

Tree Ordinance

City of Michigan City, North Dakota

ORDINANCE #154

Definitions

1. As used within this ordinance, the following terms shall have the meanings set forth in this section:

Boulevard

That part of the property not covered by sidewalk or other paving, lying between the property line and the curb line of any street. In the absence of a curb, the curb line of a street shall be deemed to be the edge of that portion of the public right of way maintained and open to the use of the public for purposes of public travel.

Hazard or Nuisance

Any tree with an infectious disease or insect problem; dead or dying trees; a tree or limb(s) that obstruct street lights, traffic signs, the free passage of pedestrians or vehicles; a tree that poses a threat to safety.

Municipality

The City, Town, Village, Subdivision, or otherwise designated area unit of the City of Michigan City, North Dakota.

Person

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

Pest

Any injurious plant, animal, disease, insect or other organism that harms trees or other woody vegetation or humans.

Property Owner

The person owning such property as shown by the County Auditor's Plat of the City of Michigan City, North Dakota.

Public Tree

All trees now or hereafter growing on any street, park, or any other public place.

Street or Highway

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.

Street Trees

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 of Michigan City.

Trees, Shrubs, and Other Plants

Any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter greater than three inches at any point and a height of over ten feet.

Tree Owner

The owner of the real property upon which fifty-one percent or more of the trunk is located at ground level.

Purpose

1. Preamble

This ordinance establishes policies, regulations and standards necessary to ensure the City of Michigan City will realize the benefits provided by its community forest. The provisions of this ordinance are enacted to:

2. Health and Welfare of the Community

It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the development of a Community Forestry Plan to address the planting, maintenance, and removal of public trees and shrubs within the City of Michigan City in order to promote, maintain, and improve the urban forest resource of the City of Michigan City.

3. Be It Ordained

Be it ordained by the council of the City of Michigan City, North Dakota.

4. Short Title

This Ordinance shall be known and may be cited as the Tree Ordinance of the City of Michigan City, North Dakota.

5. Intent

The purposes of the Tree Committee shall be promoting the responsible planting of trees on public and private property, public education about trees, promotion of proper maintenance of trees, advocating trees within the City, and developing innovative and joint funding for projects from a variety of sources.

Authority and Power

1. City's Right to Plant, Maintain and Remove Trees on Public Property

The City shall have the right, but does not have the obligation, to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way 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.

2. City's Right to Plant, Maintain and Remove Trees on Private Property

The city shall have the authority and jurisdiction: to enter onto private property whereon there is located a tree, shrub, or plant that is suspected to be a public nuisance as defined herein and may direct the necessary treatment or removal; to alleviate interference with the provision of essential services; and to preserve the aesthetics of public places.

3. Establish Tree Board

There is hereby created and established a Tree Committee for the City of Michigan City

4. Appointment and Composition of Tree Board

The Tree Board shall consist of three members whom are citizens and residents of this city, and shall be appointed by the Mayor with the Approval of the Council.

5. Tree Board Compensation

Members of the Commission shall receive no compensation for service, but shall be reimbursed for out-of-pocket expenditures made in connection with their duties.

6. Tree Board Meetings

The Tree Committee shall be responsible for meeting periodically at such times and places as the Tree Committee shall determine necessary to investigate study and plan for the planting, care and maintenance of all trees on publicly owned lands.

7. Tree Board Meeting Quorum

A majority of members shall constitute a quorum and any actions of the Tree Committee may be taken by a majority of the members present at the meeting at which the action is taken.

8. Tree Board Procedures

Within a reasonable time after the appointment of the Tree Committee, upon call of the chairperson of the Tree Committee, the Tree Committee shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this ordinance.

9. Tree Board Required to Keep a Record of Meetings

The Tree Committee shall choose its own officers and keep a journal of its proceedings.

10. The Tree Committee shall perform the following duties:

11. Duty to Allocate Funds

The Tree Committee shall investigate available grants, loans or contributions from other governmental agencies, public or private corporations or individuals.

12. Duty to Advise

The Michigan City Tree Committee shall be advisory in nature with the purpose of providing advice to the Mayor and City Council as to the preservation, protection and management of the community forest of Michigan City, in accordance with the intents and purposes of this chapter.

13. Duty to Carry Out Management Activities

The Tree Committee shall have jurisdiction over all forestry functions including the planting, care and removal of trees, shrubs and other plants on the properties for which it is responsible. They shall do all acts necessary and proper for the care, management, improvement, maintenance and protection of the public parks and street trees under their jurisdiction.

