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**CHAPTER THREE
PUBLIC PLACES AND PROPERTY**

ARTICLE 1 - CONSTRUCTION AND REPAIR

3.0101 Supervision

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the city supervisor or city engineer. He/She 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 Construction and Repair

It shall be unlawful to construct, reconstruct, alter, grade or repair any public street, sidewalk, driveway, curbs or gutters without having first secured a permit, therefore unless said work is performed and approved by the City Council. Applications for such permits shall be made to the Auditor and shall state the location of the intended pavement or repair, the extent thereof and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the City.

3.0103 Bond

Each applicant shall file a bond in the amount specified by the City for that project with surety to be approved by the City Council conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

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 City Council.

3.0105 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 so to maintain such sidewalks, the city supervisor shall direct him to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he/she fail, within a reasonable time, to follow the directions of the city supervisor, the city supervisor shall report the facts to the City Council, which shall then proceed as provided in Chapter 40-29 of the North Dakota Century Code.

3.0106 Application for Permit

An applicant for a permit hereunder shall file with the city auditor an application showing:

1. Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
2. Name and address of the party doing the work and license, if applicable.
3. Location of the work area.
4. Attached plans or sufficient sketches showing details of the proposed alterations.
5. Estimated cost of the alterations.

6. Such other information as the city supervisor or City Council shall find reasonably necessary to the determination whether a permit should be issued hereunder.

3.0107 Standards for Issuance of Permit

The City Council shall issue a permit hereunder when it is determined:

1. That the work will be done according to the standard specifications of the City for public work of like character.
2. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties.
3. That the health, welfare and safety of the public will not be unreasonably impaired.
4. The zoning and planning ordinance is complied with.

3.0108 Sidewalks Built to Grade Specifications

All sidewalks shall be constructed in accordance with the elevations and grade, therefore, to be furnished by the city supervisor shall be constructed under his/her direction. All sidewalks shall meet the following requirements:

1. All sidewalks shall be constructed of concrete.
2. All sidewalks in residential areas shall be constructed not less than four (4) feet and not more than six (6) feet in width and shall have a minimum slope one-fourth (1/4) inch per foot from the inside edge toward the street.
3. All sidewalks shall be at least four (4) inches in thickness.
4. All sidewalks shall be laid out as follows:
 - a. In locations where the right-of-way is sixty (60) feet, or less the sidewalks shall be constructed on the property line.
 - b. 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.
 - c. 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.
 - d. 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. Shall be maintained properly to ensure safety.
5. 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.
6. All sidewalks shall be constructed according to the American Disability Act (ADA) standards including but not limited to have ADA accessibility.

3.0109 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 supervisor.

3.0110 City Contractor

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 conform to specifications filed with the city auditor and approved by the City Council.

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 supervisor, and approved by the City Council 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 City Council, 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 engineer or street commissioner, the same is not a satisfactory compliance with the specifications for the construction thereof, then the city engineer 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

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 permission of the City Council

Any person violating the provisions of this section shall be guilty of an infraction and upon conviction thereof, shall be fined an amount set by the District Court.

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, a misdemeanor or felony as the case may be under state law.

3.0203 Encroachments

It shall be unlawful to erect or maintain any building or structure that encroaches upon any public street or property. (Refer to Zoning Ordinance 6.1001 regarding Encroachments)

3.0204 Openings

It shall be unlawful to construct or maintain any opening or stairway on any public street or sidewalk or alley without a permit from the City Council. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the street commissioner 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 permissions from the City Council.

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 Public Works Supervisor, so that no injury shall be done either to the poles or wires or 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 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. (See Ordinance 4.0305, Open Burning Prohibited)

3.0208 Distributing Hand Bills, Etc.

Repealed.

3.0209 Heavy Vehicles

No person, firm or corporation shall move, or cause to be moved over any and all undesignated streets, sidewalks, crosswalks, culverts, bridges and viaducts within the City pursuant to truck route ordinance any engine, tractor, wagon, truck or other vehicle, object or thing which will tend to injure the surface, paving, sidewalks, crosswalks, culverts, bridges or viaducts over which the same are transported, or which exceeds in weight as stated in NDCC 39-12 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 Council and, in addition thereto, 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, provided that when the specified load limits herein contained will cause damage to the City's paved streets, the City Council by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to state and federal highways through the City.

