

TITLE III

PUBLIC PLACES AND PROPERTY

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- 3.02. Use and Care of Streets, Sidewalks and Public Places
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CHAPTER 3.01

CONSTRUCTION AND REPAIR

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3.0101 Supervision

All construction, maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the Public Works Superintendent, who shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

3.0102 Construction and Repair

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curb or gutter without having first secured authorization from the Public Works Superintendent.

3.0103 Specifications

All construction, maintenance and repair herein performed shall be made in conformity with specifications laid down or approved from time to time by the Public Works Superintendent.

3.0104 Duty of Owner to Maintain

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail to maintain such sidewalks, the Public Works Superintendent shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should the owner fail, within a reasonable time, to follow the directions of the Public Works Superintendent, the Public Works Superintendent shall report the facts to the City Commission, which may then proceed as provided in Chapter 40-29 of the North Dakota Century Code.

3.0105 Sidewalks Built to Grade Specifications

1. All sidewalks shall be constructed in accordance with the elevations and grade therefore to be furnished by the Public Works Superintendent and shall be constructed under the direction and supervision of the Public Works Superintendent. All sidewalks shall meet the following requirements:
 - a. All sidewalks shall be constructed of concrete.
 - b. All sidewalks in residential areas shall be constructed not less than five (5) feet in width and shall have a minimum slope one-fourth (1/4) inch per foot from the inside edge toward the street.
 - c. All sidewalks shall be at least four (4) inches in thickness.
 - d. All sidewalks shall be laid out as follows:

- i. In locations where the right-of-way is sixty (60) feet or less the sidewalks shall be constructed on the property line.
- ii. In locations where the right-of-way is greater than sixty (60) feet the sidewalk shall be constructed eighteen (18) inches out from the property line.
- iii. In no case in the residential district shall the sidewalk be constructed adjacent to the curb unless right-of-way and topographic features require it.
- iv. Notwithstanding any other provision herein all sidewalks shall be set out so that they are in conformity with existing sidewalks to which they may attach.
- e. All sidewalks in commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section; provided however, in areas where commercial development is not complete the entire sidewalk need not be constructed. A section six (6) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations.

3.0106 Materials and Manner of Construction

The kind and quality of material used, and the manner in which driveways, curb and gutter, relaying of block walks and paving repairs shall be constructed, shall be determined by the Public Works Superintendent.

3.0107 City Contractor

- 1. The City Auditor shall receive bids for the construction of sidewalks, driveways, curb and gutter and paving repairs as the City may find necessary to have done. Such bids shall be made upon blanks furnished by the City Engineer or Public Works Superintendent and shall conform to specifications filed with the City Auditor by the City Engineer or Public Works Superintendent and approved by the governing body.
- 2. All sidewalks, driveways, curb and gutter and alley returns lying between the property line and the abutting street hereafter constructed within the City must conform to this Chapter, and the specifications filed with the City Engineer or Public Works Superintendent, and approved by the governing body must specify the details with respect thereto. When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this State, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give in addition to the contract bond required by the laws of the state of North Dakota, an additional bond in an amount to be determined by the governing body, running to the City, conditioned that said contractor shall satisfactorily comply with the specifications for construction.

CHAPTER 3.02

USE AND CARE OF STREETS, SIDEWALKS AND PUBLIC PLACES

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- 3.0201 Obstructions - Penalty
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3.0201 Obstructions - Penalty

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the City Engineer or street commissioner. Any person violating the provisions of this Section shall be guilty of an infraction and upon conviction thereof, shall be fined no more than one thousand dollars (\$1,000.00) and charged with assessment of all costs incurred by the City for cleanup.

3.0202 Destruction of City Property - Prohibited - Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this Section shall be guilty of an offense and be fined no more than one thousand dollars (\$1,000.00) or be imprisoned for not to exceed thirty (30) days or by both such fine and imprisonment.

3.0203 Encroachments

It shall be unlawful to erect or maintain any building or structure that encroaches upon any public street or property.

3.0204 Openings

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable strong

cover or railing to be approved by the Public Works Superintendent or the City Engineer or the official who supervises public improvements.

