of ground shall be maintained for each street tree and no impervious material shall be placed nearer than 24 inches to the trunk of the tree.

(3)

No street shall be planted nearer than two and one half feet to the curb and sidewalk line and centered in parking eight feet and less in width. Plantings in parkings over eight feet in width shall be planted four feet from the edge of the sidewalk.

(4)

No street tree shall be planted closer than 20 feet from the radius of curb at intersections or closer than ten feet to the edge of a driveway.

(5)

The minimum spacing from a light standard or transmission pole shall be ten feet for category A; 20 feet for category B; 30 feet for category C measured from center of street tree to standard or pole.

(6)

Category A and B trees may be used in category C plantings as can category A be planted in category B.

(7)

As new tree species are introduced, they will be added to these lists.

(Ord. No. 2181, § 5, 3-24-97)

- **Sec. 20-258. - Diseased or infected trees declared nuisance.**

Any tree infected with Dutch elm disease or other damaging or infectious and spreading disease is a menace to safety and to the welfare of the residents of the city and is hereby declared to be a public nuisance and subject to abatement as such.

(Code 1971, § 18¾-234)

State Law reference— Similar provisions, I.C.A. § 657.2(13).

- **Sec. 20-259. - Maintenance of infected trees prohibited.**

It shall be unlawful for any owner, lessee or other person in control of any lot or tract of land situated within the city to knowingly permit or maintain a tree thereon which is infected with Dutch elm disease or other damaging or infectious disease.

(Code 1971, § 18¾-235)

- **Sec. 20-260. - Disposal of elmwood bark.**

It shall be unlawful for any person to allow any elmwood to remain with the bark not removed and disposed of as directed by the arborist supervisor.

(Code 1971, § 18¾-236)

- **Sec. 20-261. - Failure to destroy infected trees or wood; destruction by city.**

(a)

Each day a nuisance shall continue, after notice from the parks services division manager or his/her designee to abate the nuisance within the period set forth in subsection (b) of this section, shall constitute a separate offense. Such notice shall be given and shall be deemed complete when delivered to such owner, lessee or other person in control of such lot or tract of land, or by sending such notice to the owner, lessee or other person in control of such lot or tract of land, by the United States registered mail, addressed to the owner, lessee or other person in control of such lot or tract of land at his/her last known address.

(b)

If an owner, lessee or other person in control of a lot or tract of land upon which a nuisance exists fails to remove or destroy a tree or wood infected with Dutch elm disease or other disease or elmwood with bark not removed, and the roots thereof, as directed by the parks services division manager, within ten days after notice from the parks services division manager to do so, the parks services division manager, without prejudice to the penalty provided in this article, shall effect removal at the expense of such person. The cost thereof shall be assessed in accordance with I.C.A. § 364.12(3)(b), (h).

(Code 1971, §§ 18¾-237, 18¾-238)

- **Sec. 20-262. - Noxious weeds prohibited; exceptions.**

(a)

It shall be unlawful for the owner or person in possession or control of any land within the city to maintain, cause or permit a nuisance as defined in this section to exist upon such land. For purposes of this section, a nuisance is defined as noxious weeds, which shall include the following:

(1) Quack grass (Agropyron repens);

(2) Perennial sow thistle (Sonchus arvensis);

(3) European morning glory and field bindweed (Convolvulus arvensis);

(4) Horse nettle (Solanum carolinense);

(5) Leafy spurge (Euphorbia esula);

(6) Perennial peppergrass (Lepidium draba);

(7) Russian knapweed (Centaurea repens);

(8) Buckthorn (Rhamnus, not to include Rhamnus frangula), and all other species of thistles belonging in genera of Cirsium and Carduus;

(9) Butterprint (Abutilon theophrasti), annual;

(10) Cocklebur (Xanthium commune), annual;

(11) Wild mustard (Brassica arvensis), annual;

(12) Wild carrot (Daucus carota), biennial;

(13) Buckhorn (Plantago lanceolata), perennial;

(14) Sheep sorrel (Rumex acetosella), perennial;

(15) Sour dock (Rumex crispus), perennial;

(16) Smooth dock (Rumex altissimus), perennial;

(17) Poison hemlock (Conium maculatum);

(18) Wild sunflower (wild strain of Helianthus annus L.), annual;

(19) Puncture vine (Trimbulus terrestris), annual;

(20) Teasel (Dipsacus), biennial;

(21) Grass exceeding 12 inches in height; and

(22) Wild vines or wild bushes.

(b)

The following areas located on private property are hereby declared not to be a nuisance as defined in subsection (a), of this section:

(1)

Prairie grass areas, wildflower planting areas, natural reserve and preserve areas, urban woodlots, wildlife refuge and conservation areas, wetlands and natural waterways, all as recognized and identified by a governmental agency, provided that setbacks shall be required for all prairie or similar random planting areas as follows:

a.

If the planting occurs within the public right-of-way, the planting area shall be a minimum of 18 inches from any adjacent street curb, public sidewalk, alleyway or other similar throughway; and will be defined with a turf grass mow strip that will be maintained in accordance with this Code section.

b.

As allowed by the director of human and leisure services or his/her designee.

(2)

Land zoned agricultural under the zoning ordinance of the city exceeding five acres in size.

(3)

Other conservation or natural areas deemed appropriate by the city council after consultation with the director of human and leisure services or his/her designee.

(Code 1971, § 18¾-239; Ord. No. 2653, § 1, 4-28-08)

- **Sec. 20-263. - Failure to destroy noxious weeds; right to hearing; destruction by city.**

(a)

If the owner or person in the possession or control of any land within the city fails or refuses to cut or otherwise destroy the grass, vines, bushes or weeds declared a nuisance as provided in section 20-262 within seven days after notice in writing has been given to such owner and person in possession or control of land within the city, the owner or the person in possession or control of such land shall be deemed guilty of a violation of this article and punished accordingly. Such written notice to cut or otherwise destroy the vegetation declared a nuisance in this article shall be sent by certified mail to the owner of record and the person in possession or control of the land in

question. Such seven-day notice to cut or otherwise destroy shall be deemed to commence on the date of mailing of the written notice.

(b)

Each owner and each person in possession or control of any land within the city may request a hearing with the department of human and leisure services of the city to consider any objections and protests to the proposed cutting or otherwise destroying of the vegetation declared in this article to be a nuisance. The parks services division manager, acting under the direction of the director of human and leisure services, shall have full power and authority to enter upon any land within the city for the purpose of destroying a nuisance. The parks services division manager shall coordinate the removal of the nuisance with the public works department if necessary. Such entry may be made without the consent of the landowner or person in possession or control of the land, but actual work of destruction shall not be commenced until five days after the service of a notice in writing on the landowner and on the person in possession or control of the land. Such notice shall state the facts as to failure of compliance with the notice provided for in subsection (a) of this section, and shall be mailed by certified mail. In computing the time under this section, it shall be from the date of mailing, as evidenced by the certified mail receipt.

(c)

The actual cost and expense of cutting or otherwise destroying the vegetation, together with the cost of serving of notice, the costs of special meetings or proceedings, if any, and the costs of supervision and administration, shall be recovered by an assessment against the tract of land on which the vegetation was growing.

(Code 1971, §§ 18¾-240—18¾-242; Ord. No. 2652 § 1, 4-28-08)

State Law reference— Authority of city to destroy weeds, brush, etc., I.C.A. § 364.12(3)(g), (h).

- **Secs. 20-264—20-274. - Reserved.**

CHAPTER 314

ADMINISTRATIVE PROVISIONS FOR HIGHWAYS

314.1 Bidding procedures — basis for awarding contracts.

1. The agency having charge of the receipt of bids and the award of contracts for the construction, reconstruction, improvement, or repair or maintenance of a highway, bridge, or culvert may require, for any highway, bridge, or culvert contract letting, that each bidder file with the agency a statement showing the bidder's financial standing, equipment, and experience in the execution of like or similar work. The statements shall be on standard forms prepared by the department and shall be filed with the agency prior to the letting at which the bidder expects to bid. The agency may, in advance of the letting, notify the bidder as to the amount and the nature of the work for which the bidder is deemed qualified to bid. A bidder who is prequalified under this subsection by the department shall be deemed qualified for a highway, bridge, or culvert contract letting by any other agency and shall submit proof of the prequalification in a manner determined by the department if required to do so by the agency.

2. Notwithstanding any other provision of law to the contrary, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert and that has a cost in excess of the applicable threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, or 313.10, as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, except such public improvements that involve emergency work pursuant to section 309.40A, 313.10, or 384.103, subsection 2. For a city having a population of fifty thousand or less, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that has a cost in excess of twenty-five thousand dollars, as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, excluding emergency work. However, a public improvement that has an estimated total cost to a city in excess of a threshold of fifty thousand dollars, as modified by the bid threshold subcommittee pursuant to section 314.1B, and that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that is under the jurisdiction of a city with a population of more than fifty thousand, shall be advertised and let for bid. Cities required to competitively bid highway, bridge, or culvert work shall do so in compliance with the contract letting procedures of sections 26.3 through 26.13.

