

Bottineau Municipal Code Revised

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Chapter Three

Public Places and Property

ARTICLE 1 - Construction and Repair

3.0101 Supervision

The City Superintendent shall in conjunction with the engineering firm utilized by the City Council for City Engineering services, and with the approval of the City Council, establish and keep on file lines, grades, width and location of streets and alleys, curbs, gutters, sidewalks and boulevards and plans and specifications for the construction thereof. All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the City Superintendent. The City Superintendent 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 ordinance.

3.0102 Sidewalks Required

Sidewalks shall be required to be constructed in all new developments to the City of Bottineau. Sidewalks in new developments shall be constructed along both sides of all streets and within cul-de-sacs.

3.0103 Construction and Repair

1. Any person who desires to or who has been ordered to construct or repair any sidewalk abutting his property and desires to construct the same within the time limit provided by law, may do so; provided, however, that such sidewalk be constructed in accordance with the city regulations therefore.

2. On petition of a majority of the resident property owners whose property would be benefited by the construction of a curb along the street in front of same, the council shall proceed to advertise for bids for the construction thereof, according to law. All such curbing shall be done under the supervision of the City Superintendent.

3. No stairway shall be constructed on any street or alley in the city, and all open stairways now in existence in any street or alley shall be properly protected by smooth brass or iron railings; and in case of the removal, destruction or reconstruction of any building having such present stairway or areaway on or in any street or alley such stairway shall not be rebuilt.

3.0104 Specifications

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

3.0105 Duty of Owner to Maintain

1. 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 so to maintain such sidewalks, the City Superintendent or City Council shall direct him to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he fail, within a reasonable time, to follow the directions of the City Superintendent or City Council, the City Superintendent or City Council shall report the facts to the governing body, which shall then proceed as provided in Chapter 40-29 of the North Dakota Century Code.

2. It is hereby made the duty of any owner of property along which such curbing and boulevard has been constructed, to keep up and maintain such boulevard, to keep the grass in good condition thereon and to cut the same from time to time as may be required.

3. Within sixty (60) days after the private construction of any curb along any property the abutting owner shall cause the boulevard between the curb and the sidewalk to be properly filled in, graded and seeded to grass. All property along which curbing has been constructed in the past shall, in like manner and within sixty (60) days after the passage of this section, be properly filled in by the owner between such curb line and the sidewalk line and seeded to grass.

4. If any person shall fail or neglect to cause to be filled in and properly leveled and planted to grass the boulevard, it shall be lawful for the city to do such work, the cost of same to be assessed against the property abutting as provided by Chapter 40-32 of North Dakota Century Code.

3.0106 Sidewalks Built to Grade Specifications

1. In case any differences should arise between the City Superintendent and the owner of any property adjacent to any street or alley, or any pavement, driveway, sidewalk, curb, retaining wall or parking strip in or along the same, subject to the regulations of this title, or any persons desirous of constructing any driveway, sidewalk, curb or retaining wall interpretation of any of the provisions of this title or the enforcement of the same, appeal may be made to the City Council, whose decisions regarding all matters affecting the same shall be final. An appeal from any such determination by the City Superintendent shall be taken by filing notice thereof in writing in the office of the City Auditor within five (5) days after such determination is made. The City Council shall act upon such appeal at its next regular meeting following the filing of such notice of appeal. In the event that any appeal is not taken, the decision of the City Superintendent shall be final and conclusive.

2. All sidewalks shall be constructed in accordance with the elevations and grade therefore to be furnished by the City Superintendent and shall be constructed under his direction and supervision or under the direction and supervision of the City Superintendent. All sidewalks shall meet the following requirements:

- A. All sidewalks shall be constructed of concrete or other materials as approved by the City Superintendent.
- 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 concrete sidewalks shall be of at least four (4) inches in thickness. Any sidewalk running through a driveway shall be six (6) 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 attached.
- E. All sidewalks in commercial and/or manufacturing 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.

- F. Contraction Joints and alternate-contraction joints shall be at ten (10) foot spacing on curb and gutter, five (5) foot spacing on sidewalk. All contraction joints shall be formed by a grooving tool and shall have a width of 3/8" and a depth equal to ¼ of the thickness of the concrete unless otherwise stated. Expansion joints shall be at lot lines where possible (not more than seventy-five foot (75) spacing) and at other locations as required. Construction joints shall be constructed as expansion joints, with location to match the regular location of either contraction joints, alternate-contraction joints or expansion joints. For driveways greater than twenty (20) feet wide, contraction joints shall be required perpendicular to the curb or edge of roadway and shall have a maximum spacing of ten (10) feet.
- G. Depressed curb shall be constructed to accommodate handicapped ramps at the corners of all street intersections.
- H. Location and adjustment of utilities is the responsibility of the contractor and shall be done prior to calling for an inspection.