3.0210 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 (the use of brine is prohibited) 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. When removing snow and ice, the accumulated amounts shall not be moved to or discarded upon the city street.

3.0211 Removal of Snow and Ice by City

In case the owner of any lot in the City refuses or neglects to remove such ice from such sidewalk in front of or along a lot therein, the ice or snow there from 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 supervisor, or ashes or sand sprinkled thereon, and the necessary expenses shall be charged against the abutting property by special assessment in the manner prescribed by law.

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

Whenever city employees, pursuant to Section 3.0211 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/she 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. (North Dakota Century Code Section 40-29-18)

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 Council, 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 Council or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City Council 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/her certificate that the same is correct as confirmed by the City Council and shall file said assessment list in his/her 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. (North Dakota Century Code Section 40-29-19, 20)

3.0214 Street Cleaning - Snow Removal

Whenever, in the judgment of the City Council or the city personnel, 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 Snow Emergency Routes

Each year from November 1st to April 1st the following streets will be designated as Emergency Snow Routes. During those months, there will be No Parking from 2:00 AM to 6:00 AM on designated streets.

1. 7th Street (Hwy 1)
2. 2nd Street South
3. Grape Ave from 7th Street to 10th Street
4. Main Ave from 2nd Street to 10th Street
5. Ivy Ave from 4th Street to 10th Street

3.0216 Notice - Snow Removal or Street Cleaning

Whenever it becomes necessary, not in emergency situations, 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 supervisor the area and streets to be cleared of snow or ice or cleaned as aforesaid and the time during which such snow or ice removal and street cleaning and marking of streets shall be done and broadcasting of such information on the local radio station.

3.0217 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 truck, automobile, machinery, vehicle or equipment from the place where impounded without first paying the cost of such impounding including storage.

3.0218 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.

3.0219 Penalty

The owner of any truck, pickup, automobile, machinery or any other vehicle or equipment, violating Sections 3.0214 through 3.0218 shall be subject to the following fines: First offense each snow season: \$30.00; second and each subsequent offense each snow season: \$50.00. The snow season shall be defined as beginning November 1st of each year and ending October 31st of the subsequent year.

3.0220 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 as is herein required, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit. The application can be made in the same manner as a building permit.

3.0221 Guarding of 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.

3.0222 Application for Excavation Permits

Applications for excavation permits shall be made to the City Auditor, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefore, and the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for whom or which the work is being done, a statement of how applicant intends to backfill the excavation, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. A separate permit need not be obtained when the excavation is noted on a building permit.

3.0223 Fees for Excavation Permits

The fee for excavation permits shall be set by the City Council.

3.0224 Bond - Excavations

No excavation permit shall be issued unless and until the applicant, therefore, has filed with the city auditor a bond in the sum of ten thousand dollars (\$10,000.00), conditioned to indemnify the City for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing any such tunnel or excavations. Such bond shall have as surety a corporation licensed to do business in the state as a surety company.

3.0225 Deposit - Excavations

No such permit shall be issued unless and until the applicant, therefore, has deposited with the city auditor a cash deposit or bond in the sum of ten thousand dollars (\$10,000.00) to insure the proper restoration of the ground and laying of pavement if any. From this deposit shall be deducted the expense to the City of relaying the surface of the ground or pavement and of making the refill if this is done by the City or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

3.0226 Making Excavations - Notice

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 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.

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

3.0227 Restoration of Excavations

So that the street is returned to its original condition, any backfilling must achieve a compaction rate of 98%. It is further required that all wet material must be removed from the excavation prior to backfilling. The City will replace the asphalt, with the applicant to pay the costs of the asphalt replacement. All costs must be assessed and received prior to approval of the permit.

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 supervisor or city engineer.

The individual receiving the permit shall be responsible for maintaining the excavation for three years and shall bear all costs for repair, insuring that there is not any damage to the street due to the excavation. Should this individual fail to pay for the work done by the City, the City Auditor is authorized and directed to assess this sum on the real estate taxes of the owner with the County Auditor.

Failure to obtain a permit as required by this Section may result in a fine of fifty (\$50.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to one-thousand (\$1,000).