3.0205 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires over any public place, street, alley or other public way without having first secured permission from the City governing body. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the City Engineer or Public Works Superintendent, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3.0206 Littering - Prohibited

No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any garbage, grass clippings, tree branches, fallen leaves, weeds, glass, bottles, boxes or rubbish of any kind upon any street, curb or alley in the City.

3.0207 Burning

It shall be unlawful for any person, firm or corporation to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

3.0208 Distributing Hand Bills, Etc.

The scattering, throwing or placing of bills, posters, advertising matter, hand bills and other similar items on private premises, sidewalks, streets or other public places in the City must be done in such a manner so as to prevent the items from being blown about these premises, sidewalks, streets or other public places. Any person or entity violating the provisions of this Section shall be guilty of an infraction.

3.0209 Heavy Vehicles

No person, firm or corporation shall move, or cause to be moved over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts within the City any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the paving, sidewalks, crosswalks, culverts, bridges or viaducts over which the same are transported, or which exceeds in weight 16,000 pounds per axle and exceeds 750 pounds per inch of tire widths, or any vehicle to the wheels of which are attached spurs, bars, angle irons or cleats which will tend to mar or deface the paving, sidewalks, crosswalks, culverts, bridges or viaducts, except under the direction and permission of the City governing body. Violators shall pay or cause to be paid to said City, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. When the specified load limits herein contained will cause damage to the City's paved streets, the City governing body, by resolution adopted, may lower said load limits for such period of time as it may deem necessary. The provisions of this Section shall not apply to state and federal highways through the City.

3.0210 Sidewalk Maintenance and Removal of Snow and Ice

1. It shall be the duty of the owner or occupant of each lot as described in this Section to remove from the sidewalk in front of or along such lot any ice or snow which forms, accumulates or obstructs such sidewalk within twenty four (24) hours after the ice forms or the snow ceases to fall thereon; provided, that where the ice accumulated is of such character as to make removal thereof impossible, the sprinkling of ashes, salt or sand thereon within the time specified for removal in such manner as to make such sidewalk safe for the travel of pedestrians thereon shall be deemed a compliance with the provisions of this Section. This ordinance for removal of snow refers to any sidewalks that are on Main Street from 2nd Avenue Southwest to 3rd Avenue Northwest, on Caledonia from 3rd Street West to 5th Street East and 1st Street Northwest from 1st Avenue Southwest to 1st Avenue Northwest.

2. No owner or occupant shall blow, pile, or transfer snow from their driveways or abutting sidewalks onto the City streets.
3. Notwithstanding any other provision hereof, any violation of this Section shall be an infraction.

3.0211 Removal of Snow and Ice by City

1. In case the owner of an above-described lot refuses or neglects to remove from such sidewalk ice or snow in accordance with the previous Section, such ice or snow may be removed by or under the direction of the Public Works Superintendent or City Auditor. The Public Works Superintendent may remove or direct the removal of such ice or snow upon noncompliance. The necessary expense of such ice or snow removal shall be chargeable against the abutting lot or property by billing and special assessment in the manner prescribed by law.
2. The City may adopt additional policies as it deems necessary for the removal of snow and ice.

3.0212 Assessments by Public Works Superintendent When Work is Done by City

Whenever the Public Works Superintendent shall, pursuant to Chapter 3.0211, remove or cause to be removed any snow or ice from any sidewalk or sidewalks along or in front of any building, grounds or premises, the Public Works Superintendent shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the City Auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each lot or tract as known to the Public Works Superintendent.

3.0213 Snow and Ice Removal Assessments, Publication by Auditor, Hearing by City Governing Board

The City Auditor shall give notice by publication in the official newspaper of the hearing and confirmation of such report and assessment at the regular June meeting of the City governing board, notifying all persons objecting thereto to appear and present their objections. The notice shall be published once each week for two (2) consecutive weeks, the last publication to be not less than eight (8) days before the date fixed for the hearing. At the June meeting of the City governing board or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City governing board shall consider said assessment and shall hear any objections thereto or to any part thereof, and after revising and correcting the same, if necessary, it shall approve and confirm the list. The City Auditor shall attach to such list the City Auditor's certificate that the same is correct as confirmed by the City governing board and shall file the same in the City Auditor's office. The assessment shall be certified to the county auditor by the City Auditor in the manner provided in Section 40-24-11 of the North Dakota Century Code.