3.0107 Materials and Manner of Construction

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

3.0108 Concrete or Bituminous Pavement Replacement

1. Concrete or Bituminous Pavement Replacement:

Any driveways being placed or replaced in the City of Bottineau must be with specifications as follows:

- A. Before any driveway abutting a city street is placed or replaced the owner must contact City Superintendent or designated agent for review. All curbs and gutters in driveway or sidewalk sections must sustain drainage, and may not be blocked or dammed in any way. Where gutter or curb is broken or damaged it will be replaced by the landowner after consultation and approval by City Superintendent or designated agent.
- B. Financial responsibility rest with landowner where placement or replacement occurred unless otherwise specified by agreement with the City of Bottineau and landowner.

2. Costs Assessed to Property:

When the city has effected the placement or has paid for the replacement of any curb and gutter under this ordinance, the actual cost thereof, if not paid by the landowner prior thereto, shall be challenged and assessed against the property as provided for in Section 7.0501 of the Bottineau Municipal Code Revised.

3. Penalties:

Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

3.0109 City Contractor

1. The City Auditor shall receive bids annually for the construction of sidewalks, aprons, curb and gutter as the city may find necessary to have done. Such bids shall be made upon blanks furnished by the City Superintendent or City Council and shall conform to specifications filed with the City Auditor by the City Superintendent or City Council 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 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 maintain and keep in good repair, for a period of two (2) years from date of final acceptance all sidewalks, driveways, curb and gutter and paving repairs so constructed by such contractor under the terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of two (2) years, or in case they shall within said time begin to crumble or disintegrate or become cracked or broken to such extent that, in the opinion of the City Superintendent or street commissioner, the same is not a satisfactory compliance with the specifications for the construction thereof, then the City Superintendent or Street Commissioner may direct that such sidewalks, driveways, curb and gutters or paving repairs be immediately repaired or re-laid in whole or in part as he shall deem best, and the contractor shall immediately cause the same to be repaired or failure so to repair or to relay the same, the city at any time within said two (2) year period or thereafter, may cause the same to be repaired or re-laid, and the cost thereof whether done by the city directly or through a contract, may be recovered against said contractor and the surety upon such bond.

ARTICLE 2 - Use and Care of Streets, Sidewalks and Public Places

3.0201 Obstructions - Penalty

1. 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 Superintendent.

2. Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

3.0202 Destruction of City Property - Prohibited - Penalty

No person shall throw or encourage, aid or assist others in throwing any stone or other missile or in any manner willfully breaking or attempting to break any street light or street light fixture on any street or alley in the city.

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 City Council or the City Superintendent or the official who supervises public improvements.

3.0205 Wires

1. 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 governing body.

2. 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 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, glass, bottles, boxes or rubbish of any kind upon any street, alley, sidewalk, bridge, public passageway, or any vacant lot, public or private property 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 Removal of Snow and Ice from Sidewalk

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the city to remove from the sidewalk in front of or along the same, 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. Where the ice accumulated is of such character as to make the removal thereof practically impossible, the sprinkling of ashes 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 article.

3.0210 Removal of Snow and Ice by City

In case the owner of any lot in the city refuses or neglects to remove such ice or snow from such sidewalk in front of or along a lot therein, within the same time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the City Superintendent or City Superintendent, and the necessary expenses shall be charged against the abutting property by special assessment in the manner prescribed by law.

3.0211 Assessments by City Superintendent When Work is Done by City

Whenever the City Superintendent shall, pursuant to Section 3.0210 of this article, 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, he 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 of the property chargeable with such expense, the actual cost and expense of such removal and a description of the lot, lots or parcels of land along or in front of which is the sidewalk or sidewalks from which snow or ice has been removed.

3.0212 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 time 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 his certificate that the same is correct as confirmed by the city governing board and shall file said assessment list in his 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.

3.0213 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.

3.0214 Excavations - Notification

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 notification and obtained permission from the City Council, or without complying with the provisions of this article.

3.0215 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.

3.0216 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 this article. 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.

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. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

3.0217 Restoration of Excavations

1. 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.

2. Any opening in a paved or improved portion of a street shall be repaired and the surface re-laid at the cost of the applicant, in compliance with the ordinances of the city and under the supervision of the City Superintendent.

3.0218 Supervision of Excavation Work

The City Superintendent may 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 article. Notice shall be given to him at least ten (10) hours before the work of refilling any such tunnel or excavation commences.

3.0219 Vacating Streets

When vacating any city street the provisions found in North Dakota Century Code Section 40-39 shall be followed.

