

CITY COUNCIL MEETING  
RAND CENTER  
SEPTEMBER 6, 2016  
6:00 P.M.

Mayor Sargent presided over the meeting and called it to order at 6:00 p.m. with the following Council members present: Gunderson, Johnson, Struble and Thompson. Council member Tiffey was absent. Also present were City Clerk/Administrator Miller and visitors: John Riley, Bruce Kocher, Rita Smith, Barbara Guinan, Leonard Ratliff.

The Pledge of Allegiance was recited.

Moved by Council member Johnson to approve the Agenda for September 6, 2016, seconded by Council member Struble. Motion carried on a 4-0 vote.

Moved by Council member Thompson to approve the Consent Agenda, seconded by Council member Struble. Motion carried on a 4-0 vote.

During citizen inquiries, questions were asked about the Water Treatment Capital Facilities Charge ordinance and whether it applied to all areas of town or only to new construction on the east side of town. Council will review the ordinances at the September 20<sup>th</sup> meeting; about how alleys were chosen for the alley reconstruction project; complaints about enforcement of the ordinance against residents blowing grass in the street. Rita Smith thanked the Council that many items on her list on concerns had been addressed. She asked Council to consider repairs to the alley south of her property citing heavy school traffic and neighborhood use. This alley will be put on the list to be considered in the FY18 budget. Temporary repairs will be looked into. Bruce Kocher gave a presentation on the Library's monthly LEGO event. Dawn Sellers addressed the Council about her neighbor's property. A nuisance abatement has been issued and will be followed upon.

Moved by Council member Gunderson to approve the 2<sup>nd</sup> reading of Ordinance #519, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa, By Adding A New Section Limiting Parking On A Portion Of North Eighth Street", seconded by Council member Struble. Motion carried on a 4-0 vote.

Ordinance #520 was discussed and City Clerk/Administrator Miller explained the revisions, which were to not require a permit to plant or trim a tree on private property and to clarify permits are required for Ash tree treatment. Moved by Council member Johnson to approve the 1<sup>st</sup> reading of amended Ordinance #520, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa, By Modifying Chapter 148 Trees", seconded by Council member Struble. Motion carried on a 4-0 vote.

Moved by Council member Struble to waive the 2<sup>nd</sup> reading of Ordinance #520, seconded by Council member Thompson. Motion carried on a vote of 4-0.

Council considered the ordinance, "An Ordinance Amending The Code Of Ordinances Of The City Of Missouri Valley, Iowa, By Amending Section 122.19, Subsection 3, Pertaining To Regulation of Garage Sales", and following discussion, moved by Council member Struble to

table action pending consultation with the city attorney, seconded by Council member Thompson. Motion carried on a 4-0 vote.

Moved by Council member Gunderson to approve Resolution 16-19, "Resolution Setting Fees For Ash Tree Permit", seconded by Council member Thompson. Motion carried on a 4-0 vote.

Moved by Council member Thompson to approve Mayor's appointment of Geraldine Edmonds to the Low Rent Housing Board to fill the unexpired term of Cathy Jones, seconded by Council member Struble. Motion carried on a 4-0 vote.

Moved by Council member Thompson to approve Resolution 16-20, "Resolution To Dissolve The Missouri Valley Caboose Committee", seconded by Council member Struble. Motion carried on a 4-0 vote.

Council discussed requiring a fee for campers to use the dump station at the park if they had not camped there. Following discussion, moved by Council member Struble to not charge a fee, seconded by Council member Johnson. Motion carried on a 4-0 vote.

Moved by Council member Thompson to approve the hire of Jordon DeZeeuw as a part-time officer, seconded by Council member Johnson. Motion carried on a 4-0 vote. Moved by Council member Thompson to approve Resolution 16-21, "Resolution Setting Wage", seconded by Council member Johnson. Motion carried on a 4-0 vote.

Moved by Council member Johnson to approve Resolution 16-22, "Fiscal Year 2015-2016 Street Finance Report", seconded by Council member Struble. Motion carried on a 4-0 vote.

City Clerk/Administrator Miller asked Council about a fall burning ban moratorium. They directed her to prepare a resolution for the next meeting to allow burning on the weekends between October 15<sup>th</sup> and November 15<sup>th</sup>. She informed Council the Watson Train Station would like to offer pony rides during the Polar Express. Council had no objection.

Moved to adjourn by Council member Struble, seconded by Council member Johnson. Motion carried on a 4-0 vote. Meeting adjourned at 7:37 p.m.