3.0214 Street Cleaning - Snow Removal

Whenever, in the judgment of the governing body or the City Engineer or Public Works Superintendent of the City, it shall be necessary that streets, alleys or public ways in the City shall be cleared of snow or ice or be cleaned by the use of street sweepers or other methods of cleaning such streets, or for marking for traffic purposes, the ordinances of the City regulating the parking of automobiles, trucks and other motor vehicles shall be suspended and it shall be unlawful for any automobile, truck or other motor vehicle to be parked or left standing between the hours hereinafter mentioned and during the period of time during which the said parking ordinances are suspended.

3.0215 Notice - Snow Removal or Street Cleaning

Whenever it becomes necessary to remove snow or ice or to sweep and clean streets, or to mark streets for traffic purposes in the City, there shall be designated by the City Engineer or Public Works Superintendent the area and streets to be cleared, cleaned or marked and the time during which such activity will be done by the posting of such information in the area affected or some other means of public notice.

3.0216 Impounding Vehicles and Equipment

Whenever any parked automobile, truck, machinery, vehicle or equipment shall be found in any place prohibited by these restrictions, and during the hours as provided herein, the same shall be impounded by the City at a place to be provided and it shall be unlawful for any person, firm or corporation to remove or attempt to remove any automobile, truck, machinery, vehicle or equipment from the place where impounded without first paying the cost of such impounding.

3.0217 Blocking Streets

No driver of any vehicle shall stop the same on any street, avenue, lane or alley of the City in such a manner as to hinder or prevent other vehicles or persons from passing at all times, unless in case of absolute necessity, nor shall any driver of any vehicle stop the same at any regular crossing of said street, alley, lane or avenue, so as to prevent the free passage of persons traveling or passing on foot.

3.0218 Excavations - Permit

It shall be unlawful for any person, firm or corporation, except public utilities which have received a franchise from the City, to tunnel under or to make any excavation in any street, alley or other public place in the City without having obtained a permit from the City Auditor and complying with the provisions of this Section and the terms of any such permit.

3.0219 Guarding or Excavations and Openings

It shall be unlawful for any person within the City limits to leave or keep open, uncovered or unguarded any cellar door, pit, grating, vault or other subterranean passage opening from, into or upon any street, alley or sidewalk, or upon any private property if not suitably guarded.

3.0220 Making Excavations - Notice

1. It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and in excavations, the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.
2. No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels, and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the City department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed. Notice shall be given as required by Chapter 49-23 of the North Dakota Century Code.

3.0221 Restoration of Excavations

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the City shall restore the surface to its original condition if there is no pavement there. Refills shall be properly tamped down, and any bracing in such tunnel or excavation shall be left in the ground. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant, in compliance with the ordinances of the City and under the supervision of the Public Works Superintendent or City Engineer.

3.0222 Supervision of Excavation Work

The Public Works Superintendent or City Engineer shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the City to see to the enforcement of the provisions of this Section. Notice shall be given to the Public Works Superintendent or City Engineer at least ten (10) hours before the work of refilling any such tunnel or excavation is begun.

3.0223 City Buildings, Equipment and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except as provided under state law.

3.0224 Temporary Placement of Building Materials

With an approved City building permit, construction materials may be temporarily placed on City streets; provided, however, they do not impede traffic and warning signs are placed so as to alert drivers to their presence. Material may not be left for longer than ten (10) days, and the street must be free of residuals when the project is complete.

CHAPTER 3.03

UNCLAIMED AND ABANDONED PROPERTY

SECTIONS:

- 3.0301 Unclaimed and Abandoned Property - Defined
 - 3.0302 Seizure of Unclaimed or Abandoned Property
 - 3.0303 Holding of Personal Property - Notice of Sale
 - 3.0304 Report of Abandoned Property Sale
 - 3.0305 Bill of Sale - Abandoned Property
 - 3.0306 Proceeds of Sale - Abandoned Property
 - 3.0307 Redemption of Personal Property
 - 3.0308 Annual Report - Unclaimed and Abandoned Property
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3.0301 Unclaimed and Abandoned Property - Defined

Personal property left upon the streets, alleys or other public ways in the City shall be deemed to be unclaimed or abandoned within the meaning of this Section when the same is permitted to remain in any one place upon said streets, alleys or other public ways for a period of ten (10) days or more.

