

ORDINANCE NO. 00-03

THE PURPOSE OF THIS ORDINANCE IS TO ESTABLISH A "CITY TREE COMMITTEE" AND TO PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY PROVIDING FOR THE REGULATION OF THE PLANTING, MAINTENANCE, AND REMOVAL OF TREES, SHRUBS, AND OTHER PLANTS WITHIN THE CITY OF HEBRON, ND. THIS ORDINANCE ALSO SETS GUIDELINES FOR THE STORAGE OF FIREWOOD WITHIN THE CITY LIMITS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEBRON, MORTON COUNTY, NORTH DAKOTA, AS FOLLOWS:

ARTICLE I. IN GENERAL

Section 1. Definitions

- (1) "City" is the city of Hebron, county of Morton, state of North Dakota.
- (2) "Person" is any person, firm partnership, association, corporation, company or organization of any kind.
- (3) "Street" refers to the entire width of every public way or right of way open for the purposes of vehicular and pedestrian traffic, including sidewalks and boulevards.
- (4) "Public trees" are all shade and ornamental trees now or hereafter growing on any street or in any public place or park.
- (5) "Public places" include all property owned by the city.
- (6) "Opaque Objects" includes all objects through which clear visibility cannot be obtained.

Section 2. Nonliability of City

Nothing in this article shall be deemed to impose any liability upon the city or upon any of its officers or employees nor to relieve the owner of any private property from the duty to keep trees and shrubs upon private property or under his control in a safe condition.

Section 3. Separability

Should any part or provision of this article be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the article as whole, or any part thereof, other than the part declared to be invalid.

Article II. Administration

Section 1. General:

The city council or its appointed, Tree Committee, shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of public trees to insure safety or to preserve the aesthetics of public places. The city council or its appointee shall also have the authority to regulate opaque objects when in violation of this ordinance. The city council or its appointee is responsible for the enforcement of this ordinance.

Section 2. Creation and Establishment of a Tree Committee

There is hereby created and established a Tree Committee for the City of Hebron, North Dakota, which shall consist of five members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the Council.

Section 3. Term of Office

The term of the five individuals to be appointed by the Mayor shall be three years, except that the term of two of the members appointed to the first Committee shall be for only one year and the term of two members of the Committee shall be for two years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

Section 4. Compensation

Members of the Committee shall serve without compensation.

Section 5. Duties and Responsibilities

It shall be the responsibility of the Committee to study, investigate and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting and removal of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive annual forestry work plan for the city of Hebron, North Dakota.

The Tree Committee, or its Agent, shall be responsible for overseeing the planting, pruning and removal of all trees located within the street right-of-way, easements, alleys and parks of the City. The owner of land abutting on any street may, when acting within the provisions of this ordinance, prune, spray, plant or remove trees in that part of the street abutting his land not used for public travel. A street tree permit shall be required only when the owner of the property intends to deviate from the rules and regulations contained in this ordinance.

Section 6. Operation

The Tree Committee shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Section 7. Street Tree Species to be Planted

The Tree Committee will formulate an official Street Tree species list for Hebron, North Dakota. The list of allowable species shall be broken down into categories of small, medium and large trees. Street trees of any species will only be planted when there is adequate space available. No species other than those included in this list may be planted as Street Trees without written permission of the Tree Committee.

Section 8. Spacing

The spacing of Street Trees will be in accordance with the three species classes listed in Section 7 of this ordinance, and no trees may be planted closer together than the following: small trees, 20 feet; medium trees, 30 feet; and large trees, 40 feet. Trees will be planted a minimum of twenty-five (25) feet back from any corner bordering a street intersection.

Section 9. Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer than four (4) feet from any curb.

Article III. Public Safety and Protection of Property

Section 1. Hazards defined and prohibited

All trees, shrubs, and opaque objects within the city shall be pruned or removed when such trees, shrubs or opaque objects constitute a hazard to life and property, or harbor insects or diseases which constitute a threat to other trees and shrubs within the city. Such hazards include:

- (1) Any tree, shrub, or hedge, or any part of such, which is diseased or over-aged and is clearly deteriorating.
- (2) Any living or standing elm tree (*Ulmus* app.), or part of any tree, infected to any degree with the dutch elm disease fungus (*Ceratocystis ulmi*), or which harbors any of the elm bark beetles capable of transmitting this fungus. (*Scolytus multistriatus* or *Hylurgopinus rufipes*).
- (3) Any dead elm tree or part of any tree, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and properly disposed of.

- (4) Any tree, shrub, hedge, or opaque object, or any part of such, which is obstruction or shading streetlights, obstructing the passage of pedestrians on sidewalks, obstructing the vision of traffic signs, or obstructing the view of any street or alley intersection. All branches extending from tree trunks less than eight feet (8') above the ground level shall be removed and all overhanging branches shall be pruned so as to maintain a minimum of fourteen feet (14') vertical clearance above the established street grade.

The maintenance of any of the above hazards shall be unlawful and shall be a violation of this ordinance.

Section 2. Notice to remove such hazards

The city council shall have the power and authority to prune or remove, or order the pruning or removing of any such trees, shrubs or opaque objects on private property. The city council or its appointee shall notify a property owner in writing to prune or remove any such trees, shrubs or opaque objects on the owner's property, at the owner's expense with ten (10) days after notification. Said notification shall be sent by certified mail, return receipt requested and the ten (10) days shall begin on the date of receipt, if signed for, or mailing, if refused.

Section 3. Action of city upon noncompliance; costs

Upon the failure, neglect, or refusal of any owner so notified to prune or remove the specified trees, shrubs or opaque objects, the city council its appointee shall have the authority to prune or remove the specified trees, shrubs or opaque objects. Actual cost thereof shall be billed to the property owner. If the costs of remedying the condition are not paid within thirty (30) days after receipt of a statement from the city auditor, the amount shall become a lien upon the property to be included in the next tax bill rendered to the property owners, and shall be assessed and collected in the same manner as other taxes against such property.

Section 4. Elm Firewood

The stored Elm firewood will have to be debarked.

Section 5. Inspection and investigation

The city council, its employees or agents, are authorized to inspect all premises and places within the city as often as practicable to determine whether any condition described in Section 1 exists therein. The city council, its employees or agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this article.

Section 6. Outside storage of wood.

Any outside storage of wood, including cut trees used for fuel, shall be elevated off the ground at least six inches to provide sufficient clearance for ventilation and to deter infestation and inhabitation by rats and other vermin. Wood should not be stacked against other structures or stored outside for any prolonged period of time.

Article IV. Penalty

Section 1. Penalty for violation of ordinance

Any person who violates or fails to comply with any provision of this Ordinance shall be subject to a fine of not more than One Hundred Dollars (\$100.00) or by imprisonment for more than five (5) days or by both such fine and imprisonment.

Article V. Effective Date

Section 1. Effective Date

This Ordinance shall be in full force and effect from and after its final passage and approval and the publication of its title and penalty clause.

Margaret Nolte

Margaret Nolte, Mayor

ATTEST:

Stacey G. Rebel

Stacey G. Rebel, City Auditor

Introduction and First Reading: November 6, 2000

Second Reading: February 5, 2001

Final Passage: February 5, 2001

Publication Date: March 21, 2001

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