3.0220 Prohibited use of Public Property and Sidewalks

No person or persons shall ride a bicycle, skateboard or motorized vehicle upon a sidewalk within the downtown business district. No person or persons shall ride a bicycle, skateboard or motorized vehicle upon any public or private property signed to prohibit those activities. Downtown business district is described as follows: 3rd Street to 7th Street from Sinclair Street to Thompson Street.

3.0221 Prohibited use on Hiking and Biking Trail

There shall be no use of motorized vehicles on the City of Bottineau's Hiking and Biking Trail, except for the purpose of snow removal.

3.0222 Prohibited Pet Feces on Hiking and Biking Trail

The owner of any animal or person having custody or control of any animal shall be responsible for cleaning up any feces of the animal on the Hiking and Biking Trail and the surrounding area and shall dispose of the feces in a sanitary manner.

3.0223 Breaking Pavement

Any individual intending to break pavement must first notify and receive permission from the City Superintendent. The City Council shall assess a fee to property owners for the breaking of pavement. Fees to be paid to the City Auditor's Office.

ARTICLE 3 - House Numbering

3.0301 House Numbering Required

1. All street intersections shall be provided with a street name post and signs designating the street number and/or name.

2. All that part of the city lying East of Main Street shall be East streets; and all that part of the city lying West of Main Street shall be West streets; and all streets including and lying South of First Street shall be South streets; and all streets lying North of First Street shall be North Streets.

3. Street signs may hereafter be placed in proper locations at the street intersections of the city. Their location shall be designated by the superintendent of the city.

3.0302 Numbers of Houses

1. All dwellings and structures of every kind, including all places of business on the ground floor, shall be numbered as hereinafter provided, at the expense of the respective owners thereof with numbers provided by the city, or of the same kind, which numbers shall be permanently affixed in a prominent position on all dwellings, and other structures, so that the same may be easily visible from the street in front of the same; that such number shall be so affixed within ninety days after notice by the superintendent, and if such numbers are not affixed as hereinbefore provided then the city shall affix the same and the cost thereof shall be charged against the property where so affixed and certified by the City Auditor to the County Auditor of Bottineau County as a lien and charged against such property.

2. All numbers on the West side of the streets shall be even numbers; and all numbers on the East side of the streets shall be uneven numbers; and all numbers East of Main Street shall be even numbers on the South side of the street; and uneven numbers on the North side of the street; and all numbers West of Main Street on the North side of the street shall be even numbers; and on the South side of the street shall be uneven number.

3. Each side of each block in the city shall have one hundred numbers and the superintendent of the city shall designate the appropriate number for each dwelling or other structure and all dwellings and other structures of every kind including all places of business on the ground floor, shall bear the numbers designated by the superintendent of the city.

ARTICLE 4 – Trees

3.0401 Purpose

1. The city recognizes substantial economic, environmental and aesthetic importance of the trees and plantings within the community. It shall be the city's policy to utilize applicable techniques, methods and procedures required to preserve, when feasible, all trees and plantings on city property, and the community at large.

2. It is in the best interests of the citizens and public that a comprehensive plan be developed to regulate the planting and maintenance of trees and other plantings in or adjacent to streets and with easements, in rights-of-way and other public places within the city, to provide for orderly development and protection of public facilities, and to regulate the removal of trees that contribute significantly to the value of land, preservation of resources, and quality of life in the city.

3.0402 Intent

1. Promote and enhance the aesthetics and general welfare of the City of Bottineau.
2. Eliminate and guard against dangerous conditions that may result in injury to persons and/or their property, while using the public areas of the city.
3. Prevent damage to any public sewer, water main, street, sidewalk, or other public property.

4. Protect trees and shrubs in public areas from undesirable and unsafe planting, removal, maintenance and protection practices.

5. Protect all trees and shrubs from the damaging effects of construction, alteration or repair of utility facilities and other improvements in any public area.

6. Guard all trees and shrubs both public and private against the spread of disease, insects and other pests.

3.0403 Definitions – Street Trees and Park Trees

1. "Boulevard" is that part of a street or highway lying between the property line and that portion of the street or highway used for vehicular traffic.

2. "Commercial tree trimming" means the spraying, fertilization, trimming, stump or tree removal, cutting above ground, treating or otherwise preserving of trees or shrubs for another person for hire or other valuable consideration.

3. "Control" means to prevent the spread of any insect or disease vector.

4. "Eradicate or eradication" means to completely destroy a nuisance.

5. "Forestry department" is the designated department of the City of Bottineau under whose jurisdiction the trees upon street rights-of-ways and on other public places fall.