3.0302 Seizure of Unclaimed or Abandoned Property

Whenever any unclaimed or abandoned personal property is found upon the streets, alleys or other public ways of the City, the same shall be seized and possession thereof taken by any law enforcement officer, Public Works Superintendent or other officer of the City.

3.0303 Holding of Personal Property - Notice of Sale

Abandoned personal property shall be held by the City for a period of not less than sixty (60) days after its seizure as provided herein, and after the expiration of said sixty (60) days, the City Auditor shall cause notice to be published in the official newspaper of said City, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said City, and a further notice that said property will be sold at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held. If prior approval is obtained from the city governing body such unclaimed or abandoned property may be sold at a community auction provided that a law enforcement officer shall be responsible for the notice and reporting requirements of this Section.

3.0304 Report of Abandoned Property Sale

At the time specified in said notice, the said property shall be sold by a law enforcement officer designated by the City, at public auction, to the highest bidder for cash. The officer making the sale shall make a report thereof to the city governing body. The report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefore. The report shall be made under oath and subscribed by the officer making such sale and shall be filed with the City Auditor within three (3) days after the date of such sale. The officer upon filing the report shall pay to the City Auditor the proceeds of said sale.

3.0305 Bill of Sale - Abandoned Property

Upon the receipt of the report as specified in Section 3.0304 hereof, the City Auditor shall prepare a bill of sale of the property sold conveying the same to such purchaser and the same shall be executed by the presiding officer of the governing body and attested by the City Auditor and delivered to the purchaser.

3.0306 Proceeds of Sale - Abandoned Property

The City Auditor shall retain such money as is received from such sales in a separate account for a period of six (6) months from and after the time of such sale and if proceeds of such sale are not claimed as hereinafter provided by the owner of said property, the said money shall thereupon be transferred to the general fund of the City.

3.0307 Redemption of Personal Property

Any person owning such personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his ownership thereof to the governing body, reclaim such property upon paying the expenses incurred by the City for the seizure, storage or advertising the sale thereof and any person owning such property as aforesaid may at any time within six (6) months after such sale and upon making satisfactory proof to the governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the City of the necessary expenses incurred by the City for the seizure, storage and sale of said property.

3.0308 Annual Report - Unclaimed and Abandoned Property

The law enforcement officer prior to June 1 of each year shall submit to the City Auditor a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this Chapter. The City Auditor shall bring such list to the attention of the governing body at the next regular meeting.

CHAPTER 3.04

HOUSE NUMBERING

SECTIONS:

- 3.0401 House Numbering Required
- 3.0402 Numbers on Houses

3.0401 House Numbering Required

All lots, buildings and structures in the City shall be numbered in accordance with the following plan: all buildings and structures to the north or east of a public street or avenue shall bear even numbers, and all buildings and structures to the south or west of a public street or avenue shall bear odd numbers. All buildings and structures shall be numbered according to where the main entrance of said building or structure fronts the public street or avenue.

3.0402 Numbers of Houses

It shall be the duty of the owner and occupants of every house in the City to have placed thereon, in a place visible from the street, figures at least two and one-half (2 ½) inches high, showing the number of the house.

CHAPTER 3.05

TREES

SECTIONS:

- 3.0501 Definitions - Street Trees and Park Trees
- 3.0502 Operation and Duties of the Public Works Superintendent
- 3.0503 Tree Care - Tree Topping
- 3.0504 Review by City Commission
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- 3.0509 Costs
- 3.0510 Tree Replacement
- 3.0511 Proficiency
- 3.0512 Public Parkways and Berms
- 3.0513 Permit
- 3.0514 Penalty

3.0501 Definitions – Street Trees and Park Trees

1. “Street trees” are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.
2. “Park trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

3.0502 Operation and Duties of the Public Works Superintendent

The Public Works Superintendent shall have oversight of trees within the City as set forth in this Chapter.