3.0228 Supervision of Excavation Work

The city supervisor 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 article. Notice shall be given to him/her at least ten (10) hours before the work of refilling any such tunnel or excavation commences.

3.0229 Surcharge for the Operation and Maintenance of the Street Light System

The purpose of this article shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the street light system in the City. The costs shall be distributed to all residents within the City limits.

The City shall determine the total annual costs of operation and maintenance of the street light system. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, bracket rentals, pole rentals, and KWH charges.

Surcharge rates shall be set by the City Council as deemed necessary by resolution.

In the event the surcharge herein created is insufficient, the city council, by resolution, shall raise the surcharge to meet the costs of operating and maintaining the street light system.

3.0230 City Buildings, Equipment, and Vehicles - Smoking

Smoking is not permitted in City buildings, equipment and vehicles, while on the property or working except in designated smoking areas. The public official having general supervisory authority over any City buildings, equipment or vehicles may designate a smoking area by posting a sign in the smoking area which states "Designated Smoking Area." Any designated smoking area in a place of public assembly may not occupy more than fifty percent of the total area available to the public and must be situated to minimize smoke drift. Smoking is prohibited within twenty-feet of entrances, exit, operable windows, air intakes, and ventilation systems of enclosed areas. (North Dakota Century Code Section 23-12-10)

3.0231 Disposal of Lawn Clippings and Leaves

Lawn clippings and leaves must be disposed of at the city waste disposal site or an appropriate sight outside of city limits. (See 10.0311) Lawn clippings and leaves may not be blown onto or discarded upon sidewalks or streets, or deposited with household waste.

ARTICLE 3 – DEMOLITION OR REMOVAL OF BUILDINGS

3.0301 Permit Required

It shall be unlawful to demolish, raze, dismantle, move, or remove any building presently located or hereafter constructed or established within the City, without first having secured a permit, therefore, unless the work is performed by the City. Applications for such permit shall be made to the City Auditor using the same form and procedure as Building Permit.

In addition to the foregoing, the application shall be accompanied by a statement from any person or firm providing electrical service, propane, or fuel oil that such service or substance will be disconnected or removed prior to such demolition or removal.

3.0302 Approval by City Auditor or Council

If it appears to the satisfaction of the City Auditor that the following provisions have been met, he/she shall issue such permit:

1. There are no delinquent taxes or assessments due on the premises including fees owing to the City for utilities and/or other services.
2. All necessary electrical, fuel, propane, and water connections will be terminated so as not to present a threat to the public health and welfare.
3. The demolition or removal will be adequately supervised.
4. Agreement by the applicant to remove the concrete, foundation, pipes, wires and other fixtures, completely fill in any excavation and level off the lot.
5. Agreement by the applicant that the fill will not include any rubbish or debris from demolished building and type of fill shall be approved by city engineer or his/her designee.

In all other instances, the application must be submitted to the City Council for its consideration.

3.0303 Removing Concrete, Foundation, Pipes, Wires and Other Fixtures Required

After the removal or demolition of such building, any concrete, foundation, pipes, wires and other fixtures left at the site must be removed.

3.0304 Leveling Lot and Filling Excavation Required

After the removal or demolition of such building, any excavation left or caused by the removal of such building must be immediately filled in and the lot must be leveled off.

3.0305 Guaranty Fund

Whenever such an application may be filed with the City Auditor, the City Council shall decide from its examination of the application and from such other information as it may obtain the amount of the guaranty fund (minimum of \$5,000) that shall be required for the ample protection of the City and public against probable damages and expenses that may be caused by the removal of such building, and are authorized to require the deposit of such sum as it may fix before granting a permit.

Where a permit for moving any such building has been granted and the required guaranty fund deposited with the City Auditor, and after all damages for injuries to public or private property, including the expense of protection to electric, data and telephone wires caused or occasioned by the removal of such building, and including the cost of removing any concrete, foundation, pipes, wires and other fixtures and refilling any basement or other excavation left upon the premises after the removal of such building, have been paid and deducted from such guaranty fund, the balance remaining therein shall be refunded to the applicant.

3.0306 Penalty

Any person who shall violate any of the provisions of this article shall be guilty of a violation and be subject to a fine of fifty (\$50.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to five-hundred (\$1000.00).

