

**ENCROACHMENT POLICY  
CITY OF WEBSTER CITY, IOWA  
AS AMENDED AUGUST 7, 2006**

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**INTRODUCTION**

This policy establishes the City of Webster City's position with regard to proposed encroachments and private use of public right-of-way within the corporate limits of Webster City, Iowa. In the context of this policy "public right-of-way" refers to all public sidewalks, street right-of-way, alley right-of-way, and open space owned or managed by the City of Webster City.

**1.0 GOALS AND OBJECTIVES**

To ensure the public continues to have aesthetically pleasing views as well as safe areas to walk and drive.

To protect and preserve the sidewalks, streets and open space.

To increase community awareness regarding encroachments and open space use.

To promote a consistent policy of reducing and minimizing encroachments on public right-of-way.

To establish a uniform application process and solution for all encroachment on the public right-of-way.

**2.0 DEFINITIONS**

For use in this policy, the following terms are defined:

1. **Encroachment** – To intrude or infringe upon the property of another.

An individual or business setting anything in the public right-of-way, whether it be temporary or fixed in nature.

2. **Temporary Encroachment** – Any item that is not permanent or fixed in nature and can be moved from one location to another.

3. **Permanent Encroachment** – Any item permanently attached to the ground or because of size and weight cannot be relocated without special equipment or large expense. The encroaching item is considered permanent if it is not the intent of the applicant to move item after it is in place.

4. **Public Right-of-Way** – Land owned and controlled by a government usually over which facilities such as roads, highways, railroads or power lines are built. An example would be, in most cases, the area between the street and the furthest edge of the sidewalk.

### **3.0 APPLICATION PROCEDURE AND FEES**

#### **1. Temporary Public Right-of-Way Encroachment Permit**

- a. An application can be obtained in the Inspection Department.
- b. \$20.00 one (1) to three (3) day permit fee \*
- c. \$50.00 one (1) week permit fee \*
- d. \$300.00 six (6) month permit fee \*
- e. The application shall be accompanied by a site plan which accurately shows the location, height, nature and extent of *all* proposed objects or improvements within the encroachment area. The site plan should also include all existing fixed features such as trees, sign posts, fire hydrants, etc. within twenty (20') feet of the encroachment area.

#### **2. Permanent Public Right-of-Way Encroachment Permit**

- a. An application can be obtained in the Inspection Department.
- b. \$50.00 permit fee (special exceptions noted below) \*
- c. No renewal fee will be required.
- d. The application shall be accompanied by a site plan which accurately shows the location, height, nature and extent of *all* proposed objects or improvements within the encroachment area. The site plan should also include all existing fixed features such as trees, sign posts, fire hydrants, etc. within twenty (20') feet of the encroachment area.

### **4.0 GENERAL PROVISIONS**

#### **1. Permit Required.**

A permit will be required for any type of encroachment in the public right-of-way, specifically the placement of objects. All permit holders must stay in compliance with this policy and all applicable Federal, State and Municipal Codes.

- a. Permits will be required for the following but the fee will be exempt *if* Federal, State and City standards are met:
  1. Trees (list of acceptable species of trees attached)
  2. Low growing flower beds
  3. Flowers in planters up to 12" in diameter
  4. Mailboxes with a base no larger than 10" x 10" located a minimum of 8"- 10" behind the curb.
- b. Failure to obtain a permit may result in a permit fee for the above-mentioned exceptions (a).

#### **2. Conditions.**

The City of Webster City City Manager, Inspection Department, or Council shall have the authority to apply any other conditions not found in this policy to the approval of a permit seen as needed to ensure compliance with the intent of this policy.

#### **3. Indemnification.**

The permit holder shall defend, indemnify and hold the City and its employees harmless from and against any loss or damage arising from the use or existence of the encroachment or improvement authorized under this permit.

**4. Insurance.**

The permit holder shall be required to maintain liability insurance to cover damage caused by the encroachment on the public right-of-way.

The Certificate of Insurance shall also contain provisions that prohibit cancellations, modifications, or lapse without thirty (30) days written notice to the City.