6. "Landowner" means any owner of federal, state, municipal or private land, under statutory authority or otherwise, but does not include a lessee, renter, tenant, operator or an owner of any easement or right-of-way.

7. "Noxious weed/Invasive species" means any plant propagated by either seed or vegetative parts which is determined by the state cooperative extension service and North Dakota Department of Agriculture to be injurious to public health, land or other property.

8. "Operator" means the person chiefly responsible for or in possession of the land, whether for self-benefit, or for the benefit of the landowner or another.

9. "Person" means any individual, partnership, firm, corporation, company, society, association, the state, or any department, agency or subdivision thereof, or any other entity.

10. "Property line" shall mean the outer edge of a street right-of-way or boundary of a private property.

11. "Property owner" shall mean the person owning such property pursuant to state law, and is shown by the Bottineau County, North Dakota Register of Deeds.

12. "Public nuisance" means any dangerous or unsafe trees or portions thereof; any trees encroaching on public sidewalks or impeding vehicular travel on the streets in violation of standards set by the City Forester; any trees located in the sight triangle; and 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, or treated with proper arboricultural procedure.

13. "Public property" shall include all other grounds owned by the City of Bottineau and the Bottineau Park District including streets, roads, boulevards, median strips, alleys and sidewalks.

14. "Shade Tree Committee" is an advisory board providing guidance for forestry operations.

15. "Street or highway" means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

16. "Trees" shall mean all shade and ornamental trees and all shrubs and all other beautification or landscape plantings on any public or private property.

3.0404 Establishment of Shade Tree Committee – Terms - Compensation

There is hereby established a Shade Tree Committee for the city which consists of five members, residents of this city, who shall be appointed by the mayor with the approval of the city governing body. The terms of committee members shall be three (3) years, except that the term of two (2) of the members appointed to the first committee shall be for only one (1) year and the term of two (2) members of the first committee shall be for two (2) years. In the event that a vacancy occurs during the term of any committee member, a successor shall be appointed for the unexpired portion of the term. Members of the committee shall serve without compensation.

3.0405 Operation of the Shade Tree Committee

The Shade Tree Committee shall choose its own officers and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The City Council will approve the comprehensive tree plan for the city.

3.0406 Duties of the Shade Tree Committee

1. It shall be the responsibility of the committee to study, develop, update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

2. To support the City Forester in the enforcement of this ordinance.

3. To provide guidance to the City Forester for forestry operations in parks and on other public places in the City of Bottineau and the Bottineau Park District.

3.0407 City Forester

1. There is created the position of City Forester who shall be appointed in accordance with the personnel practices of the City of Bottineau and the Bottineau Park District who shall function in that capacity for both the City of Bottineau and the Bottineau Park District.

2. The City Forester shall direct, regulate and control the planting, maintenance, protection and removal of all trees on any street or other public place in the City of Bottineau and shall enforce this ordinance.

3. The authority and jurisdiction of the City Forester is as follows:

A. The City Forester has the authority and jurisdiction, through the City Council to regulate the planting, maintenance, protection and removal of all trees on streets and other public places to ensure safety or preserve the aesthetics of streets and public place.

B. The City Forester has the authority to promulgate, with the approval of the Shade Tree Committee, the rules and regulations of the arboricultural specifications and standards of practice governing the planting, maintenance, protection and removal of trees, as specified on the streets and public areas of the City of Bottineau.

- C. The City Forester has the authority to supervise all work done under any permit, license or certificate issued in accordance with the terms of this ordinance.
- D. The City Forester has the authority to establish reasonable conditions to the granting of permits, licenses and certificates in accordance with the terms of this ordinance.
- E. The City Forester has the authority to provide advice and information regarding trees located on private property and to charge a fee for providing those services.

3.0408 Forestry Department

There is authorized a forestry department for the City of Bottineau which consists of the City Forester and such assistances as may be further authorized by the City Council in order to accomplish the objectives of this ordinance.

3.0409 Funding

Forestry department costs for planting, maintenance, protection and removal of trees shall be borne out of a fund established for that purpose and all monies received from the City of Bottineau, or from the Bottineau Park District, or from other sources for the planting, maintenance, protection and removal of trees, shall be credited to that fund. In addition, any fees accrued by the City Forester for licenses, permits or other services rendered representing the City of Bottineau shall be contribute to this fund.

3.0410 Annual Public Utility and Contractor Permits

1. Public utilities and contractors may apply for and obtain, in accordance with this Ordinance, an Annual Forestry Permit subject to the following additional conditions, unless waived for just cause by the City Forester:

- A. Provide City Forester with fifteen (15) days written notice of work to be performed.
- B. Perform work in conformance with this Ordinance and written guidelines and directives of the City Forester.

