

CHAPTER THREE

PUBLIC PLACES AND PROPERTY

ARTICLE 1 – Construction and Repair

- 3.0101 Supervision
- 3.0102 Construction and Repair – Permits
- 3.0103 Bond
- 3.0104 Specifications
- 3.0105 Duty of Owner to Maintain
- 3.0106 Application for Permit
- 3.0107 Standards for Issuance of Permit
- 3.0108 Sidewalks Built to Grade Specifications
- 3.0109 Materials and Manner of Construction
- 3.0110 City Contractor

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

- 3.0201 Obstructions – Penalty (amended 10/02/2024; OA 2024-03)
- 3.0202 Destruction of City Property – Prohibited – Penalty
- 3.0203 Encroachments
- 3.0204 Openings
- 3.0205 Wires
- 3.0206 Littering – Prohibited
- 3.0207 Burning
- 3.0208 Distributing Hand Bills, Etc.
- 3.0209 Heavy Vehicles
- 3.0210 Removal of Snow and Ice from Sidewalk (Amended 02/02/2022; 2022-01)
- 3.0211 Removal of Snow and Ice by City
- 3.0212 Assessments by City Auditor When Work is Done by City
- 3.0213 Snow and Ice Removal Assessments, Publication by Auditor, Hearing by City Governing Board
- 3.0214 Street Cleaning – Snow Removal
- 3.0215 Notice – Snow Removal or Street Cleaning
- 3.0216 Impounding Vehicles and Equipment
- 3.0217 Blocking Streets
- 3.0218 Excavations – Permit
- 3.0219 Guarding of Excavations and Openings
- 3.0220 Application for Excavation Permits
- 3.0221 Fee for Excavation Permit
- 3.0222 Bond – Excavations
- 3.0223 Manner of Making Excavations – Notice
- 3.0224 Restoration of Excavations
- 3.0225 Supervision of Excavation Work
- 3.0226 City Buildings, Equipment and Vehicles – Smoking
- 3.0227 Renting of Street Space (Amendment 2023-2; 6/7/2023)

ARTICLE 3 – Unclaimed and Abandoned Property

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

ARTICLE 4- House Numbering

- 3.0401 House Numbering Required
- 3.0402 Numbers on Houses

ARTICLE 5 – Trees

- 3.0501 Definitions – Street Trees and Park Trees
- 3.0502 Nuisance Declared
- 3.0503 Abatement
- 3.0504 Inspection and Investigation
- 3.0505 Abatement of Nuisance in the City of Alexander
- 3.0506 Abatement of Nuisance on Private Property
- 3.0507 Certification as Special Assessment
- 3.0508 Interference Prohibited
- 3.0509 Costs
- 3.0510 Tree Planting
- 3.0511 Tree Care – Tree Topping
- 3.0512 Pruning Corner Clearance
- 3.0513 Separability
- 3.0514 Penalty

(resolution 16-02) (resolution 16-05) (resolution 16-08)

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 or city engineer, who shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

3.0102 Construction and Repair – Permits

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 by the City contractor. Applications for such permits shall be made to the city 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 of no less than ten thousand (\$10,000) with surety to be approved by the governing body 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 governing body.

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, a city official or city engineer shall direct the owner to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should the owner fail, within a reasonable time, to follow the directions of a city official or city engineer, a city official or city engineer shall report the facts to the governing body, which may 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.
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 or city engineer shall find reasonably necessary to the determination whether a permit should be issued hereunder.

3.0107 Standards for Issuance of Permit

A city official or city engineer 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.

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 engineer and shall be constructed under the direction and supervision of the city engineer. All sidewalks shall meet the requirements set in Chapter 14 Standard Detail and Specifications.

3.0109 Materials and Manner of Construction

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

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 be made upon blanks furnished by a city official or city engineer and shall conform to specifications filed with the city auditor by the city official or city engineer and approved by the governing body.

All sidewalks, driveways, curb and gutter and alley returns lying between the property line and the abutting street hereafter constructed within the City must conform to this chapter, and the specifications filed with the city engineer, and approved by the governing body must specify the details with respect thereto. When any contract for the construction of sidewalks, driveways, curb and gutter, relaying of block walks and paving repairs is about to be entered into by the City in accordance with the provisions of the laws of this state, the contractor to whom any such contract shall be awarded shall be required, before such contract is entered into, to give in addition to the contract bond required by the laws of the state of North Dakota, an additional bond in an amount to be determined by the governing body, running to the City, conditioned that said contractor shall satisfactorily comply with the specifications for construction.