3. *a.* In the award of contracts for the construction, reconstruction, improvement, or repair or maintenance of a highway, bridge, or culvert, the agency having charge of awarding such contracts shall give due consideration not only to the prices bid but also to the mechanical or other equipment and the financial responsibility and experience in the performance of like or similar contracts. The agency may reject any or all bids. The agency may readvertise and relet the project without conducting an additional public hearing if no substantial changes are made to the project's plans or specifications. The agency may let by private contract or build by day labor, at a cost not in excess of the lowest bid received.

b. Upon the completion of any contract or project on either the farm-to-market or secondary road system, the county engineer shall file with the county auditor a statement showing the total cost thereof with certificate that the work has been done in accordance with the plans and specifications. Upon

completion of a contract or project on the municipal street system, the city public works department or city engineer shall file with the city clerk a statement showing the total cost of the contract or project with a certificate that the work has been done in accordance with the plans and specifications. All contracts shall be in writing and shall be secured by a bond for the faithful performance thereof as provided by law.

[S13, §1527-s18; C24, §4651, 4700; C27, 31, 35, §4644-c41, 4651, 4755-b11; C39, §**4644.39, 4651, 4686.15, 4755.11;** C46, §309.57, 310.15, 313.11; C50, §308A.10, 309.39; C54, §309.39, 314.1; C58, 62, 66, 71, 73, 75, 77, 79, 81, §314.1]

2001 Acts, ch 32, §7, 14

; 2006 Acts, ch 1017, §27, 42, 43

; 2006 Acts, ch 1185, §80

; 2010 Acts, ch 1061, §106

314.1A Detailed cost accountings by cities and counties — rules.

1. The department shall adopt rules prescribing the manner by which cities and counties shall provide a detailed cost accounting under section 309.93 or 312.14, of all instances of the use of day labor or public or private contracts for construction, reconstruction, or improvement projects of a highway, bridge, or culvert within their jurisdiction.

2. The department shall adopt rules prescribing the manner by which governmental entities, as defined in section 26.2, shall administer section 26.14 concerning public improvement quotations.

3. The rules shall include definitions concerning types of projects and uniform requirements and definitions that cities and counties under subsection 1 and governmental entities under subsection 2 shall use in determining costs for such projects. The department shall establish horizontal and vertical infrastructure advisory committees composed of representatives of public sector agencies, private sector vertical and horizontal contractor organizations, and certified public employee collective bargaining organizations to make recommendations for such rules.

2001 Acts, ch 32, §8

2006 Acts, ch 1017, §28, 42, 43

314.1B Bid threshold subcommittees — adjustments — notice.

1. *Horizontal infrastructure.*

a. The director of the department shall appoint, from the members of the appropriate advisory committee established under section 314.1A, a horizontal infrastructure bid threshold subcommittee for highway, bridge, or culvert projects. The subcommittee shall consist of seven members, three of whom shall be representatives of cities and counties, three of whom shall be representatives of private sector contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

b. The subcommittee shall review the competitive bid thresholds applicable to city and county highway, bridge, and culvert projects. The subcommittee shall review price adjustments for all types of city and county highway, bridge, and culvert construction, reconstruction, and improvement projects, based on changes in the construction price index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

c. A bid threshold, under this subsection, shall not be adjusted to an amount that is less than the bid threshold applicable to a city or county on July 1, 2006, as provided in section 73A.18, 309.40, 310.14, or 314.1. An adjusted bid threshold shall take effect as provided in subsection 3, and shall remain in effect until a new adjusted bid threshold is established and becomes effective as provided in this section.

2. *Vertical infrastructure.*

a. The director of the department shall appoint, from the members of the appropriate advisory committee established under section 314.1A, a vertical infrastructure bid threshold subcommittee for public improvements as defined in section 26.2. The subcommittee shall consist of seven members, three of whom shall be representatives of governmental entities as defined in section 26.2, three of whom shall be representatives of private sector vertical infrastructure contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

b. The subcommittee appointed under this subsection shall review the competitive bid thresholds applicable to governmental entities under chapter 26. The subcommittee shall review price adjustments for all types of construction, reconstruction, and public improvement projects based on the changes in the construction price index, building cost index, and material cost index from the preceding adjustment. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

c. The subcommittee shall not make an initial adjustment to the competitive bid threshold in section 26.3 to be effective prior to January 1, 2012. Thereafter, the subcommittee shall adjust the bid threshold amount in accordance with subsection 3 but shall not adjust the bid threshold to an amount less than the bid threshold applicable to a governmental entity on January 1, 2007.

d. Beginning July 1, 2006, the subcommittee shall make adjustments to the competitive quotation threshold amounts in section 26.14 for vertical infrastructure in accordance with the methodology of

paragraph *"b"*.

e. After 2012, the subcommittee shall adjust the competitive quotation threshold amounts in section 26.14 at the same time and by the same percentage as adjustments are made to the competitive bid threshold.

3. *Review — publication.* Each subcommittee shall meet to conduct the review and make the adjustments described in this section on or before August 1 of every other year, or of every year if determined necessary by the subcommittee. By September 1 of each year in which a subcommittee makes adjustments in the bid or quotation thresholds, the director shall cause an advisory notice to be published in the Iowa administrative bulletin and in a newspaper of general circulation in this state, stating the adjusted bid and quotation thresholds to be in effect on January 1 of the following year, as established by the subcommittees under this section.

2001 Acts, ch 32, §9, 14

2006 Acts, ch 1017, §29, 42, 43

2007 Acts, ch 144, §11, 12

314.2 Interest in contract prohibited.

No state or county official or employee, elective or appointive, shall be directly or indirectly interested in any contract for the construction, reconstruction, improvement, or maintenance of any highway, bridge, or culvert, or the furnishing of materials therefor. The letting of a contract in violation of this section shall invalidate the contract and such violation shall be a complete defense to any action to recover any consideration due or earned under the contract at the time of its termination.

[S13, §1527-s15; C24, §4685, 4700; C27, 31, 35, §4685, 4755-b10; C39, §**4685, 4686.14, 4755.10;** C46, §309.92, 310.14, 313.10; C50, §308A.11; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.2]

2009 Acts, ch 133, §115

314.3 Claims — approval and payment.

All claims for construction, reconstruction, improvement, repair, or maintenance on any highway shall be itemized on voucher forms prepared for that purpose, certified to by the claimants and by the engineer in charge, and then forwarded to the agency in control of that highway for final audit and approval. Claims payable from the farm-to-market road fund shall be approved by both the board of supervisors and the department. Upon approval by the department of vouchers which are payable from the farm-to-market road fund, or from the primary road fund, as the case may be, such vouchers shall be forwarded to the director of the department of administrative services, who shall draw warrants

therefor and said warrants shall be paid by the treasurer of the state from the farm-to-market road fund or from the primary road fund, as the case may be.

If the engineer makes such certificate or a member of the agency approves such claim when said work has not been done in accordance with the plans and specifications, and said work be not promptly made good without additional cost, the engineer or member shall be liable on the person's bond for the amount of such claim.

[SS15, §1527-s10; C24, §4653, 4702; C27, 31, 35, §4653, 4755-b15; C39, §**4653, 4686.17, 4755.15;** C46, §309.59, 310.17, 313.15; C50, §308A.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.3]

2003 Acts, ch 145, §286

314.4 Partial payments.

Partial payments may be made on highway contract work during the progress thereof, but no such partial payment shall be deemed final acceptance of the work nor a waiver of any defect therein. The approval of any claim by the agency in control of the work, or highway on which the work is located, may be evidenced by the signature of the chairperson of said agency, or of a majority of the members of said agency, on the individual claims or on the abstract of a number of claims with the individual claims attached to said abstract.

[SS15, §1527-s10; C24, §4654, 4702; C27, 31, 35, §4654, 4755-b16; C39, §**4654, 4755.16;** C46, §309.60, 313.16; C50, §308A.13; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.4]

314.5 Extensions in certain cities.

The agency in control of a secondary road, subject to approval of the council, may eliminate danger at railroad crossings and construct, reconstruct, improve, repair, and maintain any road or street which is an extension of the secondary road within a city. However, this authority does not apply to the extensions of secondary roads located in cities over twenty-five hundred population, where the houses or business houses average less than two hundred feet apart.

The phrase *"subject to the approval of the council"* as it appears in this section, shall be construed as authorizing the council to consider said proposed improvement only in its relationship to municipal improvements such as sewers, water lines, establishing grades, change of established street grades, sidewalks and other public improvements. The locations of such road extensions shall be determined by the agency in control of such road or road system.

[C31, 35, §4644-c47; C39, §**4644.45, 4686.21;** C46, §309.45, 310.21; C50, §308A.14; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.5]

89 Acts, ch 134, §8

314.6 Highways along city limits.

Whenever any public highway located along the corporate line of any city is an extension of a farm-to-market road, or of a primary road, it may be included in the farm-to-market road system or the primary road system, as the case may be, and may be constructed, reconstructed, improved, repaired, and maintained as a part of said road system.