3.0411 Removal, Planting and Replacement

1. No person may plant or remove, or otherwise disturb in any major way any tree on any street; in any park or on any public property without first contact and procuring permission from the City Forester. The person receiving the permission shall abide by the arboricultural specifications and standards of practices adopted by the City of Bottineau.

2. The City Forester shall grant permission if in his judgment the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature.

3. If any tree is planted or set out in conflict with the provisions of this ordinance, the City Forester shall remove or cause to be removed the offending tree and the cost thereof shall be assessed to the property in the manner provided for special assessments.

4. If it is necessary for the city to remove a tree or trees from a boulevard in connection with improvements of the portion of street or highway used for vehicular traffic, the city shall replant the trees or replace them, provided that conditions permit. If conditions prevent planting on the boulevards, this requirement will be satisfied if any equivalent number of trees are planted in an attractive manner on the adjoining property.

5. No person may remove a tree from the boulevard for the purpose of construction, or for any other reason, other than removal of an immediate hazardous or dangerous condition, without first

procuring permission from the City Forester, and without replacing the removed tree if possible in accordance with the adopted arboricultural specifications and standards of practice. The replacements shall meet the standards of size, species and replacement as provided for by the City Forester. The cost of removal and replacement shall be borne by the property owner.

6. If any part or the whole of any tree on private premises is found after proper investigation to be dangerous or unsafe, or otherwise constitute a public nuisance, the City Forester shall declare the tree or portion thereof a public nuisance and cause the nuisance to be abated.

3.0412 Abuse or Mutilation of Trees

Unless specifically authorized by the City Forester, no person may intentionally damage, cut, carve, transplant, or remove any tree within any right-of-way or other public property, attach any rope, wire, nails, advertising posters or other contrivance to any tree, allow any gaseous liquid or solid substance which is harmful to trees to come in contact with them, or set fire or permit any fire to burn when the fire or the heat thereof will inure any portion of any tree.

3.0413 Deadwood: Firewood

No person, unless authorized by the City Forester, may take or remove any firewood or any part of a dead or dying tree from any public property.

3.0414 Prohibited Trees

No person may plant on private premises any of those selections and species of the Genus Populus producing pistillate flowers and bearing the "cotton" filled seep capsules, with the exception of Aspen (Populus tremuloides) or any Ulmis Pumila or Siberian Elms, not including cultivars or crosses, or any tree identified as invasive by the North Dakota Department of Agriculture. Planting of these species shall be considered a public nuisance and are hereby declared unlawful.

3.0415 Street Tree Planting

1. The following site criteria shall be evaluated in determining planting locations:

- A. Safety;
- B. Probability of long term survival and health of the planting;
- C. Overall benefit to the community.

2. Once the proper tree has been chosen for the proper space, it is suggested that balled and burlapped trees of 1 ¾ caliper at 6" above the soil line be planted in the public right-of-way portions of the adjacent property in order that chances for survival be increased. Appropriate woody plants should be disease free.

3. A diversity of species shall be encouraged in order to prevent disease and insect epidemics that frequently infest monocultures. It is a common goal of community forest managers to discourage planting of species which comprise more than 15% of the community forest.

4. Species to be planted in the public right-of-way should be appropriately hardy, deep rooting, and have inherently strong branches and trunks. Certain species should not be planted within the public right-of-way for reasons cited below:

- A. Inherently weak branches and high susceptibility to wind, ice, and snow breakage (e.g., poplars, willows, silver maple, box-elder maple).

- B. Susceptibility to Dutch Elm Disease (elms).
 - C. Litter and thorn problems (e.g., Russian-Olive and Thorny Honeylocust).
 - D. View obstruction, vehicular safety (e.g., low branched conifers, dense shrubs, etc.)
5. The following shall be the designation of species size:
- A. Small - trees that attain a mature height of 25' or less.
 - B. Medium - trees that attain a mature height of between 26' and 50'.
 - C. Large - trees that attain a mature height of greater than 50'.
6. In the restricted height zone at intersections and within ten (10) feet of a driveway or alley, only shrubs maintained at thirty-six (36) inches or less above the plane of the street shall be planted.