3.0503 Tree Care – Tree Topping

1. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Public Works Superintendent may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. It shall be unlawful as a normal practice to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Public Works Superintendent.
2. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of sidewalk and twelve (12) feet above street.

3.0504 Review by City Commission

The City Commission shall have the right to review the conduct, acts and decisions of the Public Works Superintendent. Any person may appeal from any ruling or order of the Public Works Superintendent to the City Commission, which may hear the matter and make a final decision.

3.0505 Nuisance Declared

1. The following are considered public nuisances whenever they may be found within the City:
 - a. Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetles, *Scolytus mutlistriatus* or *Hylurgopinus refipes*.
 - b. Any tree harboring insect or disease organisms of a contagious and fatal nature which pose a serious threat to surrounding trees if not immediately removed and disposed of.
 - c. Any dead elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed or chipped and buried in a landfill.
 - d. Any firewood which is piled in such quantity or amount, size, condition, or location so as to cause a blighting or deteriorating effect on the neighborhood, a fire hazard, or a public health or safety hazard.
 - e. Any tree, shrub, or hedge, or part thereof, growing upon public property or upon private property but overhanging or interfering with the use of any public walk, street, or highway, park or public place within the City, which in the opinion of the Public Works Superintendent endangers the life, health, safety, or property of the public, shall be declared a public nuisance.

3.0506 Abatement

1. It is unlawful for any person to willfully permit any public nuisance as defined in Section 3.0505 to remain on any premises owned or controlled by him within the City. Such nuisance may be abated in the following manners.
 - a. Abatement of Nuisance on Public Property.
 - i. In abating the nuisances described in Section 3.0505(1)(a) and (b) on public streets, alleys, or boulevards or public ways, the Public Works Superintendent shall cause the infested tree or wood to be removed or otherwise effectively treated so as to destroy and prevent as fully possible the spread of the disease, fungus, insect, or other disease organisms. Such abatement procedures shall be carried out in accordance with the latest technical and expert methods and plans as may be designated by the Commissioner of Agriculture of the State of North Dakota. The Public Works Superintendent shall establish specifications for tree removal and disposal methods consistent therewith.
 - ii. In abating tree hazards described in Section 3.0505(1)(c) on public property, the Public Works Superintendent shall cause such hazards to be removed and disposed in accordance with tree care regulations of the state or federal governments, the cost to be assessed as defined in Section 3.0509.
 - b. Abatement of Nuisance on Private Property.
 - i. Whenever the Public Works Superintendent finds with reasonable certainty that the Dutch elm disease, elm bark beetles, or other disease, fungus, insect, or disease organisms exists in any tree or wood located on private property, outside of any public way in the City, he shall notify

the owner or person in control of such property on which the nuisance is found by registered or certified mail within five (5) days of the determination. The Public Works Superintendent shall direct that the diseased tree be removed and effectively treated in a manner approved by the Public Works Superintendent within ten (10) days' receipt of such notice. If such owner cannot be found, a copy of said notice shall be posted upon an infected tree. If such tree is not so removed and/or treated as specified within ten (10) days after posting of the notice, the Public Works Superintendent shall remove and/or treat said tree. The owner or person in charge may be charged with a violation of this ordinance for maintaining a nuisance and that the City by and through its Office of the Public Works Superintendent may abate the nuisance, the cost to be assessed in accordance with Section 3.0509.

c. **Abatement of Tree Hazards on Private Property.**

- i. The nuisance defined in Section 3.0505(1)(d) and (e) shall be abated by the owner following notification of the existing nuisance. If not corrected or removed within the time allotted, the Public Works Superintendent shall authorize the removal or correction to be done in accordance with recommended procedures of the Office of the Public Works Superintendent, the property owner to bear the cost.
2. The City Auditor shall keep a book called "Nuisance Abatement, Special Assessment Book" and shall enter the cost of the abatement of a nuisance as declared by the City Commission therein as a special assessment against the lot or parcel of land from which the nuisance was abated, with the name of the owner. At a regular meeting of the City Commission in October of each year, the City Commission shall review all such assessments and hear all complaints against the same and approve the same as finally adjusted, and the City Auditor shall certify to the County Auditor a list of the lots and parcels of land specially assessed for such purpose, and the sum shall be collected as other city taxes are collected.