**5. Repairs.**

In the event the City is required to exercise any of its rights in the public right-of-way, including, but not limited to, snow removal, repair, construction, or maintenance of its utilities, the encroachment permit holder shall be responsible for the expense of repairing any damage to the right-of-way area covered under the permit caused by the City or their contractors. In addition, the encroachment permit holder shall reimburse the City for any extra costs incurred due to the obstructions located in the right-of-way during the course of construction, repair or maintenance of utilities.

**6. Restoration.**

Should the property owner holding a permit for encroachment decide to discontinue the use as set out in the permit, the City right-of-way must be returned to its original state (at a minimum, grass seed).

**7. Appeals.**

Appeals can be filed with the City Manager. If necessary, final disposition of any appeal shall go before the City Council.

**5.0 PRE-EXISTING CONDITIONS**

1. All pre-existing **permanent** encroachments shall be, upon adoption of this policy, allowed subject to any previous agreement and conditions made between the City of Webster City and the responsible party.
2. All pre-existing **temporary** encroachments shall be, upon adoption of this policy, allowed subject to any previous agreement and conditions made between the City of Webster City and the responsible party.

**6.0 VIOLATION/REMEDY**

1. In the event that a permit holder fails to abide by the provisions of this policy or the terms and conditions of the permit, the Inspection Department may revoke or abate any permit upon proper notice.
2. The permit holder or property owner shall pay all costs incurred by the City in abating any encroachment or improvement.

**7.0 TERMINATION**

1. Either the City or the permit holder may terminate permit by giving to the other party thirty (30) days written notice.

**\* Fees will be amended annually via Resolution by the City Council.**

# COMMUNITY TREE PLANTING GRANT - ACCEPTABLE TREE LIST

Common Name	Scientific Name	Cultivars / Selections
Freeman Maple	<i>Acer x freemanii</i>	Autumn Blaze®, Autumn Fantasy®, Celebration®, Marmo
Norway Maple	<i>Acer platanoides</i>	Cleveland, Emerald Lustre®, Emerald Queen™
Red Maple	<i>Acer rubrum</i>	Burgundy Belle®, Red Sunset®, Ruby Frost™
Sugar Maple	<i>Acer saccharum</i>	Bonfire, Commemoration, Fall Fiesta™, Legacy, Green Mountain
Black Maple	<i>Acer nigrum</i>	
Hackberry	<i>Celtis occidentalis</i>	Chicagoland, Prairie Pride, Windy City
River Birch	<i>Betula nigra</i>	Heritage
White Ash	<i>Fraxinus americana</i>	Autumn Applause, Aul.Purple, Chicago Regal, Empire, Windy City™
Green Ash	<i>Fraxinus pennsylvanica</i>	Bergeson, Centerpoint, Dakota Centennial®, Patmore, Prairie Spire®
London Planetree	<i>Platanus X acerfolia</i>	Bloodgood
Ginkgo	<i>Ginkgo biloba</i>	Autumn Gold, Princeton Sentry®, Emperor™, only male !
Thornless Common Honeylocust	<i>Gleditsia triacanthos var. inermis</i>	Shademaster®, Skyline®
Kentucky Coffeetree	<i>Gymnocladus dioica</i>	
American Hophornbeam	<i>Ostrya virginiana</i>	
Gallery Pear	<i>Pyrus calleryana</i>	Aristocrat®, Autumn Blaze, Chanticleer®, Cleveland Select, Redspire
Swamp White Oak	<i>Quercus bicolor</i>	
Clemons' Oak	<i>Quercus x 'Clemons'</i>	( <i>robur x macrocarpa</i> ) : Heritage®
Long' Oak	<i>Quercus x 'Long'</i>	( <i>robur 'Fastigiata' x bicolor</i> ) : Regal Prince®
Bur Oak	<i>Quercus macrocarpa</i>	
Red Oak	<i>Quercus rubra</i>	
White Oak	<i>Quercus alba</i>	
Chinkapin Oak	<i>Quercus muehlenbergii</i>	
Littleleaf Linden	<i>Tilia cordata</i>	Chancellor®, Corinthian®, Fairview, Glenleven, Greenspire®, June Bride, Norlin™, Prestige®, Shamrock™
American Linden	<i>Tilia americana</i>	Boulevard, Front Yard™, Legend™, Redmond
Elm	<i>Ulmus spp.</i>	Regal, Accolade™, Cathedral, Discovery, Frontier, New Harmony, New Horizon, Patriot, Pioneer, Prospector, Triumph™