Clint Sargent, Mayor

Attest:  
Rita Miller, City Clerk/Administrator

## **ORDINANCE #519**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, BY ADDING A NEW SECTION LIMITING PARKING ON A PORTION OF NORTH EIGHTH STREET**

BE IT ENACTED by the City Council of the City of Missouri Valley, Iowa that:

**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Missouri Valley, Iowa, is amended by adding a new subsection under Section 69.08 NO PARKING ZONES, which is hereby adopted to read as follows:

28. Eighth Street, on the west side, between St. Clair Street and Linn Street.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the City Council on the     day of     , 2016 and approved this     day of     , 2016.

\_\_\_\_\_  
Clint Sargent, Mayor

ATTEST:

\_\_\_\_\_  
Rita M. Miller, City Clerk/Administrator

I certify that the foregoing was published as Ordinance #     on the     day of     , 2016.

\_\_\_\_\_  
Rita M. Miller, City Clerk/Administrator

1st reading: 8-16-2016

2<sup>nd</sup> reading: 9-06-2016

ORDINANCE #520

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, BY MODIFYING CHAPTER 148 TREES**

BE IT ENACTED by the City Council of the City of Missouri Valley, Iowa that:

**SECTION 1. SECTION MODIFIED.** Chapter 148 of The Code of Ordinances of the City of Missouri Valley, Iowa, is repealed and the following adopted in lieu thereof:

**CHAPTER 148**  
**TREES**

**148.01 PURPOSE.** The purpose of this chapter is to beautify and preserve the appearance of the City by regulating and providing for the planting, care, and removal of trees.

**148.02 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. "Parking" means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. "Street" as used herein, refers to that portion of a platted street which is not covered by concrete, asphalt, gravel, or otherwise used for vehicular travel.
3. "Superintendent" means the Superintendent of Public Works or such other person as may be designated by the Council.
4. "Right-of-way" means that part of the street, avenue, or highway within city limits lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**148.03 PLANTING RESTRICTIONS.** No tree shall be planted in any street or parking except in accordance with the following:

1. Permit. Before planting any tree on a street or parking, the owner shall obtain a permit from the office of the City Clerk which shall be approved by the Superintendent of Public Works. Requests for tree plantings in the parking or City right-of-way shall be in writing and include a plot plan indicating the proposed location of trees and all other public and private infrastructure, such as driveways, streets, fire hydrants and street lights. Trees must meet the American Standard for nursery stock.
2. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line or the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
3. Spacing. Trees shall not be planted on the parking if it is less than six (6) feet in width or contains less than thirty-six (36) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
4. Prohibited Trees. The following list contains trees that are not allowed to be planted in the street or parking:

Ash (any variety)	Box Elder	Cotton-Bearing Cottonwood
Mulberry	European Mountain Ash	White Poplar

Black Locust	Catalpa	Willows
Russian Olive	Tree of Heaven	Austrian Pine
Bolleana Poplar	Weeping Birch	Lombardy Poplar
Paper Birch	Silver Maple	White Birch
Walnut	Siberian/Chinese Elm	Evergreens
Any fruit-bearing or thorn-bearing trees.		

Any of the above trees may be subject to removal by the Superintendent at the expense of the abutting property owner.

5. All underground utilities or any other improvements, either private or public, shall be located before planting is done. Iowa One Call shall be utilized to locate underground utilities. No trees may be planted under or within 10 lateral feet of any overhead utility were, or over or within 5 lateral feet of any underground water line, sewer, transmission line or other utility.

**148.04 RESPONSIBILITY FOR MAINTENANCE OF RIGHT-OF-WAY TREES.** The owner, tenant and their agent, if any, of the property abutting the public right-of-way on which trees exist shall be jointly and severally responsible for the maintenance of those trees under this chapter. Such trees shall be maintained in good condition so as to present a healthy and orderly appearance and shall be kept free from refuse and debris. The owner or agent of the abutting property shall keep the trees on or overhanging the street trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.

**148.05 ASSESSMENT.** If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on the abutting property owner requiring said owner to do so within five (5) days. If the owner fails to trim the trees within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

**148.06 TRIMMING TREES TO BE SUPERVISED.** It is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

**148.07 REMOVAL OF TREES.** The Superintendent may remove or cause to be removed any tree or shrub or part thereof on the streets or parking of the City which interferes with the making of improvements or with travel thereon or which constitutes a danger to the public or which by reason of its' nature is injurious to sewers, gas lines, water lines or other public improvements or is affected with any injurious fungus, insect or other pest or which obstructs view of traffic or which may otherwise be declared a nuisance.