3.0507 Inspection and Investigation

1. The Public Works Superintendent, his employees, or agents shall inspect all premises and places within the City as often as practicable to determine whether any condition described in Section 3.0505 exists therein.
2. The Public Works Superintendent, upon finding a suspect Dutch elm diseased tree, shall immediately take appropriate actions, in his discretion, to determine the diagnosis. Within five (5) days of a diagnosis, the owner of the property of the specimen shall be notified by the Public Works Superintendent of the result by registered or certified mail.
3. A major survey shall be made on a regular basis. The inspection shall determine all hazards as specified in Section 3.0505. The owner shall be notified in writing of the existence of the nuisance and given a reasonable time for its removal.

3.0508 Interference Prohibited

It shall be unlawful for any person to prevent, delay, or interfere with the Public Works Superintendent, his employees, or agents while they are engaged in the performance of duties imposed by this ordinance.

3.0509 Costs

1. The costs for abating of the public nuisances as defined in this Chapter shall be borne as follows:
 - a. For abatement of a nuisance with the nuisance occurring on public land, the cost will be borne by the City as provided herein.

- b. For abatement of a nuisance with the nuisance occurring on private land or on any street, alley, boulevard, or other public way adjoining the private property, the cost shall be borne by the private owner.
- c. The cost of tree planting for replacement of diseased trees on boulevards and private property will be borne by the private owner.

3.0510 Tree Replacement

- 1. Replacement of diseased trees on public property removed to prevent spread of Dutch elm disease will be in accordance with tree planting standards and programs of the Office of the Public Works Superintendent.
- 2. The City will not be liable for the replacement of diseased trees on private property removed to prevent spread of Dutch elm or other diseases. An option, however, will be presented to the private property owner whose tree has been removed in accordance with the tree planting standards and programs of the Office of the Public Works Superintendent. This option will allow the private owner to replace the diseased tree under any tree replacement program of the Office of the Public Works Superintendent, the cost to be borne by the private property owner.

3.0511 Proficiency

All personnel involved in the care and maintenance of trees in the City must show a degree of proficiency in accordance with the regulations of the Office of the Public Works Superintendent and must receive authorization from the Public Works Superintendent before practicing tree care and maintenance. For groups working together, only the job supervisor shall be required to be authorized by the Public Works Superintendent, with the job supervisor to be held responsible for any violation of this ordinance.

3.0512 Public Parkways and Berms

The following trees may be used for planting in public parkways and berms: Honeylocust, Bur Oak, Black Walnut, Hackberry, Northwest Poplar, Silver Maple, Green Ash and Cultivars (Bergeson, Patmore, Summit, Kindred), American Linden, Mountain Ash (Fireblight resistant), Russian Olive, Mayday Tree, Ironwood, Redmond Linden, Native Paper Birch, Canada Red Cherry (Schubert chokecherry), Flowering Crabapple (Fireblight resistant), Amur Chokecherry, Amur Maple; and no tree not herein mentioned shall be planted without special permission from the Office of the Public Works Superintendent. The following trees may not be planted on the parkways, berms, or boulevards of the City: Cottonwood and Poplar, Siberian Elm, Willow, Box Elder, and conifers. In order to achieve landscape effects, the Public Works Superintendent may at times use trees not generally recommended. Tree sizes and spacing of trees shall be in accordance with the standards of the Office of the Public Works Superintendent.

3.0513 Permit

It shall be unlawful for any person to transport, within the City, any bark bearing elm wood without having obtained a permit from the Public Works Superintendent. The Public Works Superintendent shall grant such permits only when the purpose of this ordinance shall be served thereby.

3.0514 Penalty

Any person, firm, or corporation who violates any of the provisions of this ordinance shall, upon conviction thereof, forfeit not less than ten dollars (\$10.00) nor more than three hundred dollars (\$300.00).