[C24, §4735; C27, 31, 35, §4755-b28; C39, §**4686.25, 4755.26;** C46, §310.25, 313.35; C50, §308A.15; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.6]

314.7 Trees — ingress or egress — drainage.

Officers, employees, and contractors in charge of improvement or maintenance work on any highway shall not cut down or injure any tree growing by the wayside which does not materially obstruct the highway, or tile drains, or interfere with the improvement or maintenance of the road, and which stands in front of any city lot, farmyard orchard or feed lot, or any ground reserved for any public use. Nor shall they destroy or injure reasonable ingress or egress to any property, or turn the natural drainage of the surface water to the injury of adjoining owners. It shall be their duty to use strict diligence in draining the surface water from the public road in its natural channel. To this end they may enter upon the adjoining lands for the purpose of removing from such natural channel obstructions that impede the flow of such water.

[C24, 27, §4791; C31, 35, §4644-c46; C39, §**4644.44;** C46, §309.44; C50, §308A.16; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.7]

314.8 Government markers preserved.

1. If it is necessary in grading a highway to make a cut that will disturb, or fill that will cover up, a government or other established corner or land monument, the engineer in charge of the project shall establish permanent witness corners or monuments, and make a record of the same, that show the distance and direction the witness corner is from the corner disturbed or covered up. When the construction work is completed the engineer shall permanently reestablish the corner or monument.

2. If the duties in subsection 1 are not performed, the agency in control of the highway on which a project described in subsection 1 has been or is being completed shall pay the costs of restoring the original position of the established corner or land monument.

[S13, §1527-s7; C24, 27, 31, 35, 39, §**4656;** C46, §309.62; C50, §308A.17; C54, 58, 62, 66, 71, 73, 75,

77, 79, 81, §314.8]

2002 Acts, ch 1063, §14

314.9 Entering private property.

The agency in control of a highway may after thirty days' written notice by restricted certified mail addressed to the owner and also to the occupant, enter upon private property for the purpose of making surveys, soundings, drillings, appraisals, and examinations as the agency deems appropriate or necessary to determine the advisability or practicability of locating and constructing a highway on the property or for the purpose of determining whether gravel or other material exists on the property of suitable quality and in sufficient quantity to warrant the purchase or condemnation of the property. The entry shall not be deemed a trespass, and the agency may be aided by injunction to insure peaceful entry. The agency shall pay actual damages caused by the entry, surveys, soundings, drillings, appraisals, or examinations.

Any damage caused by the entry, surveys, soundings, drillings, appraisals, or examinations shall be determined by agreement or in the manner provided for the award of damages in condemnation of the property for highway purposes. Soundings or drillings shall not be done within one hundred fifty feet of the dwelling house or within fifty feet of other buildings without written consent of the owner.

[C27, 31, 35, §4658-a1; C39, §**4658.1;** C46, §309.65; C50, §308A.18; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.9]

96 Acts, ch 1126, §3

314.10 State-line highways.

The agency in control of any highway or bridge bordering on or crossing a state line is authorized to confer and agree with the agency or official of such border state, or subdivision of such state, having control of such highway or bridge relative to the interstate connection, the plans for the improvement, and maintenance, the division of work and the apportionment of cost of such highway or bridge.

[S13, §1570-a; SS15, §1527-s3; C24, 27, 31, 35, 39, §**4663;** C46, §309.72; C50, §308A.19; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.10]

314.11 Use of bridges by utility companies.

Telephone, telegraph, electric transmission and pipe lines may be permitted to use any highway bridge on or across a state line on such terms and conditions as the agency or officials jointly constructing,

maintaining or operating such bridge may jointly determine. No discrimination shall be made in the use of such bridge as between such utilities. Joint use of telephone, telegraph, electric transmission or pipe lines may not be required. No grant to any public utility to use such bridge shall in any way interfere with the use of such bridge by the public for highway purposes.

[S13, §424-e; C24, 27, 31, 35, 39, §**4683;** C46, §309.90; C50, §308A.20; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §314.11]

314.12 Borrow pits — topsoil preserved.

In the award of contracts for the construction, reconstruction, improvement, repair or maintenance of any highway, the agency having charge of awarding such contracts shall require that when fill dirt, soil or other materials are to be removed from borrow pits acquired by title or easement, whether by agreement or condemnation, for use in the project, adequate provision shall be made for the restoration of the borrow pit area, either by removal and replacement of a minimum of eight inches of topsoil, or by fertilizing, mulching, reseeding or other appropriate measures to provide vegetative cover or prevent erosion, except where a lake or subwater table conditions are designed, or where the area is zoned for commercial, industrial, or residential use, or where the borrow is in locations of white oak, sand, loess or undrainable clays. When the borrow pit is acquired by easement, the restoration method shall be determined by agreement with the landowner.

[C71, 73, 75, 77, 79, 81, §314.12]

314.12A Preservation of topsoil in highway construction.

In the award of contracts for the construction, reconstruction, improvement, and repair, except for minor maintenance, of a highway, the state department of transportation shall require that when fill dirt, soil, or other materials are to be removed from an area acquired by title or easement, whether by agreement or condemnation, for use in the project, adequate provision shall be made for the salvage of topsoil from the area for use in the restoration of the specified critical areas of the project by replacement of salvaged topsoil, by fertilizing and mulching if necessary, or by other appropriate measures to provide vegetative cover to prevent erosion, including filling or covering the area with compost, except where a lake or subwater table conditions exist, where deep loess is present, or where outside ditch bottoms and backslopes are present in rock cut areas. This section shall not apply to borrow pits covered by section 314.12.

2002 Acts, ch 1103, §1

314.13 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Agency"* means any governmental body which exercises jurisdiction over any road as provided by law.

2. *"Committee"* means the integrated roadside vegetation management technical advisory committee created in section 314.22.

3. *"Coordinator"* means the integrated roadside vegetation management coordinator.

4. *"Department"* means the state department of transportation.

5. *"Disadvantaged business enterprise"* means a small business which meets both of the following:

a. The business is at least fifty-one percent owned by one or more socially and economically disadvantaged individuals.

b. The management and daily business operations of the business are controlled by one or more of the socially and economically disadvantaged individuals who own the business.

6. *"Highway"* or *"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, as a matter of right, for purposes of vehicular traffic.

7. *"Prequalified"* means that a small business has been approved by the department as a small business, is a recognized contractor engaged in the class of work provided for in the plans and specifications, possesses sufficient resources to complete the work, and is able to furnish a performance bond for one hundred percent of the contract.

8. *"Small business"* means any enterprise, which is operated for profit and under a single management, and which has either fewer than twenty employees or an annual gross income of less than four million dollars computed as the average of the three preceding fiscal years. This definition does not apply to any program or activity for which a definition for small business is provided for the program or activity by federal law or regulation or other state law.

9. *"Socially and economically disadvantaged individual"* means an individual who is a citizen of the United States or who is a lawfully admitted permanent resident of the United States and who is a woman, Black American, Hispanic American, Native American, Asian-Pacific American, Asian-Indian American, or any other minority person or individual found to be disadvantaged by the United States small business administration. However, the department may also determine, on a case-by-case basis, that an individual who is not a member of one of the enumerated groups is a socially and economically disadvantaged individual. A rebuttable presumption exists that individuals in the following groups are socially and economically disadvantaged:

a. "Asian-Indian Americans", which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka.

b. "Asian-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia, Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the United States trust territories of the Pacific Islands, and the Northern Marianas, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Micronesia, or Hong Kong.

c. "Black Americans", which includes persons having origins in any of the black racial groups of Africa.

d. "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.

e. "Native Americans", which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

[C75, 77, 79, 81, §314.13]

89 Acts, ch 246, §3

; 2001 Acts, ch 32, §10

; 2010 Acts, ch 1098, §1

314.13A Contract assessment — socially and economically disadvantaged individuals.

1. The department shall annually assess the impact of federal and nonfederal awarded contracts on socially and economically disadvantaged individuals, including women and persons with a disability, as defined in section 15.102, in the state.

2. The assessment shall include the following:

a. Any disproportionate or unique impact the contract may have on socially and economically disadvantaged individuals in the state.

b. A rationale for the contract having an impact on socially and economically disadvantaged individuals in the state.

c. Consultation with representatives of socially and economically disadvantaged individuals in cases where the contract has an identifiable impact on socially and economically disadvantaged individuals in the state.

3. This section shall be carried out to the extent consistent with federal law.

4. The assessment shall be used for informational purposes.

2010 Acts, ch 1098, §2

314.14 Contracts set aside for small businesses.

Notwithstanding section 314.1, there may be set aside contracts for bidding by prequalified small businesses a percentage of the total annual dollar amount of public contracts let by the department. The annual dollar amount set aside for bidding by prequalified small businesses shall not exceed ten percent of the total dollar amount of highway construction contracts let by the department and transit dollars administered by the department. The director may estimate the set-aside amount at the beginning of each fiscal year and a suit shall not be brought by any party as a result of this estimate. Set-aside contracts will be awarded to the lowest responsible prequalified small business. This section shall not be construed as limiting the department's right to refuse any or all small business bids.