3.0416 Street Tree Spacing and Location

1. Trees should be centered in the planting strip when the distance between the curb and detached sidewalk is eight (8) feet or less.
2. At the intersection of roadways, no tree shall be planted within a sight triangle measuring forty (40) feet along the boundary of each of the intersecting roadways, measured from the point of intersecting curb lines, except where engineering standards indicate otherwise.
3. The spacing of public trees located in the public right-of-way shall be in accordance with the three species size classes as established. With the exception of trees planted in special plantings designated or approved by the Shade Tree Committee. It is recommended that trees be planted no closer together than the following:
- A. Small trees 10 feet
 - B. Medium trees 20 feet
 - C. Large trees 30 feet
4. In order to minimize sidewalk damage from roots, the minimum distance from tree to curb or sidewalk is recommended as follows:
- A. Small trees 2 feet
 - B. Medium trees 2 ½ feet
 - C. Large trees 3 feet
5. Where street lights are present that might be obscured, the minimum distance from tree trunk to light pole should be as follows:
- A. Small trees 10 feet
 - B. Medium trees 20 feet
 - C. Large trees 30 feet

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- Diagram illustrating various tree planting specifications for streets and sidewalks:
- Hedges:** Hedges are not allowed between the sidewalk and the curb, and must be planted at least 3 feet behind the sidewalk.
 - Detached sidewalk:** A sidewalk detached from the curb.
 - Tree Lawn:** A designated area for tree planting.
 - Municipal Ordinance:** Municipal ordinance requires that all street trees be planted and maintained to meet public requirements.
 - 30' minimum spacing for medium trees:** Spacing requirement for medium-sized trees.
 - 40' minimum spacing for large trees:** Spacing requirement for large trees.
 - 30' minimum spacing for large trees:** Another spacing requirement for large trees.
 - 10' minimum spacing for small trees:** Spacing requirement for small trees.
 - Public Right-of-Way:** The area designated for public use.
 - Property Line:** The boundary of the property.
 - Arched Sidewalk:** A sidewalk with an archway.
 - No tree plantings:** No tree plantings are allowed within this 40' right triangle. Shrubs shall not exceed 36" in height above street level.

1. No tree shall be pruned in such a manner that its health will be impaired. An exception shall be allowed when necessary for the emergency relief of an immediate danger to persons or property.

Any such emergency procedures must be reported promptly to the City Forester with plans for completion or follow-up work.

2. The use of climbing spurs or spike shoes in the act of pruning trees is prohibited.
3. No severed or partially cut branches shall be left in the upper portion of any tree being worked on after the tree workers leave the scene of the operation.
4. Unless the tree work area is totally barricaded or otherwise kept safe for the public while pruning or removing trees, at least one responsible tree worker shall serve to coordinate safe operations on the ground when work operations are in progress.
5. Public trees used for mechanical advantage shall not be damaged in the process of removing tree sections or other trees.
6. Branches, logs or any other debris resulting from any tree pruning or removing shall be disposed of promptly and properly. The work area shall be kept safe at all time.
7. Public tree pruning conducted by certified tree workers shall be according to the requirements of the latest revision of the American National Standards Institute, Inc. (ANSI) "Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices" (copy of which is on file with the City Auditor). Property owners are encouraged to follow these standards.
8. Trees shall be pruned in such a manner as to prevent branch and foliage interference with safe public passage. Clearance shall be kept to a minimum of twelve (12) feet above the surface of the street and eight (8) feet over the surface of the public sidewalk or pedestrian way.
9. Anyone pruning trees near electric lines shall follow the guidelines of the electric utility.
10. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.
11. It shall be unlawful as a normal practice for any person, firm or City Department 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.

3.0419 Cabling, Bracing, and Guying

All public tree cabling, bracing and guying performed by certified tree workers shall be performed according to the requirements of the latest revision of the National Arborist Association Cabling, Bracing, and Guying Standard for Shade Trees (a copy of which is on file with the City Auditor). Property owners are encouraged to follow these standards.

3.0420 Fertilizing

When fertilizers are applied, applications shall be performed according to the latest revision of the National Arborist Association Standard for Fertilizing Shade and Ornamental Trees (a copy of which is on file with the City Auditor). Property owners are encouraged to follow these standards.

3.0421 Pest Control

1. Any person engaged in the business of tree and shrub pest control shall maintain a current Pesticide Applicator's License and be certified in the ornamental insect and disease categories. State reciprocity of current licenses is also accepted.
2. All pesticides shall be evaluated for their worthiness and environmental impact. When pesticides are deemed necessary every attempt shall be made to use the least toxic alternative without sacrificing effectiveness.
3. Ineffectual control, damage, injury, or death to plants, animals, or persons resulting from the use of pesticide shall be the responsibility of the operator/applicator.
4. When applying pesticides, full compliance with all laws and ordinances providing for the safety of the public and safe an unobstructed passage of vehicles and pedestrians is required.

