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FORESTRY**

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**CHAPTER 17
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ARTICLE 1 – Definitions

17.0101 For the Purpose of this Ordinance

The following terms, phrases, words and their deviations shall have the meaning given herein.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Streets mean 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.

Boulevard means the space between the sidewalk, and the normal location of the sidewalk and the curb line or curb.

Width of Boulevard means the distance between the sidewalk, and the normal location of the sidewalk and the curb line or curb.

Property Lines means the outer boundaries of any lot or parcel of land.

Property Owner means the person owning such property as is shown by the Towner County, North Dakota Register of Deeds.

Public Trees or other plantings are all shade and ornamental trees or other plantings now or hereafter growing on any public right-of-way or in any public place or park.

City Forester means a person or persons as the City Council may designate to supervise and implement the various provisions of this ordinance.

ARTICLE 2 – PLANTING

17.0201 City Council to Control

The City Shade Tree Committee shall make recommendations as to the kind and location of trees, shrubs, and other plants within the City to the City Council. The City Council shall take into consideration the recommendations made by the City Shade Tree Committee, but it shall retain the power and control over all public trees of the City and shall also retain the power to determine the kind and location of such trees, shrubs and plants using recommendations of the City Shade Tree Committee.

The City Shade Tree Committee will make recommendations to the City Council as to the pruning, removal, planting and other public trees, shrubs, and other plants activities within the City's property. There shall be one City Councilor, one City Park Board Member and the City Forester seated on the committee. The remainder of the members shall be appointed by the City Shade Tree Committee and acknowledged by the City Council.

17.0202 Location

All shrubs, hedges, and other plants planted on private property must be set back a minimum of 3 feet from all property lines and no tree shall be planted closer than 4 feet to any sidewalk or the normal location of the sidewalk from the curb.

Trees must be setback a minimum of 5 feet from the property line or enough setback so as to not obstruct or damage the neighboring property.

ARTICLE 3 – Protection of Public Trees

17.0301 Actions Prohibited

No person shall intentionally damage, cut or carve any public trees, shrubs, and other plants; attach any rope, wire or nails, advertising posters or other contrivance to any trees, shrubs, and other plants, allow any gaseous liquid or solid substance which is harmful to such trees, shrubs, and other plants to come in contact with them; or set fire to or permit any fire to burn when such fire or heat from the fire will injure any portion of the tree.

17.0302 Actions Requiring a Permit or Authorization

Unless specifically authorized by permit from the City Forester, no person shall plant any trees, shrubs, and other plants on any street or in any public place.

No person shall excavate any ditches, trenches or lay a drive within a radius of 15 feet from any public trees, shrubs, and other plants without specific authorizations from the City Forester.

17.0303 Permitting

Applications for permits shall be made with the City Forester and planting can take place immediately upon approval by the City Forester.

The City Forester shall not grant a planting permit unless the property owner agrees:

1. That the boulevard has been brought to the final grade and is not less than 5 feet in width.
2. Trees of the appropriate size will be planted on City berms as per the City of Cando Forestry Department Master Plan.
3. In new plantings, the trees will be planted no closer than 3 feet to the curb line or closer than 2 feet to any sidewalk or the normal location of the sidewalk from the curb line. In old plantings, the trees, shrubs, and other plants shall be planted in line with the existing plantings on the block.
4. That the planting will be completed no later than 60 days after the permit is issued.
5. Trees shall be planted at least 35 feet from the inside of the curb at street intersections and at least 15 feet from the top of the curb slope at driveways and alley right-of-way.
6. That the trees planted will not be less than 30 feet apart. Smaller species may be planted with less distance between trees with the approval of the City Forester.

Unless otherwise allowed for specific reasons, all trees shall have comparatively straight trunks, well developed leaders and all trees, shrubs, and other plants must be free of insects, diseases and other objectionable features.

ARTICLE 4 – Removal of Illegal Plantings

17.0401 City Forester Empowered

The City Forester is empowered to order the removal of any trees, shrubs, and other plants planted in violation of this ordinance. Stumps of all removed trees shall be cut to at least three 3 inches below the ground and the soil replaced and the area leveled. Sprouts shall be reground or trimmed to stop growth thus preventing diseases or inferior trees from re-establishing.

ARTICLE 5 – Hazards Defined and Prohibited

17.0501 Hazards Defined and Prohibited

All trees, shrubs, and other plants shall be pruned or removed when they constitute a hazard to life and property, or harbor insects and disease that constitute a threat to other trees, shrubs, and other plants.

Such hazards include:

1. Any trees, shrubs, and other plants or any part of such, which is diseased or over age 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 trees, shrubs, and other plants, or any part 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.
5. Any firewood accumulated that is not properly maintained in a manner to prevent the harboring of animals or rodents.

17.0502 City Authority

The City shall have the power and authority to prune or remove, or order to prune or remove any such trees, shrubs, and other plants on private property. The City Forester shall notify in writing the owners of such trees, shrubs, and other plants. The owners at their own expense shall do Pruning or removal within 30 days after notification.

17.0503 City Forester Authority

Upon the failure, neglect or refusal of any owner so notified to prune or remove the specified trees, shrubs, and other plants, the City Forester shall have the authority to prune or remove the specified trees, shrubs, and other plants.

17.0504 Costs for Private Property

When the City Forester has effected the removal of such hazardous trees, shrubs, and other plants, or has paid for their removal, the actual cost thereof plus any administrative fee, if not paid by the property owner, shall be charged and assessed against the property in the manner prescribed by law along with special assessments.

17.0505 Removal of City Nuisance Trees

Any elm tree or dead elm tree wood or other diseased trees or wood on property owned by the City which is a public nuisance shall be promptly removed at the expense of the City as soon as practicable after notification by the City Forester.

ARTICLE 6 – Penalties

Any person who is convicted of violating or failing to comply with any of the provisions of this Chapter may be punished by a fine of not more than \$1000.00 or by imprisonment not to exceed 30 days or both.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.