84 Acts, ch 1229, §1

; 2009 Acts, ch 41, §111, 112

; 2010 Acts, ch 1098, §3

Disadvantaged business enterprise funding reauthorized in section 1101(b) of the federal Moving Ahead for Progress in the 21st Century Act (MAP-21), approved July 6, 2012, Pub.L. No. 112-141; see also 49 C.F.R. pt 26

314.15 Disadvantaged business enterprises — rules.

The department of transportation shall promulgate rules establishing affirmative action requirements to encourage and increase participation of disadvantaged individuals in business enterprises in all federal aid projects made available by and through the department.

90 Acts, ch 1161, §4

314.16 Interstate 80 — route designation.

The interstate which runs from Council Bluffs on the western border through Des Moines to Davenport on the eastern border shall be known as interstate 80. The state transportation commission shall be prohibited from changing the route of interstate 80 as designated on January 1, 1992.

92 Acts, ch 1010, §1

314.17 Mowing on interstates, primary highways, and secondary roads.

Mowing roadside vegetation on the rights-of-way or medians on any primary highway, interstate highway, or secondary road prior to July 15 is prohibited, except as follows:

1. Within two hundred yards of an inhabited dwelling.
2. On rights-of-way within one mile of the corporate limits of a city.
3. To promote native species of vegetation or other long-lived and adaptable vegetation.
4. To establish control of damaging insect populations, noxious weeds, and invasive plant species.
5. For visibility and safety reasons.
6. Within rest areas, weigh stations, and wayside parks.
7. Within fifty feet of a drainage tile or tile intake.
8. For access to a mailbox or for other accessibility purposes.
9. On rights-of-way adjacent to agricultural demonstration or research plots.

98 Acts, ch 1212, §7

; 2010 Acts, ch 1164, §1

; 2010 Acts, ch 1193, §121

314.18 Responsibility for bridge inspection.

The department, counties, cities, and other public entities shall be responsible for the safety inspection and evaluation of all highway bridges under their jurisdiction which are located on public roads, in accordance with the national bridge inspection standards. These responsibilities include inspection policies and procedures, inspections, reports, load ratings, quality control and quality assurance, maintaining a bridge inventory, and other requirements of the national bridge inspection standards.

2006 Acts, ch 1068, §4

314.19 Reseeding open ditches.

The department shall have the topsoil of each open ditch along the side of a highway reseeded with prairie grass seed and the seed of other adapted grass and legumes including native grass species after the construction, reconstruction, improvement, repair, or maintenance of a highway whenever feasible.

84 Acts, ch 1114, §1

314.20 Utility easements on highway right-of-way.

The department shall develop an accommodation plan for the longitudinal utility use of freeway right-of-way, in consultation with the utilities board. The plan shall be consistent with the rules of the federal highway administration of the United States department of transportation and shall be submitted to the federal highway administration for its approval by January 1, 1989. In developing the plan, the department shall provide for extended payment and lease agreements to provide continuous funding for the living roadway trust fund. The plan shall provide for charges for the use of the right-of-way and all moneys collected shall be credited to the living roadway trust fund established under section 314.21.

88 Acts, ch 1019, §9

;

89 Acts, ch 246, §4

314.21 Living roadway trust fund.

1. *a.* The living roadway trust fund is created in the office of the treasurer of state. The moneys in this fund shall be used exclusively for the development and implementation of integrated roadside vegetation plans. Except as provided in subsections 2 and 3, the moneys shall only be expended for areas on or adjacent to road, street, and highway right-of-ways. The state department of transportation in consultation with the department of natural resources shall establish standards relating to the type of projects available for assistance. For the fiscal period beginning July 1, 1988, and ending March 31, 1990, the moneys in the fund shall be expended as follows: fifty-six percent on state department of transportation projects; thirty percent on county projects; and fourteen percent on city projects.

b. A city or county which has a project which qualifies for the use of these funds shall submit a request for the funds to the state department of transportation. A city or county may, at its option, apply moneys allocated for use on city or county projects under this subsection toward qualifying projects on the primary system. The state department of transportation in consultation with the department of natural resources shall determine which projects qualify for the funds and which projects shall be funded if the requests for the funds exceed the availability of the funds. In ranking applications for funds, the department shall consider the proportion of political subdivision matching funds to be provided, if any, and the proportion of private contributions to be provided, if any. In considering the proportion of political subdivision matching funds provided, the department shall consider only those moneys which are in addition to those which the political subdivision has historically provided toward such projects. Funds allocated to the cities, the counties, and the department which are not programmed by the end of each fiscal year shall be available for redistribution to any eligible applicant

regardless of the original allocation of funds. Such funds shall be awarded for eligible projects based upon their merit in meeting the program objectives established by the department under section 314.22. The department shall submit a report of all projects funded in the previous fiscal year to the governor and to the general assembly on January 15 of each year.

c. Beginning April 1, 1990, the moneys in the living roadway trust fund shall be allocated between the state, counties, and cities in the same proportion that the road use tax funds are allocated under section 312.2, subsection 1, paragraphs *"a"*, *"b"*, *"c"*, and *"d"*. However, after April 1, 1990, a city or county shall not be eligible to receive moneys from the living roadway trust fund unless the city or county has an integrated roadside vegetation management plan in place consistent with the objectives in section 314.22.

2. *a.* The department may authorize projects which provide grants or loans to local governments and organizations which are developing community entryway enhancement and other planting demonstration projects. Planning, public education, installation, and initial maintenance planning and development may be determined by the department to be eligible activities for funding under this paragraph. Projects approved under this paragraph require a local match or contribution toward the overall project cost.

b. The department may authorize projects which provide grants or loans to local governments for the purchase of specialized equipment and special staff training for the establishment of alternative forms of roadside vegetation. Projects approved under this paragraph require a local match or contribution toward the overall project cost.

c. The department, in order to create greater visual effect, shall investigate alternatives for concentrating plantings at strategic locations to gain a greater visual impact and appeal as well as stronger scenic value. Equal attention shall be given to providing safe and effective habitats for wildlife which can coexist with highways.

d. The department may authorize projects which provide grants or loans to local jurisdictions for increased protection through the use of easements, fee title acquisition, covenants, zoning ordinances, or other provisions for protection of vegetation and desirable environment adjacent to the right-of-way. Off-right-of-way projects shall emphasize vegetation protection or enhancement, scenic and wildlife values, erosion control and enhancement of vegetation management projects within the right-of-ways.

3. *a.* Moneys allocated to the state under subsection 1 shall be expended as follows:

(1) Fifty thousand dollars annually to the department for the services of the integrated roadside vegetation management coordinator and support.

(2) One hundred thousand dollars annually for education programs, research and demonstration projects, and vegetation inventories and strategies, under section 314.22, subsections 5, 6, and 8.

(3) All remaining moneys for the gateways program under section 314.22, subsection 7.

b. Moneys allocated to the counties under subsection 1 shall be expended as follows:

(1) For the fiscal year beginning July 1, 1995, and ending June 30, 1996, and each subsequent fiscal year, seventy-five thousand dollars to the university of northern Iowa to maintain the position of the state roadside specialist and to continue its integrated roadside vegetation management program providing research, education, training, and technical assistance.

(2) All remaining money for grants or loans under subsection 2, paragraph *"a"*.

c. Moneys allocated to the cities shall be expended for grants or loans under subsection 2, paragraph *"a"*.

88 Acts, ch 1019, §5

89 Acts, ch 246, §5

89 Acts, ch 317, §28

91 Acts, ch 268, §516

93 Acts, ch 169, §16

95 Acts, ch 220, §26

2009 Acts, ch 133, §238

314.22 Integrated roadside vegetation management.

1. *Objectives.* It is declared to be in the general public welfare of Iowa and a highway purpose for the vegetation of Iowa's roadsides to be preserved, planted, and maintained to be safe, visually interesting, ecologically integrated, and useful for many purposes. The state department of transportation shall provide an integrated roadside vegetation management plan and program which shall be designed to accomplish all of the following:

a. Maintain a safe travel environment.

b. Serve a variety of public purposes including erosion control, wildlife habitat, climate control, scenic qualities, weed control, utility easements, recreation uses, and sustenance of water quality.

c. Be based on a systematic assessment of conditions existing in roadsides, preservation of valuable vegetation and habitats in the area, and the adoption of a comprehensive plan and strategies for cost-effective maintenance and vegetation planting.

d. Emphasize the establishment of adaptable and long-lived vegetation, often native species, matched to the unique environment found in and adjacent to the roadside.

e. Incorporate integrated management practices for the long-term control of damaging insect populations, weeds, and invader plant species.

f. Build upon a public education program allowing input from adjacent landowners and the general public.

g. Accelerate efforts toward increasing and expanding the effectiveness of plantings to reduce wind-induced and water-induced soil erosion and to increase deposition of snow in desired locations.

h. Incorporate integrated roadside vegetation management with other state agency planning and program activities including the recreation trails program, scenic highways, open space, and tourism development efforts. Agencies should annually report their progress in this area to the general assembly.