3.0422 Enforcement

1. Whenever the City Forester determines a tree to be a public nuisance or in violation of this ordinance, he shall give written notification in person or by certified mail to the owner and order that it be abated within thirty (30) days of receipt of notice and order, provided, however, that if the tree is an imminent danger to the traveling public or property of others, the City Forester may remove the tree immediately.
2. All notices and orders issued pursuant to this ordinance are subject to appeal to the City Council upon written notice of appeal filed within ten (10) days of issuance of the notice and order. If an appeal is not filed within ten (10) days, the order of the City Forester shall be final. An appeal stays an order issued until a decision is rendered by the City Council.

3.0423 Dutch Elm

1. Whereas the City Council has determined that the health of the Elm trees within the City of Bottineau is threatened by a fatal disease known as Dutch Elm disease and that the loss of these trees growing upon public and private premises would substantially depreciate the market value of the property and impair the safety and welfare of the public and that the program for tree planting and tree care should be more fully defined, the City Council of the City of Bottineau do ordain:

2. Nuisance Declared: The following are considered public nuisances whenever they may be found within the City of Bottineau.

- A. Any living or standing Elm tree or part thereof infected to any degree with the Dutch Elm disease fungus, Ceratocystic Ulmi, and which harbors any of the Elm bark beetles, Scolytus multistriatus or Hylurgopinus rufipes.
- 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 or buried in a land fill.
- D. 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 of Bottineau, which in the opinion of the City Forester endangers the life, health, safety, or property of the public, shall be declared a public nuisance.

- E. Any tree, shrub, or hedge, or part thereof growing upon public property or upon private property which is found to be dangerous or unsafe shall be declared a public nuisance.
3. Abatement: It is unlawful for any person to willfully permit any public nuisance as defined in Sub-Section 1 to remain on any premises owned or controlled by him within the city. Such nuisance may be abated in the manner prescribed by this ordinance.
4. Inspection and Investigation:
- A. The City Forester, his employees or agents shall inspect all premises and places within the city as often as practicable to determine whether any condition described in Sub-Section 1 exists therein.
 - B. The City Forester or his 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 ordinance.
 - C. The City Forester, upon finding a suspect Dutch Elm diseased tree, immediately shall take and send appropriate specimens or samples to a qualified plant disease diagnostician. No action to remove suspect trees or wood shall be taken until positive diagnosis of the disease has been made.
 - D. Within five days of receipt of the diagnosis, the owner of the property from which the specimen was obtained shall be notified by the City Forester of the result by registered mail.
 - E. A major survey shall be made on a regular basis.
 - F. The inspection shall determine all hazards as specified in Sub-Section 1. The owner shall be notified in writing of the existence of the nuisance and given a reasonable time for its removal.
5. Abatement of Nuisance on Public Property:
- A. In abating the nuisances on public streets, alleys, boulevards or public ways as defined in Sub-Section 1(a+b), the City Forester shall cause the infected tree or wood to be removed or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of Dutch Elm disease fungus and Elm bark beetles. 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 City Forester shall establish specifications for tree removal and disposal methods consistent therewith.
 - B. In abating tree hazards on public property as defined in Sub-Section 1(c), the City Forester shall cause such hazards to be removed and disposed in accordance with tree care regulations of the Forestry Department, the cost to be assessed as defined in Sub-Section 7.
6. Abatement of Nuisances on Private Property:
- A. Whenever the City Forester finds with reasonable certainty that the Dutch Elm disease defined in Sub-Section 3(c) exists in any tree or wood located on private property, he shall notify the owner of person in control of such property on which the nuisance is found by registered or certified mail within five (5) days of receipt of the diagnosis. The City Forester shall direct that the diseased tree be removed and effectively treated in a manner approved by the City Forester within ten (10) days receipt of such notice. If such

owner cannot be found, a copy of said notice shall be posed upon said infected tree. If said tree is not so removed and/or treated as specified within ten (10) days after posting of the notice, the City Forester 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 City Forester may abate the nuisance, the cost to be assessed as defined in Sub-Section 7.

- B. The nuisance as defined in Sub-Section 1(d) shall be abated by the owner following notification of the existing nuisance. If not corrected or removed within the time allotted, the City Forester shall authorize the removal or correction to be done in accordance with the cost.
 - C. The City Auditor shall keep in city office a book called "Nuisance Abatement, Special Assessment Book" and shall enter the cost of the abatement of a nuisance as declared by the City Council therein as a special assessment against the lot or parcel of land from which the nuisance was abated, with the name of the owner.
 - D. At the regular meeting of the City Council in October of each year, the City Council 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.
7. Interference Prohibited: It shall be unlawful for any person to prevent, delay or interfere with the City Forester, his employees or agents while they are engaged in the performance of duties imposed by this ordinance.
8. Costs: The costs for abating of the public nuisances as defined in Sub-Section 1 shall be borne as follows:
- A. For abatement of the nuisance as defined in Sub-Section 1(a+b) and with the nuisance occurring on public land, the cost will be borne by the City of Bottineau as provided herein.
 - B. For abatement of the nuisance as defined in Sub-Section 1(a+b) and 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. For abatement of the nuisance as defined in Sub-Section 1(b), the costs shall be borne by the private owner if occurring on private land.
 - D. For abatement of the nuisance as defined in Sub-Section 1(d), and the nuisance occurring on public land, the cost will be borne by the City of Bottineau.
 - E. The cost of tree planting for replacement of diseased trees on boulevards and private property will be borne by the private owner.
9. Tree Replacement Public: 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 City Forester.
10. Tree Replacement on Private Property: 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.
11. A list of trees which may or may not be used for planting in public parkways and berms is available in the City office.

