



City of Muscatine



MUSCATINE CITY COUNCIL

Agenda Item Summary – In-Depth Session

Date 02/10/22

STAFF

[Andrew Fangman](#), Assistant Community Development Director

SUBJECT FOR DISCUSSION

Weeds and Vegetation Management Regulations

EXECUTIVE SUMMARY

Presented for City Council consideration is a proposed revision to weeds and vegetation management regulations with the intent to make them easier to understand and enforce. Regulations regarding weeds and vegetation management are currently spread across multiple chapters in Title 3 and Tile 9 of City Code. The proposed revised regulations would relocate and centralize weed and vegetation into a single new chapter in Title 16. Weed and vegetation management regulations would be made more understandable through the addition of more detailed definitions and the inclusion of diagrams. Improvement would be made by the inclusion of regulations more specifically tailored to the specific scenarios in which these regulations would be applied, such undeveloped areas, wooded areas, native prairie planting areas, etc.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Does City Council desire the draft weed and vegetation management regulations, attached to this memo, be brought forward at future City Council meeting as an ordinance adding them to City Code?
2. What, if any, modifications to the draft regulations are desired by City Council?

BACKGROUND/DISCUSSION

The intent of the proposed revision of weeds and vegetation management regulations are to make them easier to understand and enforce.

Title 16 was created in 2020 as a single location in City Code for regulations relating to required maintenance, upkeep, and conditions of property. Regulations regarding weeds and vegetation management are currently spread across multiple chapters in Title 3 and Tile 9 of City Code. The

attached draft regulations would relocate and centralize weed and vegetation into a single new chapter in Title 16.

Many weeds and vegetation management regulations are easier to understand when they are accompanied with diagrams and pictures which illustrate key points. The proposed rewrite includes the addition of such diagrams and pictures where needed.

Improvement to current regulations would be made by the inclusion of regulations more specifically tailored to the specific scenarios in which these regulations would be applied, such undeveloped areas, wooded areas, native prairie planting areas, etc. Currently Chapter 5 of Title 9 requires that the owner to cut or remove, and to keep cut or removed, all any weeds, grass, or plants other than trees, bushes, flowers, or other ornamental plants, in excess of eight inches (8") in heights from his, her, or its property and from all adjacent property between the property line and the improved street and/or alley line(s).

The proposed regulations would provide more specific direction as to how vegetation and weeds are required to be managed in wetlands, wooded areas, agricultural area, undeveloped areas, and areas planted with native prairie grasses. With the regulations for each type of area being specifically calibrated for the unique issues of each type of area. In many cases this represents the codifying long standing administrative interpretations of current regulations. Doing so would remove ambiguity and the potential for misunderstanding to what is required by City Code.

Regulations for areas planted in native prairie grasses are also included in the proposed regulations. The proposed regulations are based on best practices found in other midwestern communities. Currently plantings exist in a gray area of City Code. While the planting of such grasses is allowed, current code could be reasonably interpreted as requiring that such native be grasses be kept cut to a height shorter than 8 inches. There is a growing desire by many to restore certain areas to the native tall grass prairie; the proposed regulations are designed with the intent to allow for this to occur in a manner that does not have a negative impact.

Following a presentation by staff on the proposed revisions to weeds and vegetation management regulations, City Council will be asked to come to provide direction on the following two questions.

1. Does City Council desire that the draft weed and vegetation management regulations, attached to this memo, be brought forward, at future City Council meeting, as an ordinance adding them to City Code?
2. What, if any, modifications to the draft regulations are desired by City Council?