2. *Counties may adopt plans.* A county may adopt an integrated roadside vegetation management plan consistent with the integrated roadside vegetation management plan adopted by the department under subsection 1.

3. *Integrated roadside vegetation management technical advisory committee.*

a. The director of the department shall appoint members to an integrated roadside vegetation management technical advisory committee which is created to provide advice on the development and implementation of a statewide integrated roadside vegetation management plan and program and related projects. The department shall report annually in January to the general assembly regarding its activities and those of the committee. Activities of the committee may include, but are not limited to, providing advice and assistance in the following areas:

(1) Research efforts.

(2) Demonstration projects.

(3) Education and orientation efforts for property owners, public officials, and the general public.

(4) Activities of the integrated roadside vegetation management coordinator for integrated roadside vegetation management.

(5) Reviewing applications for funding assistance.

(6) Securing funding for research and demonstrations.

(7) Determining needs for revising the state weed law and other applicable Code sections.

(8) Liaison with the Iowa state association of counties, the Iowa league of cities, and other organizations for integrated roadside vegetation management purposes.

b. The director may appoint any number of persons to the committee but, at a minimum, the committee shall consist of all of the following:

(1) One member representing the utility industry.

(2) One member from the Iowa academy of sciences.

(3) One member representing county government.

(4) One member representing city government.

(5) Two members representing the private sector including community interest groups.

(6) One member representing soil conservation interests.

(7) One member representing the department of natural resources.

(8) One member representing county conservation boards.

c. Members of the committee shall serve without compensation, but may be reimbursed for allowable expenses from the living roadway trust fund created under section 314.21. No more than a simple majority of the members of the committee shall be of the same gender as provided in section 69.16A. The director of the department shall appoint the chair of the committee and shall establish a minimum schedule of meetings for the committee.

4. *Integrated roadside vegetation management coordinator.* The integrated roadside vegetation management coordinator shall administer the department's integrated roadside vegetation management plan and program. The department may create the position of integrated roadside vegetation management coordinator within the department or may contract for the services of the coordinator. The duties of the coordinator include, but are not limited to, the following:

a. Conducting education and awareness programs.

b. Providing technical advice to the department and the department of natural resources, counties, and cities.

c. Conducting demonstration projects.

d. Coordinating inventory and implementation activities.

e. Providing assistance to local community-based groups for undertaking community entryway projects.

f. Being a clearinghouse for information from Iowa projects as well as from other states.

g. Periodically distributing information related to integrated roadside vegetation management.

h. General coordination of research efforts.

i. Other duties assigned by the director of transportation.

5. *Education programs.* The department shall develop educational programs and provide educational materials for the general public, landowners, governmental employees, and board members as part of its program for integrated roadside vegetation management. The educational program shall provide all of the following:

a. The development of public service announcements and television programs about the importance of roadside vegetation in Iowa.

b. The expansion of existing training sessions and educational curriculum materials for county weed commissioners, government contract sprayers, maintenance staff, and others to include coverage of integrated roadside management topics such as basic plant species identification, vegetation preservation, vegetation inventory techniques, vegetation management and planning procedures, planting techniques, maintenance, communication, and public relations. County and municipal engineers, public works staffs, planning and zoning representatives, parks and habitat managers, and others should be encouraged to participate.

c. The conducting of statewide and regional conferences and seminars about integrated roadside vegetation management, community entryways, scenic values of land adjoining roadsides, and other topics relating to roadside vegetation.

d. The preparation, display, and distribution of a variety of public relations material, in order to better inform and educate the traveling public on roadside vegetation management activities. The public relations material shall inform motorists of a variety of roadside vegetation issues including all of the following:

(1) Benefits of various types of roadside vegetation.

(2) Long-term results expected from planting and maintenance practices.

(3) Purposes for short-term disturbances in the roadside landscapes.

(4) Interesting aspects of the Iowa landscape and individual landscape regions.

(5) Other aspects relating to wildlife and soil erosion.

e. Preparation and distribution of educational material designed to inform adjoining property owners, farm operators, and others of the importance of roadside vegetation and their responsibilities of proper stewardship of that vegetation resource.

6. *Research and demonstration projects.* The department, as part of its plan to provide integrated roadside vegetation management, shall conduct research and feasibility studies including demonstration projects of different kinds at a variety of locations around the state. The research and feasibility studies may be conducted in, but are not limited to, any of the following areas:

a. Cost effectiveness or comparison of planting, establishing and maintaining alternative or warm-season, native grass and forb roadside vegetation and traditional cool-season nonnative vegetation.

b. Identification of the relationship that roadsides and roadside vegetation have to maintaining water quality, through drainage wells, sediment and pollutant collection and filtration, and other means.

c. Impacts of burning as an alternative vegetation management tool on all categories of roads.

d. Techniques for more quickly establishing erosion control and permanent vegetative cover on recently disturbed ground as well as interplanting native species in existing vegetative cover.

e. Effectiveness of techniques for reduced or selected use of herbicides to control weeds.

f. Identification of cross section and slope steepness design standards which provide for motorist safety as well as for improved establishment, maintenance, and replacement of different types of vegetation.

g. Identification of a uniform inventory and assessment technique which could be used by many counties in establishing integrated roadside management programs.

h. Equipment innovations for seeding and harvesting grasses in difficult terrain settings, roadway ditches, and fore-slopes and back-slopes.

i. Identification of the perceptions of motorists and landowners to various types of roadside vegetation and configuration of plantings.

j. Market or economic feasibility studies for native seed, forb, and woody plant production and propagation.

k. Impacts of vegetation modifications on increasing or decreasing wildlife populations in rural and urban areas.

l. Effects of vegetation on the number and location of wildlife road-kills in rural and urban areas.

m. Costs to the public for improper off-site resource management adjacent to roadsides.

n. Advantages, disadvantages, and techniques of establishing pedestrian access adjacent to highways and their impacts on vegetation management.

o. Identification of alternative techniques for snow catchment on farmland adjacent to roadsides.

7. *Gateways program.* The department shall develop a gateways program to provide meaningful visual impacts including major new plantings at the important highway entry points to the state and its communities. Substantial and distinctive plantings shall also be designed and installed at these points. Creative and artistic design solutions shall be sought for these improvements. Communications about these projects shall be provided to local groups in order to build community involvement, support, and understanding of their importance. Consideration shall be given to a requirement that gateways projects produce a local match or contribution toward the overall project cost.

8. *Vegetation inventories and strategies.*

a. The department shall coordinate and compile integrated roadside vegetation inventories, classification systems, plans, and implementation strategies for roadsides. Areas of increased program and project emphasis may include, but are not limited to, all of the following:

(1) Additional development and funding of state gateways projects.

(2) Accelerated replacement of dead and unhealthy plants with native and hardy trees and shrubs.

(3) Special interest plantings at selected highly visible locations along primary and interstate highways.

(4) Pilot and demonstration projects.

(5) Additional snow and erosion control plantings.

(6) Welcome center and rest area plantings with native and aesthetically interesting species to create mini-arboretums around the state.

b. The department shall coordinate and compile a reconnaissance of lands to develop an inventory of sites having the potential of being harvested for native grass, forb, and woody plant material seed and growing stock. Highway right-of-ways, parks and recreation areas, converted railroad right-of-ways, state board of regents' property, lands owned by counties, and other types of public property shall be surveyed and documented for seed source potential. Sites volunteered by private organizations may also be included in the inventory. Inventory information shall be made available to state agencies' staffs, county engineers, county conservation board directors, and others.

89 Acts, ch 246, §6

; 95 Acts, ch 3, §2

; 2010 Acts, ch 1061, §107

314.23 Environmental protection.

It is declared to be in the general public welfare of Iowa and a highway purpose that highway maintenance, construction, reconstruction, and repair shall protect and preserve, by not causing unnecessary destruction, the natural or historic heritage of the state. In order to provide for the protection and preservation, the following shall be accomplished in the design, construction, reconstruction, relocation, repair, or maintenance of roads, streets, and highways:

1. *Woodlands.* Woodland removed shall be replaced by plantings as close as possible to the initial site, or by acquisition of an equal amount of woodland in the general vicinity for public ownership and preservation, or by other mitigation deemed to be comparable to the woodland removed, including, but not limited to, the improvement, development, or preservation of woodland under public ownership.

2. *Wetlands.* Wetland removed shall be replaced by acquisition of wetland, in the same general

vicinity if possible, for public ownership and preservation, or by other mitigation deemed to be comparable to the wetland removed, including, but not limited to, the improvement, development, or preservation of wetland under public ownership.