**148.08 DISEASED TREES SUBJECT TO REMOVAL.** The following diseased, dead, dying, or injured trees within the city shall be removed:

1. Living or Standing Trees. Any living or standing elm tree or part thereof infected with Dutch Elm Disease fungus or which harbors any of the elm bark beetles, that is *Scolytus multistriatus (eich.)* or *Hylurgopinus rufipes (marsh)*.
2. Dead Trees. Any dead elm tree or part thereof including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide. Any dead ash tree or part

thereof including logs, branches and stumps which is not going to be used as firewood locally or chipped per IDNR specifications.

3. Injured or Dying Trees. Any tree which has been injured whether by disease, infestation or physical damage to the point that the tree will die or its' limbs might fall shall be removed.

**148.09 DUTY TO REMOVE.** No person shall permit any tree or material as defined in Section 148.08 to remain on the premises owned, controlled, or occupied by such person.

**148.10 INSPECTION.** The Superintendent shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Section 148.08 exists thereon and shall also inspect or cause to be inspected any elm trees reported or suspected to be infected with the Dutch Elm Disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles. The Superintendent shall also inspect or cause to be inspected annually all Ash trees on City parking, streets, right-of-ways and parks to monitor the condition of trees infested with Emerald Ash Borer, whether treated or not.

**148.11 REMOVAL FROM CITY PROPERTY.** If the Superintendent, upon inspection or examination, in person or by some qualified person acting for the Superintendent, determines that any condition as herein defined exists in or upon any public street, alley, park, or any public place, including the strip between the curb and the lot line of private property, within the City and that danger to other trees within the City is imminent, the Superintendent shall immediately cause it to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of disease or infestation.

1. Dutch Elm Disease. Immediately cause it to be removed and burned or otherwise correct the same in such manner as to destroy or prevent the spread of Dutch Elm disease or the insect pests or vector's known to carry such disease fungus.

2. Emerald Ash Borer. Immediately cause it to be removed and burned or hauled away to an approved disposal site to prevent the spread of Emerald Ash Borer.

**148.12 DEAD OR DISEASED TREE. REMOVAL FROM PRIVATE PROPERTY.** The City shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City. If the Superintendent, upon inspection or examination, in person or by some qualified person acting for the Superintendent, determines with reasonable certainty that any condition herein defined exists in or upon private property, the City shall notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within thirty (30) days after the date of service notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and assess the costs against the abutting property for collection in the same manner as property tax.

**148.13 PROCEDURE UPON ORDER TO PRESERVE OR REMOVE.** When the City shall find it necessary to order the trimming, preservation or removal of trees or plants upon private property, as authorized in Section 148.12 it shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

1. Method of Service. The order shall be served in one of the following ways;
  - A. By making personal delivery of the order to the person responsible.
  - B. By leaving the order with some person of suitable age and discretion upon the premises.
  - C. By affixing a copy of the order to the door or the entrance of the premises in violation.
  - D. By mailing a copy of the order to the last known address of the owner of the premises, by registered mail.
  - E. By publishing a copy of the order in a local paper once a week for three (3) successive weeks.
  
2. Time for Compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City shall have the authority to require compliance immediately upon service of the order or remove the hazard at City cost without right of appeal.
  
3. Appeal From Order. A person to whom an order hereunder is directed shall have the right, within twenty-four (24) hours after the service of such order, to appeal to the Council, who shall review the order within thirty (30) days and file its decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within three (3) days after an appeal have been determined.
  
4. Failure to Comply. When a person to whom an order is directed fails to comply within the specified time, the City shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.
  
5. Special Assessment. If the cost of remedying a condition is not paid within thirty (30) days after receipt of a statement therefore from the City, such cost shall be levied against the property upon which said hazard exists as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine or imprisonment as herein provided. Such special assessment shall be certified by the City to the County Treasurer and shall thereupon become and be a lien upon such property, shall be included in the next tax bill rendered to the owner or owners thereof unless paid before, and shall be collected in the same manner as other taxes against such property.

**148.14 ABUSE OR MUTILIZATION OF TREES.** No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters or other contrivance to any street tree; allow any gaseous, liquid, chemical or solid substance harmful to such trees to come in contact with them, or set fire or permit fire to burn when such fire or the heat will injure any portion of any tree.