ATTACHMENTS

Draft Ordinance

Title 16 – Housing, Rental Housing, and Property Maintenance Regulations

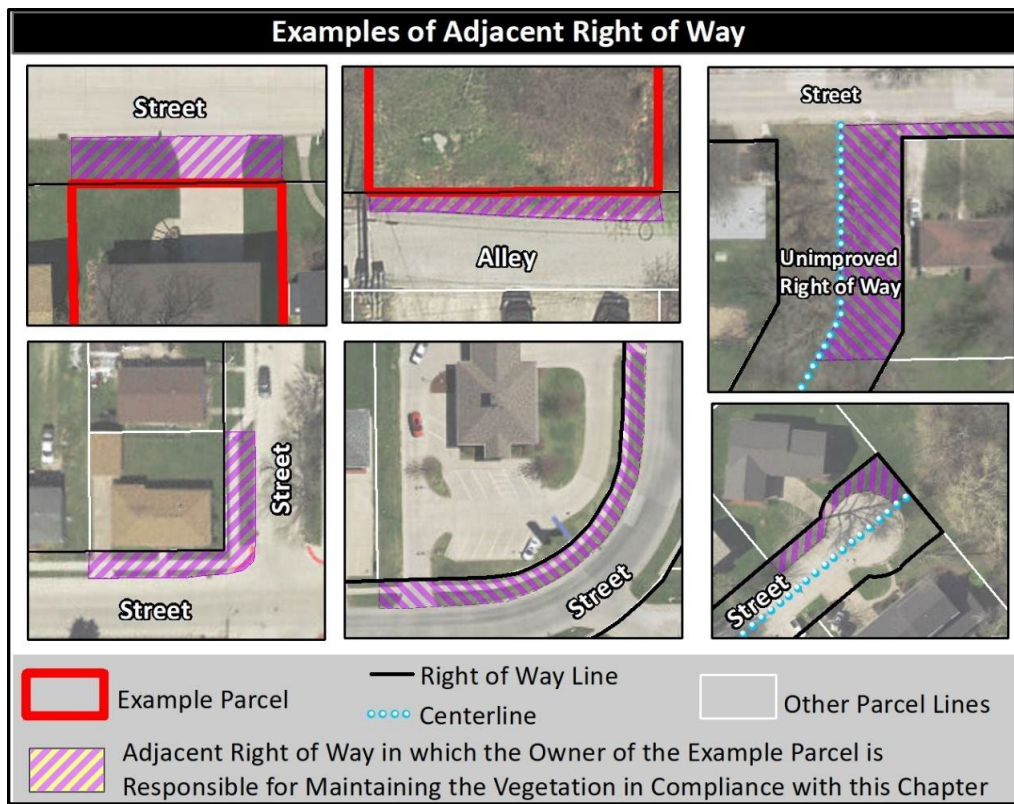
Chapter 8 – Weeds and Vegetation Management

16-8-1 Intent

It is the purpose of this Chapter to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping which promotes resiliency, diversity and a richness to the quality of life. It is in the public's interest to provide standards regarding the maintenance of vegetation because uncontrolled vegetation growth may threaten public health, safety, and order and may decrease adjacent property values. It is also in the public's interest to encourage diverse landscaping, particularly that which restores native vegetation. Native vegetation requires fewer inputs of water, fertilizers, and herbicides. It also supports pollinators and birds. The City enacts this Chapter to balance these competing interests.

16-8-2 Definitions

Adjacent Right of Way – The portion of public right of way located between a given parcel and the improved street and/or alley, or if the right of way adjoining a given parcel is unimproved, the portion of said unimproved right of way between a parcel and the centerline of said unimproved right of way.



Agricultural Area – Areas being used for the cultivation of crops or pastures that are fenced and contain grazing animals.

Destroy – The complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping systems, or any or all of these in effective combination, at a time and in a manner which will effectively prevent the weed plants from maturing to bloom or flower stage.

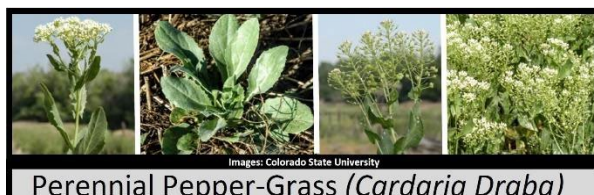
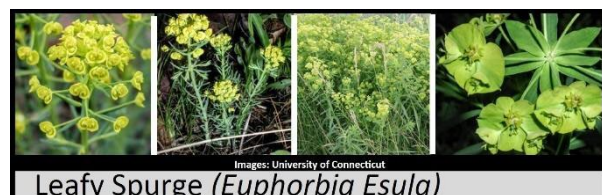
Developed Lot – A lot or parcel, except for one meeting the definition of an Agricultural Area, upon which there exists one or more houses, businesses, or other structures.