3. *Public parks.* Highways, streets, and roads constructed on or through publicly owned lands comprising parks, preserves, or recreation areas, shall be located and designed, in consultation with the public entity owning the land, so as to blend aesthetically with the areas and to minimize noise. When land is taken from the areas for highway construction and if, in consultation with the public entity owning the land, mitigation is deemed necessary, the land shall be replaced by an equal or greater amount for public use, or by other mitigation, undertaken in consultation with the public entity owning the land, and deemed to be appropriate to the amount of land taken, including, but not limited to, the improvement, development, or preservation of the areas.

4. *Prime agricultural lands.* Topsoil removed may be utilized for landscaping and other necessary construction. Excess topsoil shall be made available to the former landowner or other landowners whose land was purchased for the construction or others, and if not acquired by one of these parties, it may be disposed.

89 Acts, ch 311, §26

314.24 Natural and historic preservation.

Cities, counties, and the department shall to the extent practicable preserve and protect the natural and historic heritage of the state in the design, construction, reconstruction, relocation, repair, or maintenance of roads, streets, or highways. Destruction or damage to natural areas, including but not limited to prime agricultural land, parks, preserves, woodlands, wetlands, recreation areas, greenbelts, historical sites, or archaeological sites shall be avoided, if reasonable alternatives are available for the location of roads, streets, or highways at no significantly greater cost. In implementing this section, cities, counties, and the department shall make a diligent effort to identify and examine the comparative cost of utilizing alternative locations for roads, streets, or highways.

89 Acts, ch 317, §30

314.25 Green space provided.

The department shall use the property owned by it in the city of Council Bluffs which is bounded by Broadway, Seventh street, Kanesville boulevard, and Sixth street, exclusively for green space, and, if sold by the department, the department shall sell the property with the restricted covenant that the property shall be used exclusively for green space or else revert to the department.

89 Acts, ch 317, §29

314.26 Schwengel Bridge.

The interstate 80 bridge crossing the Mississippi river between the states of Iowa and Illinois shall be known as the "Schwengel Bridge" in honor of Fred Schwengel, who served for five terms as a member of the general assembly of the state of Iowa and was elected to the Congress of the United States in 1954, 1956, 1958, 1960, 1962, 1966, 1968, and 1970.

93 Acts, ch 133, §1

314.27 Refreshments at rest areas on certain holidays.

1. As used in this section, unless the context otherwise requires:

a. "Free refreshments" means water, coffee, cookies, any nonintoxicating, noncarbonated beverage which is not already bottled or canned, doughnuts, or baked dessert goods dispensed by a nonprofit organization, provided that the refreshments are furnished to motorists by a nonprofit organization without charge.

b. "Holiday periods" means the Memorial Day and Labor Day weekends, commencing at noon on the preceding Friday and ending at midnight between the Monday and Tuesday of the holiday weekend, and the period surrounding Independence Day, commencing at noon on July 1 and ending at midnight between July 6 and July 7.

2. Nonprofit organizations shall be allowed to provide free refreshments to motorists and to accept, without active solicitation, voluntary donations from motorists during holiday periods at rest areas, as defined in section 306C.10, subject to approval by the department. The department shall approve or disapprove applications by nonprofit organizations, and notify those nonprofit organizations, at least sixty days prior to the holiday period.

3. The department shall adopt rules governing the provision of refreshments at rest areas in accordance with this section.

95 Acts, ch 18, §1

314.28 Keep Iowa beautiful fund.

1. A keep Iowa beautiful fund is created in the office of the treasurer of state. The fund is composed of moneys appropriated or available to and obtained or accepted by the treasurer of state for deposit in the fund. All interest earned on moneys in the fund shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

2. Moneys in the fund that are authorized by the department for expenditure are appropriated, and shall be used, to educate and encourage Iowans to take greater responsibility for improving their community environment and enhancing the beauty of the state through litter prevention, improving waste management and recycling efforts, and beautification projects.

3. The department may authorize payment of moneys from the fund upon approval of an application from a private or public organization. The applicant shall submit a plan for litter prevention, improving waste management and recycling efforts, or a beautification project along with its application. The department shall establish standards relating to the type of projects available for assistance.

2001 Acts, ch 160, §1

; 2004 Acts, ch 1175, §435

; 2004 Acts, ch 1177, §3

; 2006 Acts, ch 1182, §60

; 2011 Acts, ch 34, §78

314.29 Dick Drake Way.

The highway currently known as the industrial connector in Muscatine shall be renamed "Dick Drake Way" in honor of Richard Drake, who served for thirty-six years as a member of the general assembly of the state of Iowa.

2008 Acts, ch 1124, §3

CHAPTER 31
WEEDS

317.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. *"Commissioner"* means the county weed commissioner or the commissioner's deputy within each county.

2000 Acts, ch 1148, §1

; 2010 Acts, ch 1069, §86

; 2010 Acts, ch 1193, §49

317.1A Noxious weeds.

1. The following weeds are hereby declared to be noxious and shall be divided into two classes, as follows:

a. Primary noxious weeds, which shall include:

(1) Quack grass (Elymus repens).

(2) Perennial sow thistle (Sonchus arvensis).

(3) Canada thistle (Cirsium arvense).

(4) Bull thistle (Cirsium vulgare).

(5) European morning glory or field bindweed (Convolvulus arvensis).

(6) Horse nettle (Solanum carolinense).

(7) Leafy spurge (Euphorbia esula).

(8) Perennial pepper-grass (Cardaria draba).

(9) Russian knapweed (Acroptilon repens).

(10) Buckthorn (Rhamnus spp., not to include Frangula alnus, syn. Rhamnus frangula).

(11) All other species of thistles belonging in the genera of Cirsium and Carduus.

b. Secondary noxious weeds, which shall include:

(1) Butterprint (Abutilon theophrasti) annual.

(2) Cocklebur (Xanthium strumarium) annual.

(3) Wild mustard (Sinapis arvensis) annual.

(4) Wild carrot (Daucus carota) biennial.

(5) Buckhorn (Plantago lanceolata) perennial.

(6) Sheep sorrel (Rumex acetosella) perennial.

(7) Sour dock (Rumex crispus) perennial.

(8) Smooth dock (Rumex altissimus) perennial.

(9) Poison hemlock (Conium maculatum).

(10) Multiflora rose (Rosa multiflora).

(11) Wild sunflower (wild strain of Helianthus annuus L.) annual.

(12) Puncture vine (Tribulus terrestris) annual.

(13) Teasel (Dipsacus spp.) biennial.

(14) Shattercane (Sorghum bicolor) annual.

2. *a.* The multiflora rose (Rosa multiflora) shall not be considered a secondary noxious weed when cultivated for or used as understock for cultivated roses or as ornamental shrubs in gardens, or in any county whose board of supervisors has by resolution declared it not to be a noxious weed.

b. Shattercane (Sorghum bicolor) shall not be considered a secondary noxious weed when cultivated or in any county whose board of supervisors has by resolution declared it not to be a noxious weed.

[S13, §1565-b; C24, 27, 31, 35, §4818; C39, §**4829.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.1]

85 Acts, ch 171, §1

2000 Acts, ch 1154, §20

C2001, §317.1A

2010 Acts, ch 1061, §108

; 2011 Acts, ch 34, §79

See also §199.1

317.2 State botanist.

The secretary of agriculture shall appoint as state botanist the head of the botany and plant pathology section of the Iowa agricultural experiment station whose duty shall be to cooperate in developing a constructive weed eradication program.

[C39, §**4829.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.2]

317.3 Weed commissioner — standards for noxious weed control.

The board of supervisors of each county may annually appoint a county weed commissioner who may be a person otherwise employed by the county and who passes minimum standards established by the department of agriculture and land stewardship for noxious weed identification and the recognized methods for noxious weed control and elimination. The county weed commissioner's appointment shall be effective as of March 1 and shall continue for a term at the discretion of the board of supervisors unless the commissioner is removed from office as provided for by law. The county weed commissioner may, with the approval of the board of supervisors, require that commercial applicators and their appropriate employees pass the same standards for noxious weed identification as established by the department of agriculture and land stewardship. The name and address of the person appointed as county weed commissioner shall be certified to the county auditor and to the secretary of agriculture within ten days of the appointment. The board of supervisors shall fix the compensation of the county weed commissioner and deputies. In addition to compensation, the commissioner and deputies shall be paid their necessary travel expenses. At the discretion of the board of supervisors, the weed commissioner shall attend a seminar or school conducted or approved by the department of agriculture and land stewardship relating to the identification, control, and elimination of noxious weeds.

The board of supervisors shall prescribe the time of year the weed commissioner shall perform the powers and duties of county weed commissioner under this chapter which may be during that time of year when noxious weeds can effectively be killed. Compensation shall be for the period of actual work only although a weed commissioner assigned other duties not related to weed eradication may receive an annual salary. The board of supervisors shall likewise determine whether employment shall be by hour, day or month and the rate of pay for the employment time.