ARTICLE 5 - Heavy Vehicles

3.0501 Definitions. For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

1. "City" is the City of Bottineau, North Dakota.
2. "Deviating Truck" is a truck which leaves and departs from a truck route while traveling inside the city.
3. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
4. "Truck" is any vehicle designed or operated for the transportation of property, and whose body weight or whose combined body and load weight exceeds 15,000 pounds.
5. "Truck Route" is a way over certain streets, as designated herein, over and along which trucks coming into and going out of the city must operate.

3.0502 Application of Regulation. All trucks within the city shall be operated only over and along the truck routes herein established and on the other designated streets over which truck travel are permitted.

1. Exceptions. This Ordinance shall not prohibit:
 - A. Operation on street of destination. The operation of trucks upon any street where necessary to the conduct of business at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point.
 - B. Emergency vehicles. The operation of emergency vehicles upon any street in the city.
 - C. Public utilities. The operation of trucks owned or operated by the city, public utilities, any contractor or material man, while engaged in the repair, maintenance or construction of streets, street improvements, or street utilities within the city.
 - D. Detoured trucks. The operation of trucks upon any officially established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.
 - E. Further application of regulation. All vehicles carrying or pulling containers, or carrying or pulling empty containers used for the purpose of, containing ammonia, fertilizers, or other chemicals shall be operated only over and along the truck route established by the city.
2. Vehicles shall include, but not be limited to, automobiles, pickups, and trucks, whether private or commercial.

3.0503 Truck Routes Established. There is hereby established within the city the following "Truck Routes":

1. Outside Origin: Outside Destination. All trucks entering the city for destination points outside the city shall operate only over the following designated routes:

A. North and South.

- I. All of that paved street known as Railroad Avenue and being parallel to and adjacent to the Railroad Right-of-Way and located on the East side of the Railroad Right-Of-Way only.
- II. That portion of the extension of Main Street being north of the Railroad Right-Of-Way.
- III. Sinclair Street from Highway No. 5 to 4th Street.

B. East and West.

- I. All of North Dakota State Highway No. 5.
- II. That part of 7th Street lying West of the Railroad Right-Of-Way to Sinclair Street.
- III. That part of 5th Street lying West of the Railroad Right-Of-Way to Sinclair Street.
- IV. Second Street East of Railroad Avenue to McBain Park.
- V. 4th Street between Sinclair Street and Main Street.

3.0504 Truck Traffic in the City.

1. Outside Origin.

- A. One inside destination point. All Trucks entering the city for a destination point in the city shall proceed only over an established truck route and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.
- B. Multiple inside destination points. All Trucks entering the city for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the first destination point. Upon leaving the first destination point a deviating truck shall proceed to other destination points by the shortest direction and only over streets upon which such traffic is permitted. Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest permissible route.

2. Inside Origin.

- A. Outside destination point. All trucks, on a trip originating in the city, and traveling in the city for a destination point outside the city shall proceed by the shortest direction over streets on which such traffic is permitted to a truck route as herein established.
- B. Inside destination points. All trucks, on a trip originating in the city, and traveling in the city for destination points in the city shall proceed only over streets upon which such traffic is permitted.

3.0505 Enforcement.

1. Auditor Maintains Maps. The City Auditor shall keep and maintain accurate maps setting out truck routes and streets upon which truck traffic is permitted; the maps shall be kept on file in the office of the City Auditor and shall be available to the public.

See attached map:

3. Failure to Post. No person shall be charged with violating the provisions of this Ordinance by reason of operating a truck upon a street wherein truck travel is prohibited unless appropriate signs are posted on such street.

4. Weigh-In. The city law enforcement officials shall have the authority to require any person driving or in control of any commercial vehicle not proceeding over a truck route or street over which truck traffic is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether this Ordinance has been complied with.

3.0506 Penalties. Any person found violating any of the provisions of this ordinance may be punished according to the provisions of Section 2.0107 of the Bottineau Municipal Code.