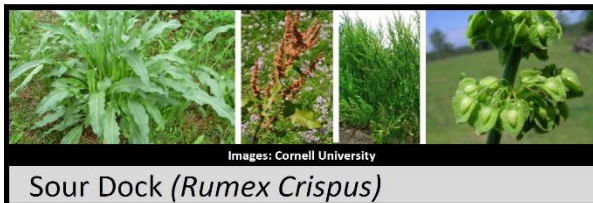
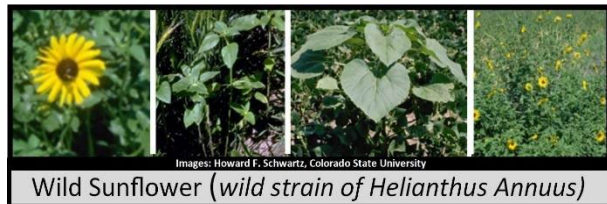
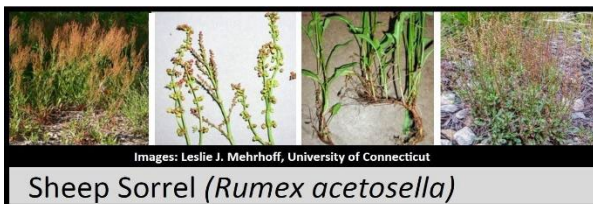
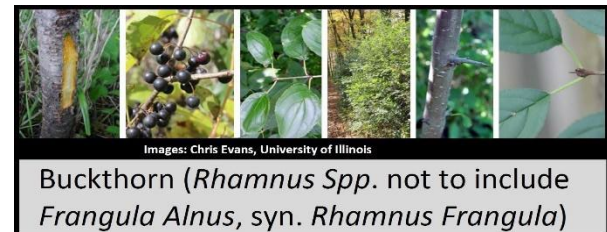
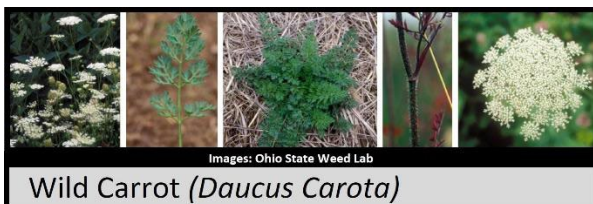
Front Building Line – A line running parallel to the front of a parcel at a distance equal to the shortest distance that can be measured from the main structure on a parcel and the front line of said parcel.

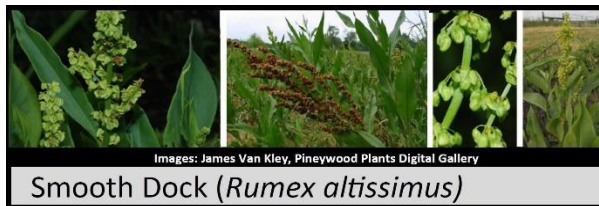
Garden – Well defined areas dedicated to growing fruits, vegetables, flowers, native plants, ornamental grasses, ground covers, shrubs, and similar plants which are cultivated and/or mulched to remain free of weeds, grassy weeds, or volunteer plants.

Native Prairie Plants – Those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), rushes, and forbs (flowering broadleaf plants), species native to the state of Iowa prior to European settlement.

Noxious Weeds – Primary and secondary classes of weeds as defined by the Code of Iowa and the Iowa Administrative Code, as amended, specifically including, but not limited to the following:







Ornamental Grass – Any grass purposefully planted and maintained for aesthetic reasons that is of a variety not developed, sold, or intended to be used as a grain, or as a manicured or semi-manicured lawn grass or ground cover that is normally intended to be maintained at a lower height by regular cutting. Ornamental grasses do not include turf grasses.

Ornamental Plants – Ornamental grasses, groundcovers, flowering annual, biennial, and perennial plants, shrubs, trees, and vines that may not be native to Iowa but are adapted, purposefully planted and maintained for aesthetic reasons.

Owner – A holder of legal title to a parcel as shown on the records of the Muscatine County Assessor.

Turf Grass – Grasses commonly used in regularly cut lawns or play areas (including but not limited to bluegrass, fescue, and ryegrass blends), intended to be maintained at a height of no more than 8 inches.