[S13, §1565-c, -d, -f; C24, 27, §4817; C31, 35, §4817, 4817-d1; C39, §**4829.03;** C46, 50, 54, 58, 62, 66,

71, 73, 75, 77, 79, 81, §317.3]

83 Acts, ch 123, §119, 209

85 Acts, ch 160, §1

94 Acts, ch 1173, §14

317.4 Direction and control.

Each commissioner, subject to direction and control by the county board of supervisors, shall supervise the control and destruction of all noxious weeds in the county, including those growing within the limits of cities, within the confines of abandoned cemeteries, and along streets and highways unless otherwise provided. A commissioner shall notify the department of public safety of the location of marijuana plants found growing on public or private property. A commissioner may enter upon any land in the county at any time for the performance of the commissioner's duties, and shall hire the labor and equipment necessary subject to the approval of the board of supervisors.

[S13, §1565-c, -d, -f; C24, 27, 31, 35, §4817; C39, §**4829.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §317.4;

81 Acts, ch 117, §1047

83 Acts, ch 123, §120, 209

; 90 Acts, ch 1179, §2

; 2010 Acts, ch 1069, §87

317.5 Weeds in abandoned cemeteries.

The commissioner shall control the weeds growing in abandoned cemeteries in the county as needed. Spraying for control of weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §317.5]

89 Acts, ch 246, §7

317.6 Entering land to destroy weeds — notice.

1. If there is a substantial failure by the owner or person in possession or control of any land to comply with any order of destruction pursuant to the provisions of this chapter, the county weed commissioner, including the weed commissioner's deputies, or employees acting under the weed commissioner's direction may enter upon any land within the commissioner's county for the purpose of destroying noxious weeds.

2. The entry may be made without the consent of the landowner or person in possession or control of the land. However, the actual work of destruction shall not be commenced until five days after the landowner and the person in possession or control of the land have been notified.

3. The notice shall state the facts relating to failure of compliance with the county program of weed destruction order or orders made by the board of supervisors. The notice shall be delivered by personal service on the owner and persons in possession and control of the land. The personal service may be served by the weed commissioner or any person designated in writing by the weed commissioner. However, in lieu of personal service, the weed commissioner may provide that the notice be delivered by certified mail. A copy of the notice shall be filed in the office of the county auditor. The last known address of the owner or person in possession or control of the land may be ascertained, if necessary, from the last tax list in the county treasurer's office. Where any person owning land within the county has filed a written instrument in the office of the county auditor designating the name and address of its agent, the notice may be delivered to that agent. In computing time for notice, it shall be from the date of service as evidenced on the return of service. If delivery is made by certified mail, it shall be from the date of mailing.

[S13, §1565-c, -d, -f; C24, §4817; C27, 31, 35, §4817, 4823-b1; C39, §**4829.05, 4829.06;** C46, §317.5, 317.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.6]

2005 Acts, ch 39, §1

; 2010 Acts, ch 1061, §109

317.7 Report to board.

Each weed commissioner shall for the territory under the commissioner's jurisdiction on or before the first day of November of each year make a written report to the board of supervisors. Said report shall state:

1. The name and location of all primary noxious weeds, and any new weed which appears to be a serious pest.

2. A detailed statement of the treatment used, and future plans, for eradication of weeds on each infested tract on which the commissioner has attempted to exterminate weeds, together with the

costs and results obtained.

3. A summary of the weed situation within the jurisdiction, together with suggestions and recommendations which may be proper and useful, a copy of which shall be forwarded to the state secretary of agriculture.

[S13, §1565-c, -d, -f; C24, 27, 31, 35, §4817; C39, §**4829.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.7]

317.8 Duty of secretary of agriculture or secretary's designee.

The secretary of agriculture or the secretary's designee is vested with the following duties, powers and responsibilities:

1. The secretary or the secretary's designee shall serve as state weed commissioner, and shall cooperate with all boards of supervisors and weed commissioners, and shall furnish blank forms for reports made by the supervisors and commissioners.

2. The secretary or the secretary's designee may, upon recommendation of the state botanist, temporarily declare noxious any new weed appearing in the state which possesses the characteristics of a serious pest.

3. The secretary or the secretary's designee shall aid the supervisors in the interpretation of the weed law, and make suggestions to promote extermination of noxious weeds.

4. The secretary or the secretary's designee shall aid the supervisors in enforcement of the weed law as it applies to all state lands, state parks and primary roads, and may impose a maximum penalty of a ten dollar fine for each day, up to ten days, that the state agency in control of land fails to comply with an order for destruction of weeds made pursuant to this chapter.

[S13, §1565-c, -d, -f; C24, 27, 31, 35, §4817; C39, §**4829.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.8]

85 Acts, ch 171, §2

87 Acts, ch 115, §48

317.9 Duty of board to enforce.

The responsibility for the enforcement of the provisions of this chapter shall be vested in the board of supervisors as to all farm lands, railroad lands, abandoned cemeteries, state lands and state parks, primary and secondary roads; roads, streets and other lands within cities unless otherwise provided.

[S13, §1565-c, -d, -f; C24, 27, 31, 35, §4817; C39, §**4829.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.9]

317.10 Duty of owner or tenant.

Each owner and each person in the possession or control of any lands shall cut, burn, or otherwise destroy, in whatever manner may be prescribed by the board of supervisors, all noxious weeds thereon as defined in this chapter at such times in each year and in such manner as shall be prescribed in the program of weed destruction order or orders made by the board of supervisors, and shall keep said lands free from such growth of any other weeds, as shall render the streets or highways adjoining said land unsafe for public travel.

[SS15, §1565-a; C24, 27, 31, 35, §4819; C39, §**4829.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.10]

317.11 Weeds on roads — harvesting of grass.

1. The county boards of supervisors and the state department of transportation shall control noxious weeds growing on the roads under their jurisdiction. Spraying for control of noxious weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the noxious weeds.

2. Nothing under this chapter shall prevent the landowner from harvesting, in proper season on or after July 15, the grass grown on the road along the landowner's land except for vegetation maintained for highway purposes as part of an integrated roadside vegetation management plan which is consistent with the objectives in section 314.22.

[S13, §1565-c, -d, -f; SS15, §1565-a; C24, 27, 31, 35, §4817, 4819; C39, §**4829.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.11]

89 Acts, ch 246, §8

; 2010 Acts, ch 1164, §2

317.12 Weeds on railroad or public lands and gravel pits.

All noxious weeds on railroad lands, public lands and within incorporated cities shall be treated in such manner, approved by the board of supervisors, as shall prevent seed production and either destroy or prevent the spread of noxious weeds to adjoining lands. Gravel pits infested with noxious weeds shall not be used as sources of gravel for public highways without previous treatment

approved by board of supervisors.

[S13, §1565-c, -d, -f; SS15, §1565-a; C24, 27, 31, 35, §4817, 4819; C39, §**4829.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.12]

317.13 Program of control.

The board of supervisors of each county may each year, upon recommendation of the county weed commissioner by resolution prescribe and order a program of weed control for purposes of complying with all sections of this chapter. The county board of supervisors of each county may also by adopting an integrated roadside vegetation management plan prescribe and order a program of weed control for purposes of complying with all sections of this chapter. The program for weed control ordered or adopted by the county board of supervisors shall provide that spraying for control of weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

The program of weed control shall include a program of permits for the burning, mowing, or spraying of roadsides by private individuals. The county board of supervisors shall allow only that burning, mowing, or spraying of roadsides by private individuals that is consistent with the adopted integrated roadside vegetation management plan. This paragraph applies only to those roadside areas of a county which are included in an integrated roadside vegetation management plan.

[S13, §1565-c, -d; C24, 27, 31, 35, §4821; C39, §**4829.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.13]

85 Acts, ch 171, §3

89 Acts, ch 246, §9

90 Acts, ch 1267, §36

317.14 Notice of program.

1. Notice of any order made pursuant to section 317.13 shall be given by one publication in the official newspapers of the county and shall be directed to all property owners.

2. The notice shall state:

a. The time for destruction.

b. The manner of destruction, if other than cutting above the surface of the ground.

c. That, unless the order is complied with, the weed commissioner shall cause the weeds to be

destroyed and the cost of destroying the weeds will be taxed against the real estate on which the noxious weeds are destroyed.

[S13, §1565-c, -d; C24, 27, 31, 35, §4822; C39, §**4829.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.14]

2010 Acts, ch 1061, §110

317.15 Loss or damage to crops.

The loss or damage to crops or property incurred by reason of such destruction shall be borne by the titleholder of said real estate, unless said real estate shall be sold under contract whereby possession has been delivered to the purchaser, in which event such purchaser shall bear such loss or damage, excepting where a contract has been entered into providing a different adjustment for such loss or damage.