14. Duty to Inspect for and Control Insect and Disease Problems

The Tree Committee may inspect any trees, shrubs, vines, hedges, plants, logs, or branches existing or growing upon any property within the city. The Tree Committee shall conduct surveys to determine if any destructive or communicable disease, or other pestilence exists which may be detrimental to or endanger the good health and well being of trees or other plant life in the city.

15. Duty to Manage Risk and Control Nuisances

The Tree Committee is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Tree Committee to be an immediate threat to any person or property.

The Tree Committee is hereby empowered to seek from any court of competent jurisdiction an order directing immediate abatement of any public nuisance.

Removal of dead or living trees or limbs that are determined by the Tree Committee to be a hazard to public safety and property;

The removal of trees or limbs that have actually fallen across street, sidewalk, or other city property.

16. Duty to Educate Citizens and to Promote Tree Care

The Michigan City Tree Committee will have the responsibility of educating the community about the advantages of growing trees. It will provide the community with information on viable species for the area, how to plant the trees and how to maintain them.

17. Tree Board Term of Office

The term of the persons to be appointed by the mayor shall be three years except that the term of one of the members appointed to the first Tree Committee shall be for only one year, the term of one of the members appointed to the first Tree Committee shall be for only two years. The remaining member shall be appointed for a three year term.

18. Vacancies on the Tree Board

In the event that a vacancy shall occur during the term of any member, a successor shall be appointed in like manner as above for the unexpired portion of the term.

Tree Planting, Maintenance, and Removal

1. Tree Planting, Maintenance, and Removal

It is the public policy of the City of Michigan City to maintain existing trees and to provide for and encourage the planting of new trees within Michigan City to the greatest extent possible.

2. Order Required for a Notice to Take Action

Upon determination that a public nuisance exists, the public works director or his or her designated representative shall serve written notice upon the owner or occupant of the premises where the tree is located to abate the nuisance.

3. Failure to Comply with a Notice to Take Action

When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the City to remove such trees and assess the property owner for the cost of services rendered.

4. Nuisance or Hazard

Any tree or shrub which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign is hereby declared a public nuisance under this ordinance.

5. Dead or Dying Tree

A dead or dying tree is any tree, shrub, or other plant which is dead or dying, whether located on city-owned property or on private property.

6. Hazardous Trees

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, which in the opinion of the majority of the Tree Committee, endangers the life, health, safety or property of the public, shall be declared a public nuisance.

7. Disease or Pest Infested Trees

Any otherwise healthy tree, shrub, or other plant, whether located on city-owned property or on private property which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant.

8. Protection from Disease and Pestilence

Upon the discovery of any destructive or communicable disease or other pestilence which endangers the growth or health of trees, or threatens to spread disease or insect infestations, the Tree Committee shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time to be specified in such notice.

9. Private Trees

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

Enforcement

1. Enforcement

The city may also institute injunctive or any other appropriate action or proceedings at law or equity for enforcement of this chapter in any court of competent jurisdiction.

2. Enforcing Agent

The Tree Committee shall enforce such rules, regulations and permit and penalty procedures as are deemed necessary to enforce the intent of this article.

3. Interference

No person shall unreasonably hinder, prevent, delay, or interfere with the Tree Committee or his or her agents while engaged in the execution or enforcement of this ordinance.

4. Violations

Violation of this ordinance is a misdemeanor.

5. Separate Violations

Each tree affected by noncompliance with this article shall constitute a separate violation.

6. Assessment of Claim

In the event that a nuisance is not abated by the date specified in the notice, the Tree Committee is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement shall be filed as a lien against the property on which the nuisance was located. In addition, the owner of the property upon which the nuisance was located shall be subject to prosecution.

7. Appeals

The City Commission shall have the right to review the conduct, acts, and decisions of the Tree Committee. Any person may appeal from any ruling or order of the Tree Committee to the City Commission who may hear the matter and make final decisions.

8. Right to Enter Private Property

The Tree Committee or his or her agent has authority to enter onto private property whenever necessary to inspect or maintain a public tree.

9. Severability Clause

If any section of the ordinance is found to be invalid or unconstitutional, it does not affect the validity of remaining sections.

10. Repeal Clause

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

11. Effective Date

This Ordinance is hereby declared to be of immediate necessity for the preservation of public peace, health, and safety and shall be in full force and effective from and after its passage and publication as provided by law.

Allen I. Orwick – Mayor

Attested to:

Jay Haugen – City Auditor

First Reading – May 1, 2006

Second and Final Reading – June 5, 2006