Undeveloped Parcel – A lot or parcel, except for one meeting the definition of an Agricultural Area, upon which there are no houses, businesses, or other structures.

Volunteer Tree – Any tree located outside a wooded area, which is less than 3" in caliber and was not deliberately planted or cultivated.

Weeds – Shall include any of the following:

- Any vegetation, of at least 8 inches in height growing uncultivated and out of context with the surrounding plant life, including volunteer trees.
- Vegetation that may not have been intentionally planted or which may have spread through natural means into unsuitable or unsightly areas, such as in cracks or crevices along building foundations, driveways, retaining walls, sidewalks, or other similar improvements.

- However, this definition shall exclude trees that do not meet the definition of volunteer trees, shrubs, ornamental plants, and/or cultivated flowers and gardens.

Wetlands – Those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, ponds, lakes, and similar areas, and in which soils are typically too wet to allow for the use of a push mower to keep vegetation down.

Wooded Area – An area of coniferous or deciduous trees, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete aerial canopy; and the density of the trees is such that the growth of turf grass is inhibited and the distance between trees effectively prevents using a push mower to keep vegetation down.

16-8-3 Noxious Weeds

It shall be the duty of the owner to destroy all noxious weeds on their property and on all adjacent right of way.

16-8-4 Required Trimming of Weeds and Turf Grasses

It shall be the duty of the owner to keep below 8 inches all weeds and turf grasses on their property and all adjacent right of way. The following areas are exempt from this requirement:

A. Agricultural Areas

1. Cultivated cropland.
2. Pastures that are fenced and contain grazing animals.

B. Wetlands

C. Wooded Areas

D. Native Prairie Landscaped Areas

16-8-5 Vegetation Management in Qualifying Undeveloped Area

A. Definition

Areas meeting the following criteria shall be deemed Qualifying Undeveloped Areas:

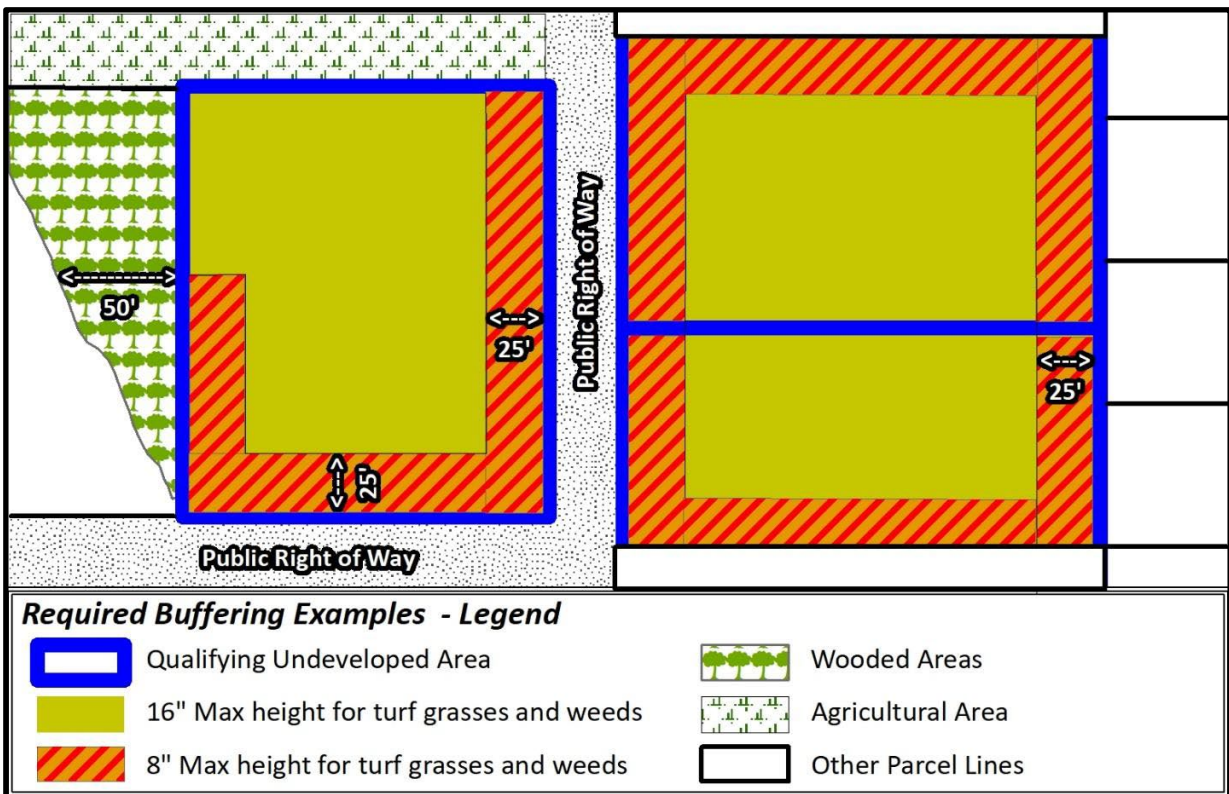
1. A contiguous area of at least 2 acres in size, that is under common ownership.
2. On parcels containing a structure or building is present, the area located behind the front building line.
3. Located a minimum of 25 feet from all:
 - a. Buildings or structures
 - b. Parking areas
 - c. Driveways