Amur Maple	<i>Acer tataricum</i> subsp. <i>ginnala</i>	Bailey Compact, Embers, Flame
Tatarian Maple	<i>Acer tataricum</i>	Summer Splendor™
Shantung Maple / Purpleblow Maple	<i>Acer truncatum</i>	
Serviceberry / Juneberry	<i>Amelanchier sp.</i>	Autumn Brilliance®, Cole's Select, Cumulus, Princess Diana, Straia
American Hornbeam	<i>Carpinus caroliniana</i>	
Pagoda Dogwood	<i>Cornus alternifolia</i>	
Thornless Cockspur Hawthorn	<i>Crataegus crusgalli</i> var. <i>inermis</i>	
Washington Hawthorn	<i>Crataegus phaenopyrum</i>	
Winter King Hawthorn	<i>Crataegus viridis</i>	Winter King
Amur maackia	<i>Maackia amurensis</i>	
Flowering Crabapple	<i>Malus spp.</i>	Adams, Adirondack, Camelot, Centurion®, David, Donald Wyman, Doubloons, Golden Raindrops®, Harvest Gold®, Indian Magic, Lancelot, Louisa, Prairifire, Profusion, Purple Prince, Red Jewel®, Sentinel, Sinai Fire, Snowdrift, Sugar Tyme®
Amur Chokecherry	<i>Prunus maackii</i>	
Eastern Redbud	<i>Cercis canadensis</i>	
Japanese Tree Lilac	<i>Syringa reticulata</i>	Ivory Silk, Summer Snow
Blackhaw Viburnum	<i>Viburnum prunifolium</i>	

Genus: Common - Scientific	Species: Common Name - Scientific Name
Fir - <i>Abies spp.</i>	Balsam Fir - <i>Abies balsamea</i> , Concolor Fir / White Fir - <i>Abies concolor</i> , Fraser Fir - <i>Abies fraseri</i>
Juniper - <i>Juniperus spp.</i>	Rocky Mountain Juniper - <i>Juniperus scopulorum</i> , Eastern Red Cedar - <i>Juniperus virginiana</i>
Larch - <i>Larix spp.</i>	European Larch - <i>Larix decidua</i> , American Larch - <i>Larix laricina</i>
Spruce - <i>Picea spp.</i>	Norway Spruce - <i>Picea abies</i> , White Spruce - <i>Picea glauca</i> , Black Hills Spruce - <i>Picea glauca</i> var. <i>densata</i> , Serbian Spruce - <i>Picea omorika</i> , Colorado Spruce * - <i>Picea pungens</i>
Pine - <i>Pinus spp.</i>	Lacebark Pine - <i>Pinus bungeana</i> , Swiss Stone Pine - <i>Pinus cembra</i> , Limber Pine - <i>Pinus flexilis</i> , Korean Pine - <i>Pinus koraiensis</i> , Ponderosa Pine * - <i>Pinus ponderosa</i> , Red Pine / Norway Pine - <i>Pinus resinosa</i> , Eastern White Pine - <i>Pinus strobus</i> ,
Others	Douglas Fir - <i>Pseudotsuga menziesii</i> , Bald Cypress - <i>Taxodium distichum</i> , Eastern Arborvitae - <i>Thuja occidentalis</i> (Cultivars: Brandon, Holmstrup, Nigra, Techny), Canadian Hemlock - <i>Tsuga canadensis</i>

\* this tree species may have severe problems with insects and diseases - consult local forester/nursery personnel when planning to use

For more information on tree height, crown spread, sites, etc. refer to <http://www.forestry.iastate.edu/ext/urban.html> - Street Trees for Iowa, Low Growing Trees for Urban and Rural Iowa and Conifer Species for Iowa