ARTICLE 4 PARK DISTRICT

3.0401 Creation of Park District

All territory embraced within the corporate limits of the City of Oakes, North Dakota, as the same is now established or may hereafter be extended, be, and the same is hereby declared a park district of the State of North Dakota, to be known as the Park District of the City of Oakes, North Dakota.

3.0402 Board of Park Commissioners

There shall be an election called in accordance with the provisions of North Dakota Century Code for the election of members of the Board of Park Commissioners for said District, which election shall be called at the same time and place as the regular City election.

3.0403 City Parks - Hours

All City parks shall have established hours of public access. The hours shall be from 6:00 a.m. to 11:00 p.m. each day. Notice of the same may be published in the official newspaper or posted at the public parks. Any variance from the above hours of use, including overnight camping, shall be under special permission granted by the Park Board and notification given to City Hall. Overnight camping is permitted at Westside Park from May to August; notice must be given to Park Board and City Hall prior to use.

3.0404 City Parks – Allowed Uses

Smoking and use of alcohol is not permitted unless special permission is granted by the City Council by motion of the City Council at least 24 hours prior to the event.

No loud music or concerts allowed unless permission is granted by the Park Board and notification given to the City Police Department.

ARTICLE 5 - UNCLAIMED AND ABANDONED PROPERTY

3.0501 Unclaimed and Abandoned Property - Defined

Personal property, including motor vehicles, campers, motor homes, truck, boats, and semi-trailers, 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 article 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.

3.0502 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 police officer, city supervisor or other officer of the City.

3.0503 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 City, said notice specifying and stating the description of the property seized and held, the location of the place where the same was seized or taken by 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 Council such unclaimed or abandoned property may be sold at a community auction provided that the chief of police or a police officer shall be responsible for the notice and reporting requirements of this article.

3.0504 Report of Abandoned Property Sale

At the time specified in said notice the said property shall be sold, at public auction, to the highest bidder for cash and within three (3) days after the date of said sale, the officer making the sale shall make a report thereof to the City Council. 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.

3.0505 Bill of Sale - Abandoned Property

Upon the receipt of the report, as specified in Section 3.0504 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 City Council and attested by the city auditor and delivered to the purchaser.

3.0506 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.

3.0507 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/her ownership thereof to the City Council, 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 City Council of his/her 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.

3.0508 Annual Report - Unclaimed and Abandoned Property

Prior to June 1 of each year, City employees 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 article. The city auditor shall bring such list to the attention of the City Council at the next regular meeting.

ARTICLE 6 - HOUSE NUMBERING

3.0601 House Numbering Required

All lots, buildings, and structures in the City shall be numbered in accordance with the following plan on file with the City Auditor.

3.0602 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 as determined by the 911 directory.

ARTICLE 7 – PLANTING, MAINTENANCE, AND REMOVAL OF TREES AND SHRUBS

3.0701 Purpose

It is declared the public policy of the City of Oakes that orderly planning and compliance with uniform standards regarding the planting, maintenance, and removal of trees and shrubs within its jurisdiction is necessary for the health, safety, and welfare of its residents. It is the purpose, therefore, of this article to ensure that trees and shrubs are planted and maintained in a manner that enhances the visual appeal of the City, traffic safety, and property values.

3.0702 Definitions

As used herein the following definitions apply:

“Master List” – a listing of varieties of trees and shrubs determined by the City Council as acceptable for planting in the City. List will be reviewed by the Community Forester and will be available at City Hall.

“Street” – means the traffic roadway and adjacent boulevards and berms.

3.0703 Public Trees

The City Council shall have control over all trees and shrubs planted or now growing on City owned property and shall be solely responsible to determine the kind and location of such trees, shrubs, and plants. Any elm tree or dead elm wood on the property which is a public nuisance as defined in this article shall be promptly removed and burned within 30 (thirty) days of notification.

The costs for removing any diseased tree, including the stump, located not in the boulevard will be shared between the City of Oakes and the property owner at 50% each. The costs for removing any diseased tree, including the stump, located in the boulevard will be at the total expense of the City. In the case the owner of any lot in the City refuses or neglects to remove such diseased tree within the time specified, the same may be removed by or under the direction of the city supervisor, and the necessary expenses shall be charged against the property by special assessment in the manner prescribed in Section 3.0710.