- d. Sidewalks or walkways (public or private)
- e. Outdoor storage areas
- f. Parcel lines, unless the adjoining parcel
 - i. Is under common ownership
 - ii. Has the nearest 50 feet of the adjoining parcel meeting the definition of a:
 - 1. Wooded area
 - 2. Agricultural area
 - 3. Qualifying undeveloped area under this Section
 - 4. Wetland or pond

B. Vegetation Maintenance Standards for Qualifying Undeveloped Areas

It shall be the duty of the owner to keep below 16 inches all weeds and turf grasses on their property

- C. The provisions of Section 16-8-5 do not apply to any areas meeting the definition of a wooded area, wetland, agricultural area, or native prairie landscaped area.



16-8-6 Native Prairie Landscaped Areas

- A.** Are defined as areas in which the vegetation is comprised of native prairie plants.
- B.** Shall not include turf-grass lawns left unattended for the purpose of returning to a natural state.
- C.** Shall be maintained in a healthy and vigorous condition, as opposed to one of neglect and decline. Properties shall not be unmanaged or overgrown in ways that may adversely affect human health or safety.
- D.** Turf grass shall be eliminated prior to establishment as a native prairie landscape and the native plants, trees and shrubs are planted through transplanting or seed by human or mechanical means. Soil erosion should be controlled while the ground is bare of plant growth.
- E.** All vegetation, other than trees and shrubs, must be cut at least once annually to a height no greater than eight inches. As an alternative to cutting, native prairie landscaped areas may be maintained by controlled burning with an approved permit from the city's fire department.
- F.** A sign shall be posted on the property in a location likely to be seen by the public and officials, advising that that the area is native prairie landscape area.
- G. Required Setbacks and Buffering**
 - 1.** Shall be set back not less than 25 feet from the front lot line. For the purposes of this regulation, corner lots shall be deemed to have two front lot lines.
 - 2.** Shall be set back not less than 15 feet from the side and/or rear lot lines to provide a transition zone.
 - 3.** No set back is required on the side or rear lot lines if:
 - a.** There is a fully opaque fence at least 6 feet in height installed between the native plants and the side or rear lot lines or;
 - b.** The native plants abut a neighboring Native Prairie Landscape Areas;
 - c.** A public park;
 - d.** A wetland, pond, lake, or stream;
 - e.** Wooded area;
 - f.** Agricultural area; or
 - g.** Qualifying undeveloped area.

16-8-7 Adjacent Right of Way

- A.** No vegetation shall overhang, encroach, or otherwise obstruct any portion of a public street, alley, or sidewalk, except for tree branches that are:

1. At least 10 feet above the surface of a public sidewalk.
 2. At least 14 feet above the surface of a public street or alley.
 3. Not obstructing the light from any street lamp.
- B. All trees located within the public right of way shall be maintained, planted, and removed in accordance with Section 3-9-8, 3-9-9, and 3-9-10 of City Code.
- C. **Gardens**
- It is permissible for the adjoining property owner to plant a garden in the public right of way provided that:
1. No portions of said garden are located within 2 feet of a mailbox.
 2. The height of vegetation does not exceed 3 feet.
- D. There shall be no compensation by the City to the property owner for any damage to or the removal of such items placed or plants planted within the public right of way.