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

3.0201 Obstructions – Penalty (amended 10/02/2024; OA 2024-03)

It shall be unlawful for any person or persons to obstruct any street, avenue, alley, sidewalk, gutter, public park, public way, public right of way, or other highway, with any timber, lumber, wood, coal, brick, tin clippings, rubbish, filth, stone, earth, manure, brush, boxes, crates, shavings or any other material, article, or other commodity except as may be specified by ordinance or by the city engineer. 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). In addition to the obstructions of streets hereinbefore forbidden by this section, it shall be unlawful for any person, or said person’s agent, contractor, servant, or employee to place upon any of the paved streets or right of way of said city any grass or other material which shall have been cut or raked from any lawn, berm, or right of way.

3.0202 Destruction of City Property – Prohibited – Penalty

It shall be unlawful for any firm, person or corporation to willfully and without just cause or excuse, to injure, deface or destroy any property owned by the City or held by the City for public use. Any person violating the provisions of this section shall be guilty of an offense and be fined not less than twenty-five dollars (\$25.00), nor more than one thousand dollars (\$1,000.00) or be imprisoned in the county jail for not to exceed thirty (30) days or by both such fine and imprisonment.

3.0203 Encroachments

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

3.0204 Openings

It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the governing body. All such lawfully maintained openings shall be guarded by a suitable strong cover or railing to be approved by the 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 governing body. Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provisions in the franchise concerning the subject, keep such wires and poles free from and away from any trees and shrubs in such places as far as may be possible, and keep all such trees and shrubs near such wires and poles properly trimmed, subject to the supervision of the city engineer or city official, 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 or alley in the City.

3.0207 Burning

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

3.0208 Distributing Hand Bills, Etc.

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

3.0209 Heavy Vehicles

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

3.0210 Removal of Snow and Ice from Sidewalk (Amended 2/2/2022; 2022-01)

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 ordinance.

An owner or occupant may not move, dump, or deposit by any means any snow or ice accumulated on private property onto any public street, alley, or public right-of-way. The City may permit in writing, in the City's sole and absolute discretion, an owner or occupant to move snow or ice from private property into a public street, alley, or public right-of-way to facilitate removal of snow or ice if it is practically impossible to relocate the snow or ice onto private property.

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 and snow from the 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 a city official or city engineer of the City, 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. (Source: North Dakota Century Code section 40-29-18)

3.0212 Assessments by City Auditor When Work is Done by City

Whenever the City shall, 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, the City Auditor shall assess the cost of the same against said property, and on or before the first day of May in each year, make and file in the office of the city auditor a list showing separately the amount chargeable and assessed against each lot and tract and stating the name of the owner of each lot or tract as known to the street supervisor. (Source: 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 governing board, notifying all persons objecting thereto to appear and present their objections. The notice shall be published once each week for two (2) consecutive weeks, the last publication to be not less than eight (8) days before the date fixed for the hearing. At the June meeting of the City governing board or at such later meeting as the hearing and confirmation of such assessment may be adjourned to, the City governing board shall consider said assessment and shall hear any objections thereto or to any part thereof, and after revising and correcting the same, if necessary, it shall approve and confirm the list. The city auditor shall attach to such list the city auditor's certificate that the same is correct as confirmed by the City governing board and shall file the same in the city auditor's office. The assessment shall be certified to the county auditor by the city auditor in the manner provided in section 40-24-11 of the North Dakota Century Code. (Source: North Dakota Century Code section 40-29-19, 40-29-20)

3.0214 Street Cleaning – Snow Removal

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

3.0215 Notice – Snow Removal or Street Cleaning

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

3.0216 Impounding Vehicles and Equipment

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

3.0217 Blocking Streets

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

3.0218 Excavations – Permit

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

3.0219 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.

3.0220 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 which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

3.0221 Fees for Excavation Permits

The fee for excavation permits shall be set by resolution by the governing body.

3.0222 Bond – Excavations

No excavation permit shall be issued unless and until the applicant therefore has filed with the city auditor a bond in the amount of 120 percent of the cost of restoration, 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. Bond shall be on file for 12 months before being released.

3.0223 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 unnecessary damage or injury shall be done to any tree or shrub or the roots thereof.

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.

3.0224 Restoration of Excavations

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

3.0225 Supervision of Excavation Work

A city official or city engineer shall from time to time inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the City to see to the enforcement of the provisions of this article. Notice shall be given to a city official or city engineer at least forty eight (48) hours before the work of refilling any such tunnel or excavation is begun.