Trees may not be planted within 35 feet of any intersection or within 15 feet of any driveway, alley, or utility pole (measuring from the edge of each object). Existing trees that violate this restriction are allowed to remain unless the Oakes Police Department determines the tree is a safety hazard.

Any trees removed within restricted area will not be replaced.

City Council or City Forester will determine classification of tree size by motion and spacing of trees shall be as follows:

1. Large trees (50 feet plus) – Boulevard width shall be 7 feet to 9.5 feet or larger depending on the species and planted at the middle distance between the sidewalk and the curb edge.
2. Medium trees (30 – 50 feet) – Boulevard width shall be 5.5 feet to 7 feet or larger depending on the species and planted at the middle distance between the sidewalk and the curb edge.
3. Small tree (less than 30 feet) – Boulevard width shall be 4 feet to 7 feet or larger depending on the species and planted at the middle distance between the sidewalk and the curb edge.
4. The distance between trees shall be a minimum of 30 feet. Other distances shall be as followed:
 - a. At least 8 feet from any water lines and fire hydrants
 - b. Trees less than 30 feet shall be planted under the powerlines

3.0704 Private Trees

All trees, shrubs, and hedges planted on private property must be at least three (3) feet from all property lines, and no tree shall be closer than four (4) feet from any sidewalk or the normal location of any sidewalk from the curb.

3.0705 Notification of Planting and Permission to Plant

Any person desiring to plant any trees, plants or shrubs within the streets of the City shall, before planting, notify the City Forester or City Auditor stating the variety and precise location proposed for each tree, plant or shrub. A locate should be requested to

3.0706 Tree Varieties Allowed

All acceptable varieties of trees that can be planted within the City will be listed on a master list which shall be adopted by the City Council and filed with the City Auditor.

3.0707 Establishment and Duties of Tree Committee

There is hereby established a Tree Committee for the City which consists of five members, residents of this City and the City Forester, who shall be appointed by the mayor with the approval of the City governing body. The terms of committee members 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 first committee shall be for two 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.

The 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. 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. Such plan shall be presented annually to the City governing body and upon their acceptance and approval shall constitute the comprehensive tree plan for the City.

3.0708 Public Safety and Protection of Property – Hazards Defined and Prohibited

All trees and shrubs within the City shall be pruned or removed when such trees or shrubs constitute a hazard to life and property, as determined by City Forester or Chief of Police, or harbor insects and disease which constitute a threat to other trees and shrubs within the City. The owner will be billed for the City work done in the removal of one-half (1/2) the cost of removal of the hazardous plant, tree, or shrub including stump. No city payment or reimbursement will be made to the owner unless the removal has had prior approval by the City in writing signed by the owner and a representative of the City in their official capacity. 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 spp.*), or part of any tree, infected to any degree with 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, or hedge, or any part of which is obstructing 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.

3.0709 Removal of Illegal Plantings or Hazards

1. In addition to all other remedies provided, the City Auditor upon the recommendation of the City Forester, City Council, or Chief of Police hereby empowered to order the removal of any trees or shrubs planted or maintained in violation of this article. Stumps of all removed trees shall be cut to at least three (3) inches below the ground, the soil replaced, and the area leveled.

2. The City Auditor shall notify in writing and by registered mail the owners of such trees or shrubs. Pruning or removal shall be done by the owners at their own expense within thirty (30) days after notification.

3.0710 Action of City Upon Noncompliance – Costs

Upon the failure, neglect, or refusal of any owner so notified to prune or remove the specified trees and shrubs, the City shall have the authority to prune or remove the specified trees or shrubs. When the City has effected the removal of such hazardous trees or shrubs or has paid for their removal, the actual cost thereof, if not paid by the property owner, shall be charged and assessed against the property upon which the hazardous or diseased trees and shrubs are growing.

3.0711 Penalty

Any person who shall violate any of the provisions of this article shall be guilty of a violation and be subject to a fine of twenty-five (\$25.00) for the first violation and for each subsequent violation within 6 months from the first offense double the fine up to one-thousand (\$1000.00).