16-8-8 Failure to Comply

- A. In the event any property owner fails to maintain vegetation on their property or adjoining public right of way in compliance with regulations set forth in this Chapter, the City may cause such violations of City Code to be abated by cutting or such other method including chemical control, as may be necessary to achieve compliance with City Code.
- B. A second or subsequent violation by an owner in the same calendar year as the first violation of this Chapter shall constitute a municipal infraction subject to a fine and/or municipal infraction as provided for in Chapter 3 of Title 1 of City Code.

16-8-9 Notice

A. Annual Published Notice

The City shall give notice to the property owners by one publication in a newspaper of general circulation within the City. Said notice shall state that all property owners are required to maintain all vegetation on their property and the adjacent public right(s)-of-way within a reasonable time but not less than five days from the date of said publication.

B. Mailed Notice to Correct Violations

1. In addition to the published notice as set out in Section 16-8-8(A), the City shall mail a notice to the property owner believed to be violating the provisions of this chapter. Said notice shall:
 - a. Be in writing;
 - b. Include a description of the real estate sufficient for identification;

- c. Describe all violation(s) of this Chapter and remedial action(s) required;
 - d. State that work to correct all violations and/or all required remedial actions must be completed within 5 days of when said notice was mailed; and
 - e. Advise that failure to abate the identified violations of this Chapter will result in the City abating said violations and assessing the actual costs plus administrative fees against the property.
2. Said notice shall be sent by ordinary mail to the last known address of the owner as shown on the current County Assessor's records.
 3. It shall be presumed that 5 days is sufficient time for the delivery of mail within ordinary course.
 4. A copy of the publication as required in Section 16-8-9(A), together with a copy of the notice sent by mail as herein set out, shall be deemed proof of service.
 5. Such written notice need only be given once per calendar year, after delivery of such a notice no further notice shall be required prior to any additional abatement actions necessary for compliance with this Chapter during the current calendar year.

C. Extensions to Notice to Correct Violations

1. An owner may request an extension of time to complete any action to correct a violation or complete a required remedial action that cannot be completed by the deadline set forth of such a notice under the provision of Section 16-8-8(B) (1)(d) because of circumstances not of the owner's making or are beyond the owner's control.
2. Such a request for an extension shall be made in writing to the Community Development Department no later than 1 business day prior to the deadline imposed by the order to correct violations.
3. Approval of an extension to an order to correct violations may granted if the Community Development Department finds that:
 - a. Strict compliance with the deadline set by the order to correct violations is impractical;
 - b. That the granting of such an extension does not violate the intent and purpose of City Code; and
 - c. That the granting of such a request is not detrimental to public health, safety, and welfare.
4. Approval shall be made in writing and state:
 - a. The new deadline to correct said violations(s); and
 - b. What specific code violation(s) the extension applies to.

16-8-10 Invoicing Property Owner for Cost of Abatement

- A.** Upon completion of the abatement, the property owner shall be sent, by first class mail to the address noted on the current County Assessor's records, an invoice for all abatement actions performed under this Chapter.
- B.** Said invoice shall include the cost of abatement to include labor, equipment costs, and administrative fees as set in Appendix D of City Code.
- C.** A notice shall also be included with the invoice informing the owner that any invoice remaining unpaid after a 30-day period may be assessed against the property in the manner provided by the Code of Iowa and that assessment will result in additional administrative fees.

16-8-11 Assessment for the Cost of Abatement

- A.** If after 30 days the invoice sent to the owner remains unpaid the City Clerk shall submit an itemized statement to the City Council for all abatement related work performed under this Chapter.
- B.** The itemized statement shall include the cost of abatement to include labor, equipment costs, and all applicable administrative fees.
- C.** Unpaid invoices that are sent to City Council for collection as a special assessment against the property shall be subject to additional administrative fees, as set by resolution of City Council in Appendix D of City Code. This administrative fee is in addition to the administrative fee due under Section 16-8-10(B).
- D.** Upon receipt of the itemized statement, the Council shall audit it and, if allowed, shall by resolution assess the cost as a special assessment against the property.
- E.** The City Clerk shall certify the assessment and submit it to the County Assessor, to be collected as any other special assessment.