3.0226 City Buildings, Equipment and Vehicles – Smoking

Smoking is not permitted in City buildings, equipment and vehicles, except as provided under state law. (Source: North Dakota Century Code sections 23-12-09 through 23-12-11)

3.0227 Renting of Street Space (amendment 2023-2; 6/7/2023)

The City may rent a portion of a City street for commercial or residential activities if the City determines that the occupation of a portion of a City street will not harm the flow of traffic. All leases by the City shall follow all procedures related to the sale or disposition of real property.

ARTICLE 3. Unclaimed and Abandoned Property

3.0301 Unclaimed and Abandoned Property – Defined

Personal property left upon the streets, alleys or other public ways in the City shall be deemed to be unclaimed or abandoned within the meaning of this 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.

3.0302 Seizure of Unclaimed or Abandoned Property

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

3.0303 Holding of Personal Property – Notice of Sale

Abandoned personal property shall be held by the City for a period of not less than sixty (60) days after its seizure as provided herein, and after the expiration of said sixty (60) days the city auditor shall cause notice to be published in the official newspaper of said City, said notice specifying and stating the description of the property so seized and held, the location of the place where the same was seized or taken by said City, and a further notice that said property will be sold at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held. If prior approval is obtained from the city governing body such unclaimed or abandoned property may be sold at a community auction provided that the chief of police or a police officer shall be responsible for the notice and reporting requirements of this article. (Source: North Dakota Century Code section 40-05-02, subsection 20)

3.0304 Report of Abandoned Property Sale

At the time specified in said notice the said property shall be sold by the chief of police of the City or by any police officer designated by him, at public auction, to the highest bidder for cash. The officer making the sale shall make a report thereof to the city governing body. The report shall contain the description of the property sold, the time and place of the sale, the name or names of the purchaser or purchasers and the amount received therefore. The report shall be made under oath and

subscribed by the officer making such sale and shall be filed with the city auditor within three (3) days after the date of such sale. The officer upon filing the report shall pay to the city auditor the proceeds of said sale.

3.0305 Bill of Sale – Abandoned Property

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

3.0306 Proceeds of Sale – Abandoned Property

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

3.0307 Redemption of Personal Property

Any person owning such personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his ownership thereof to the governing body, reclaim such property upon paying the expenses incurred by the City for the seizure, storage or advertising the sale thereof and any person owning such property as aforesaid may at any time within six (6) months after such sale and upon making satisfactory proof to the governing body of his ownership thereof, claim the proceeds of such sale, upon payment to the City of the necessary expenses incurred by the City for the seizure, storage and sale of said property. (Source: North Dakota Century Code section 40-05-02, subsection 20)

3.0308 Annual Report – Unclaimed and Abandoned Property

The chief of police prior to June 1 of each year shall submit to the city auditor a written list of all unclaimed and abandoned property held by the City which has not been sold pursuant to the provisions of this article. The city auditor shall bring such list to the attention of the governing body at the next regular meeting. (see section 5.0203)

ARTICLE 4 – House Numbering

3.0401 House Numbering Required

All lots, buildings and structures in the City shall be numbered in accordance with the following plan: Each platted lot or portion thereof shall constitute a number, which shall be an official designation of the structure erected upon such lot or tract of land within the residential district. Within the business district, each platted lot or portion thereof shall constitute a number, which shall be an official designation of the structure erected upon such lot or tract of land. The east side of streets running north and south shall bear the even numbers and the west side of such streets shall bear the odd numbers. The north side of avenues running east and west shall bear the even numbers and the south side of such avenues shall bear the odd numbers.

3.0402 Numbers of Houses

It shall be the duty of the owner and occupants of every house in the City to have placed thereon, in a place visible from the street, figures at least four (4) inches high, showing the number of the house.

ARTICLE 5 – Trees

3.0501 Definitions – Street Trees and Park Trees

“Street trees” are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

“Park trees” are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

3.0502 Nuisance Declared

The following conditions are public nuisances whenever they may be found within the City of Alexander:

1. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus, *Ceratocystis ulmi*, and which harbors any of the elm bark beetle, *Scolytus multistriatus* or *hylurgopinus rufipes*, or other tree species infected by a disease determined a nuisance by the Pest Control Board.
2. Any dead elm tree or part thereof, including logs, branch, stumps, firewood or other elm material from which the bark has not been removed or chipped.
3. 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 Alexander, which in the opinion of the majority of the Board, endangers the life, health, safety or property of the public, shall be declared a public nuisance.

3.0503 Abatement

It is unlawful for any person to willfully permit any public nuisance as defined in Section 3.0502 to remain on any premises owned or controlled by oneself within the City. Such nuisance may be abated in the manner prescribed by this ordinance.