[S13, §1565-c, -d; C24, 27, 31, 35, §4822; C39, §**4829.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.15]

317.16 Failure to comply.

1. In case of a substantial failure to comply by the date prescribed in any order of destruction of weeds made pursuant to this chapter, the weed commissioner may do any of the following:

a. Enter upon the land as provided in section 317.6 and provide for the destruction of the weeds as provided in section 317.6.

b. Impose a maximum penalty of a ten dollar fine for each day, up to ten days, that the owner or person in possession or control of the land fails to comply. If a penalty is imposed and the owner or person in possession or control of the land fails to comply, the weed commissioner shall cause the weeds to be destroyed.

2. If the weed commissioner enters the land and causes the weeds to be destroyed, the actual cost and expense of cutting, burning, or otherwise destroying the weeds, along with the cost of providing notice and special meetings or proceedings, if any, shall be paid by the county and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21. Any fine imposed under this section shall be recovered by a similar assessment.

[S13, §1565-c, -d; C24, 27, 31, 35, §4823; C39, §**4829.16;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.16]

83 Acts, ch 123, §121, 209

85 Acts, ch 171, §4

2005 Acts, ch 39, §2

317.17 Additional noxious weeds.

The board of supervisors shall order the weed commissioner, or commissioners, to destroy or cause to be destroyed any new weeds declared to be noxious by the secretary of agriculture, the cost of which shall be borne by the county.

[C39, §**4829.17;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.17]

317.18 Order for weed control on roads.

The board of supervisors may order all noxious weeds, within the right-of-way of all roads under county jurisdiction to be cut, burned, or otherwise controlled to prevent seed production, either upon its own motion or upon receipt of written notice requesting the action from any residents of the township in which the roads are located, or any person regularly using the roads. The order shall be consistent with the county integrated roadside vegetation management plan, if the county has adopted such a plan, and the order shall define the roads along which noxious weeds are required to be cut, burned, or otherwise controlled and shall require the weeds to be cut, burned, or otherwise controlled within fifteen days after the publication of the order in the official newspapers of the county or as prescribed in the county's integrated roadside vegetation management plan. The order shall provide that spraying for control of noxious weeds shall be limited to those circumstances when it is not practical to mow or otherwise control the weeds.

[C39, §**4829.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.18]

83 Acts, ch 123, §122, 209

85 Acts, ch 171, §5

89 Acts, ch 246, §10

98 Acts, ch 1075, §14

317.19 Road clearing appropriation.

1. The board of supervisors may appropriate moneys to be used for the purposes of cutting,

burning, or otherwise controlling weeds or brush within the right-of-way of roads under county jurisdiction in a manner consistent with the county's roadside vegetation management plan, if the county has adopted such a plan, or in time to prevent reseeding, except as provided in section 314.17. The moneys appropriated shall not be spent on spraying for control of weeds except in those circumstances when it is not practical to mow or otherwise control the weeds.

2. The board of supervisors may purchase or hire necessary equipment or contract with the adjoining landowner to carry out this section.

83 Acts, ch 123, §123, 209

; 84 Acts, ch 1219, §20

; 85 Acts, ch 171, §6

; 89 Acts, ch 246, §11

; 98 Acts, ch 1075, §15

; 2010 Acts, ch 1164, §3

317.20 Equipment and materials — use on private property.

The board of supervisors may appropriate moneys for the purpose of purchasing weed eradicating equipment and materials to carry out the duties of the commissioner for use on all lands in the county, public or private, and for the payment of the necessary expenses and compensation of the commissioner, and the commissioner's deputies, if any. When equipment or materials so purchased are used on private property within the corporate limits of cities by the commissioner, the cost of materials used and an amount to be fixed by the board of supervisors for the use of the equipment shall be returned by the county treasurer upon the collection of the special assessment taxed against the property. In the certification to the county treasurer by the county auditor this apportionment shall be designated along with the special tax assessed under section 317.21. The equipment and its use are subject to the authorization and direction of the county board of supervisors.

83 Acts, ch 123, §124, 209

317.21 Cost of weed destruction.

When the commissioner destroys any weeds under the authority of section 317.16, after failure of the landowner responsible to destroy such weeds pursuant to the order of the board of supervisors, the cost of the destruction shall be assessed against the land and collected from the landowner

responsible in the following manner:

1. Annually, after the weed commissioner has completed the program of destruction of weeds by reason of noncompliance by persons responsible for the destruction, the board of supervisors shall determine as to each tract of real estate the actual cost of labor and materials used by the commissioner in cutting, burning, or otherwise destroying the weeds, the cost of serving notice, and of special meetings or proceedings, if any. To the total of all sums expended, the board shall add an amount equal to twenty-five percent of that total to compensate for the cost of supervision and administration and assess the resulting sum against the tract of real estate by a special tax, which shall be certified to the county auditor and county treasurer by the clerk of the board of supervisors, and shall be placed upon the tax books, and collected, with interest after delinquent, in the same manner as other unpaid taxes. The tax shall be due on March 1 after assessment, and shall be delinquent from April 1 after due. However, when the last day of March is a Saturday or Sunday, such amount shall be delinquent from the second business day of April. When collected, the moneys shall be paid into the fund from which the costs were originally paid.

2. Before making any such assessment, the board of supervisors shall prepare a plat or schedule showing the several lots, tracts of land or parcels of ground to be assessed which shall be in accord with the assessor's records and the amount proposed to be assessed against each of the same for destroying or controlling weeds during the fiscal year.

3. Such board shall thereupon fix a time for the hearing on such proposed assessments, which time shall not be later than December 15 of the year, and at least twenty days prior to the time thus fixed for such hearing shall give notice thereof to all concerned that such plat or schedule is on file, and that the amounts as shown therein will be assessed against the several lots, tracts of land or parcels of ground described in said plat or schedule at the time fixed for such hearing, unless objection is made thereto. Notice of such hearing shall be given by one publication in official county newspapers in the county in which the property to be assessed is situated; or by posting a copy of such notice on the premises affected and by mailing a copy by certified mail to the last known address of the person owning or controlling said premises. At such time and place the owner of said premises or anyone liable to pay such assessment, may appear with the same rights given by law before boards of review, in reference to assessments for general taxation.

[S13, §1565-c, -d; C24, 27, §4824, 4825; C31, 35, §4824, 4825, 4825-c1, -c2; C39, §**4829.19;** C46, §317.20; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.21]

85 Acts, ch 171, §7

92 Acts, ch 1016, §4

98 Acts, ch 1107, §7

2005 Acts, ch 34, §2, 26

317.22 Duty of highway maintenance personnel.

All officers directly responsible for the care of public highways shall make a complaint to the weed commissioners or board of supervisors, if it appears that the provisions of this chapter may not be complied with in time to prevent the blooming and maturity of noxious weeds or the unlawful growth of weeds or marijuana, whether in the streets or highways for which they are responsible or upon lands adjacent to the same.

[S13, §1565-c, -e; C24, 27, 31, 35, §4826; C39, §**4829.20;** C46, §317.21; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.22]

90 Acts, ch 1179, §3

317.23 Duty of county attorney.

It shall be the duty of the county attorney upon complaint of any citizen that any officer charged with the enforcement of the provisions of this chapter has neglected or failed to perform the officer's duty, to enforce the performance of such duty.

[C24, 27, 31, 35, §4828; C39, §**4829.21;** C46, §317.22; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.23]

317.24 Punishment of officer.

Any officer referred to in this chapter who neglects or fails to perform the duties incumbent upon the officer under the provisions of this chapter shall be guilty of a simple misdemeanor.

[S13, §1565-i; C24, 27, 31, 35, §4829; C39, §**4829.22;** C46, §317.23; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §317.24]

317.25 Invasive plants prohibited — exception — penalty.

1. *a.* A person shall not import, sell, offer for sale, or distribute in this state in any form, including the seeds, any of the following plants:

(1) Teasel (Dipsacus) biennial.

(2) Multiflora rose (Rosa multiflora).

(3) Purple loosestrife (Lythrum salicaria).

(4) Purple loosestrife (Lythrum virgatum).

(5) Garlic mustard (Alliaria petiolata).

(6) Oriental bittersweet (Celastrus orbiculatus).

(7) Japanese knotweed (Fallopia japonica).

(8) Japanese hop (Humulus japonicus).

b. However, paragraph *"a"* does not prohibit the sale, offer for sale, or distribution of the multiflora rose (Rosa multiflora) used for understock for either cultivated roses or ornamental shrubs in gardens.

2. Any person violating subsection 1 is subject to a fine not to exceed one hundred dollars.

[C75, 77, 79, 81, §317.25]

89 Acts, ch 193, §1

; 90 Acts, ch 1111, §1

; 91 Acts, ch 5, §1

; 91 Acts, ch 258, §46

; 2001 Acts, ch 91, §1

; 2002 Acts, ch 1050, §31

; 2013 Acts, ch 74, §1

; 2014 Acts, ch 1092, §72

317.26 Alternative remediation practices.

The director of the department of natural resources, in cooperation with the secretary of agriculture and county conservation boards or the board of supervisors, shall develop and implement projects which utilize alternative practices in the remediation of noxious weeds and other vegetation within highway rights-of-way.

87 Acts, ch 225, §231