**148.15 COMMERCIAL TREE SERVICES.** Any person performing tree service or any commercial tree service company engaged in the business of trimming, pruning, spraying, removing or otherwise treating trees or shrubs within the City right-of-way must obtain a permit

from the office of the City Clerk. Such permit shall be at a cost of \$5.00 per location. To obtain a permit the applicant must show adequate insurance coverage to cover potential damages that occur during the execution of the work. In the case of the property owner doing the work, proof of homeowner personal liability insurance may be required. If the property owner has hired another person or contractor to do the work, the contractor shall provide the City with a certificate of insurance with the following minimum required limits of coverage of Commercial General Liability Insurance of not less than \$500,000 per occurrence and Worker's Compensation insurance coverage at statutory limits on any and all employees.

**148.16 PENALTY.** Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense, except where under appeal, and shall be punishable as such hereunder.

**148.17 ASH TREE TREATMENT AND PERMIT.**

1. Fraxinus (ash) trees on private property or in the public rights-of-way (ROW) may be chemically treated at the expense of the property owner. The use of a soil drench or basal spray shall be prohibited. Direct trunk injection will be allowed with a permit. Permits are required and will be available at City Hall. The permit shall only be taken out by a licensed commercial pesticide applicator. The commercial pesticide applicator shall have a current license with Endorsements 3O or 3OT issued by the Iowa Department of Agriculture. The licensed applicator must be on site for the duration of the application treatment.
2. The chemical application permit fee shall be set by resolution. A site map of trees and structures on the property shall be submitted with the permit application. Diameter at breast height and distances from two approximate property corners shall be required on the site map.
3. Permits to chemically treat Ash trees shall only be available from April 15<sup>th</sup> to August 1<sup>st</sup> unless special authorization from the Superintendent is given in writing.
4. A violation of this section will constitute a municipal infraction punishable pursuant to Chapter 4 of the Missouri Valley City Code.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the City Council on the     day of     , 2016 and approved this     day of     , 2016.

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Clint Sargent, Mayor

ATTEST:

\_\_\_\_\_  
Rita M. Miller, City Clerk/Administrator

I certify that the foregoing was published as Ordinance #        on the        day of        , 2016.

\_\_\_\_\_  
Rita M. Miller, City Clerk/Administrator

1<sup>st</sup> reading: 9-6-2016  
2<sup>nd</sup> reading: Waived

**RESOLUTION 16-19**

**RESOLUTION SETTING FEES FOR ASH TREE PERMIT**

**WHEREAS**, the City Code of the City of Missouri Valley, Iowa, Chapter 148, provides for the payment of a permit fee for chemical application treatment of Emerald Ash Borer;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Missouri Valley, Iowa, does hereby approve the fee of \$5.00 for the Ash Tree Treatment Permit.

Passed and approved this 6th day of September, 2016.

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Clint Sargent, Mayor

ATTEST:

\_\_\_\_\_  
Rita M. Miller  
City Clerk/Administrator

**RESOLUTION 16-20**

**RESOLUTION TO DISSOLVE THE MISSOURI VALLEY CABOOSE COMMITTEE**

**WHEREAS**, the City Council of Missouri Valley, Iowa established the Caboose Committee to oversee the relocation and repainting of the Union Pacific Railroad caboose and to create a park area for it; and

**WHEREAS**, this project has been completed and dedicated, and the Committee has completed its' task.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Missouri Valley, Iowa that the Caboose Committee is hereby dissolved and the City of Missouri Valley thanks them for their service to the community.

Passed and approved this 6th day of September, 2016.

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Clint Sargent, Mayor

ATTEST:

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Rita M. Miller  
City Clerk/Administrator

**RESOLUTION 16-21**

**RESOLUTION SETTING WAGE**

BE IT RESOLVED by the City Council of the City of Missouri Valley, Iowa:

The following employees shall be paid the wage and salary indicated and the City Clerk is authorized to issue checks, less legally required or authorized deductions from the amount set out below, bi-weekly, and to make such contributions to IPERS and social security or other purposes as required by law or authorization of the Council, all subject to audit and review by the Council:

<u>Position</u>	<u>Name</u>	<u>Hourly Rate</u>
Part-time Police Officer	Jordon DeZeeuw	\$19.61

Passed and approved this 6th day of September, 2016.

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Clint Sargent, Mayor

ATTEST:

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Rita M. Miller  
City Clerk/Administrator

**RESOLUTION 16-22**

**FISCAL YEAR 2015-2016 STREET FINANCE REPORT**

BE IT RESOLVED by the City Council of Missouri Valley, Iowa that the Council passed and approved the Fiscal year 2015-2016 Street Finance Report this 6th day of September, 2016.

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Clint Sargent, Mayor

ATTEST:

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Rita M. Miller  
City Clerk/Administrator