3.0504 Inspection and Investigation

The City shall inspect all premises and places within the City at necessary times, to determine whether any condition described in Section 3.0502 exists therein. The inspection shall determine all hazards as specified in Section 3.0502. The owner shall be notified in writing of the existence of the nuisance and given a reasonable time for its removal.

The City may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to it under this ordinance.

It shall be in the discretion of the City to determine if a laboratory diagnosis of a suspect Dutch elm diseased tree or other diseased tree is necessary. A field evaluation will usually be adequate unless there is some question about the tree being diseased or if the landowner requests that a sample be sent into the lab. If the landowner requests a laboratory diagnosis, the landowner shall pay all costs incurred therein.

If the City, upon finding a suspect Dutch elm diseased tree, decides to 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. 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 of the result by mail.

3.0505 Abatement of Nuisance in the City of Alexander

In abating the nuisance on public streets, alleys, boulevards, public ways and private property as defined in Section 3.0502 (1 and 2), the City of Alexander 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 shall establish specifications for tree removal and disposal methods consistent therewith.

In abating tree hazards on public property as defined in Section 3.0502 (3), the City shall cause such hazards to be removed and disposed in accordance with tree care specifications which the Board shall accept, the cost to be assessed as defined in Section 3.0509

3.0506 Abatement of Nuisance on Private Property

Whenever the City finds with reasonable certainty that the Dutch Elm or other disease defined in Section 3.0502 (1) exists in any tree or wood located on private property, outside of any public way in the City, the City shall notify the owner or person in control of such property of which the nuisance is found by mail within ten days of receipt of the diagnosis. The City shall direct that the diseased tree be removed and effectively treated in a manner approved by the City within ten (10) days after receipt of such notice. If such owner cannot be found, a copy of said notice shall be posted upon said infected tree. If said tree is not so removed and/or treated as specified within ten (10) days after actual receipt or posting of the notice, the City of Alexander 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 may abate the nuisance, the cost to be assessed as defined in Section 3.0509

The nuisance as defined in Section 3.0502 (3) shall be abated by the owner following notification of the existing nuisance. If not corrected or removed within the time allotted, the City shall authorize the removal or correction to be done in accordance with recommended procedures, the property owner to bear the cost.

3.0507 Certification as Special Assessment

The City Auditor shall keep in the City office a book called "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.

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 finally adjusted, and the City Auditor shall certify to the County Auditor a list of the lots and parcels of land specially assessed for such purpose, and the sum shall be collected as other city taxes are collected.

3.0508 Interference Prohibited

It shall be unlawful for any person to prevent, delay or interfere with the City while it is engaged in the performance of duties imposed by this ordinance.

3.0509 Costs

The costs for abating of the public nuisances as defined in Section 3.0502 shall be borne as follows:

1. For abatement of the nuisance as defined in Section 3.0502 (1) and with the nuisance occurring on public trees, the cost will be borne by the City of Alexander, and the cost for Park District land shall be borne by the Alexander Park Board. For abatement of the nuisance as defined in Section 3.0502 (1) 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.
2. For abatement of the nuisance as defined in Section 3.0502 (2) the costs shall be borne as defined in Section 3.0509 (1).
3. For abatement of the nuisance as defined in Section 3.0502 (3) and the nuisance occurring on public trees, the cost will be borne by the City of Alexander, and the cost for Park District land shall be borne by the Alexander Park Board. When the nuisance occurs on any street, alley, boulevard or any other public way, the cost shall be borne by the property owner adjoining the street, alley, boulevard or public way.
4. The cost of tree planting for replacement of diseased trees on public property will be borne by the respective City owning the property.
5. All permits relating to this ordinance will be issued at no cost fee.
6. The cost of the diagnostic test stated in Section 3.0504 (4) shall be borne by the property owner unless tests are deemed necessary by the City.

3.0510 Tree Planting

The office of the City shall issue permits to plant trees on public parkways, boulevards, berms and alleys in accordance with this ordinance.

3.0511 Tree Care – Tree Topping

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. It shall be unlawful as a normal practice to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City.

3.0512 Pruning, Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8') feet above the surface of the sidewalk and twelve (12') feet above the street.

Landscaping of any kind or nature near street intersections may not be planted, grown, or maintained, higher than thirty (30) inches in height above the roadway, within the triangle formed by the adjacent side lines of two intersecting streets and a line joining points distant thirty feet on each side line from their point of intersection.

3.0513 Separability

In case any section of this Article is held invalid by a Court of competent jurisdiction, the invalidity shall extend only to the section affected and other sections of this ordinance shall continue in full force and effect.

3.0514 Penalty

In the event that any person, firm or corporation violates any provision of the above Article sections they will be subject to revocation of their license and a fine not to exceed \$500.00.

