



P&R Committee Memorandum

To: P&R Committee
From: Chris Jenkins, Parks & Recreation Director
Date: April 20, 2017
Item: Boulevard Tree Maintenance Requirements & Replacement

Committee Action Requested:

Committee is asked to make a recommendation as to what level of maintenance property owners are required to conduct on boulevard trees and determine if property owners are required to remove stumps and replace boulevard trees that are removed.

Background Information:

Staff have been working diligently to update the City's Emerald Ash Borer Management plan which was adopted March 15th, 2010 in an effort to develop mitigation recommendations and associated budgetary recommendations now necessary with the confirmed presence of EAB in Hastings and surrounding areas. Through this process, staff have discovered the need for Council direction for interpretation of current ordinance and policy prior finalizing recommendations.

Chapter 95.04 Tree Diseases And Tree Threatening Pests was updated April 5th, 2010 as new information was becoming available concerning the imminent threat of Emerald Ash Borer infestations in our region. The previous version of this ordinance was very specific to Dutch Elm Disease and Oak Wilt, but did not have language that would include additional tree diseases or pests. Under the current ordinance, any elm tree infected with Dutch Elm disease, any oak tree infected with Oak Wilt, and any shade tree with an epidemic pest or disease is declared a public nuisance. Abatement of that nuisance is the responsibility of the property owner. Ordinance 95.04 is attached.

The City of Hastings has a Hazard Tree Inspection and Management Policy that indicates the removal costs of hazard trees within boulevards are shared between the affected property owner 60% and the City 40%. There are some standards that must be met for this cost share program, notably the tree must be inspected by certified tree inspectors, it must be located on City property and within the public rights-of-ways, must be greater than 8 inches DBH, and must have a potential high risk of failure and a target. Policy attached.

Chapter 155.53 Landscape Standards provides an area where interpretation is necessary as staff look to move forward with mitigation and budget recommendations. Ordinance attached.

- Under Chapter 155.53(D)(1) Boulevard tree requirements, the developer must provide for one (1) boulevard tree planted every 50 feet along public rights-of-ways, and they must be planted within 10 feet of the curb. The same standards apply for both residential and commercial development, and any significant redevelopment.
- Chapter 155.53(G)(2) Material Maintenance dictates the property owner must maintain all landscaping and screening materials shown on the approved landscape plan, and that those approved landscaping and screening materials that die, become diseased or are significantly damaged must be replaced at the next appropriate planting period with new materials in conformance with the approved landscape plan.

Chapter 90.05 Grass, Weeds, and Trees In Streets also provides an area where the Parks & Recreation Committee is requested to provide interpretation and guidance to staff. Ordinance attached.

- Chapter 90.05(B) outlines the property owners' responsibility to cut grass and weeds and maintain trees and shrubs from the line of the property nearest to the street to the center of the street.

Through staffs' review of current ordinance and policy, the following interpretations are being suggested, and staff are asking the Parks & Recreation Committee to confirm or clarify these interpretations and forward the same to City Council.

1. Property owners whose property abuts any public street and where boulevard trees exist, have the responsibility to:
 - a. Proactively maintain boulevard trees of any variety in an effort to avoid disease or pest infestations; to include but not limited to; EAB insecticide treatment; Oak Wilt fungicide treatment; Dutch Elm fungicide treatment; pruning and hazardous limb/branch removal;
 - b. Maintain and make available to City staff upon request, records detailing any chemical treatments applied to boulevard trees;
 - c. Allow for the placement of an identification tag indicating a boulevard tree has been chemically treated with at least the year and type of treatment being noted;
 - d. Remove, at their sole expense, the stump which remains after a diseased or hazardous tree has been removed in compliance with current policy, from any boulevard space;
 - e. Provide, at their sole expense, a replacement boulevard tree of an approved species and size wherever a tree has been removed from a boulevard space;

Financial Impact:

The financial impact for City and property owners is dependent upon the interpretations and enforcement of the ordinances and policy referred to above. If property owners shoulder the costs to truly maintain (including preventative maintenance) then the costs for the City will be less. If the City shoulders the costs for preventative maintenance of boulevard trees, it will be a significant financial undertaking.

For private property owners, the contractor price for trunk injection treatment costs are estimated to be between \$10.00-\$15.00 per inch of DBH (15 inch diameter tree between \$150.00 and \$225.00). These costs would be incurred every 2nd year after initial treatment and should be conducted for a minimum of 10 years prior to reevaluating the need for treatment.

If the same 15 inch boulevard tree died and needed to be removed, stump removed and a tree replanted, the property owner would pay approximately \$775.00 (factors 60/40 cost share for tree removal only). The replacement tree would be a minimum 1.5 inch caliper tree, approximately 8-10 feet in height. This replacement tree would take 10-15+ years of growth to provide the level of benefit lost from the tree removed.

For approximately the same financial output, a property owner could maintain a healthy, mature, shade providing ash tree for 10 plus years.

For the City to shoulder the costs of preventative insecticide treatments, with an estimated 1,030 boulevard ash trees, and an estimated DBH of 15 inches, the costs for treating 1/3rd of the trees annually is approximately \$26,000.00 at contractor estimated rates of \$5.00 per DBH.

If the same 1/3rd of trees were removed annually and the cost share was utilized, the City would expend approximately \$45,000.00 annually for 3 years. Property owners would expend \$68,000.00 annually for 3 years. This would eradicate all boulevard trees that are ash, and significantly change the character of many Hastings neighborhoods. Additionally, an approximate \$82,400.00 would be spent by property owners to have stumps removed, and up to \$515,000.00 would be spent by property owners to replant boulevard trees.

Property owners will also be responsible for the treatment and or removal of privately owned ash trees as EAB works its way through Hastings decimating the ash tree population.

Considerations: these are new and were not discussed with Commission.

- Communication and Education Strategy: staff will need to undertake the significant task of communicating details of the City’s current ordinances and policies related to boulevard tree responsibilities in short order. Avenues such as social media, newspaper articles, radio interviews, and perhaps utility bill inserts could all be utilized to help inform our property owners of their

responsibilities pertaining to boulevard trees, as well as the arrival of Emerald Ash Borer in Hastings.

- Compliance and Enforcement Strategy: once a thorough communication and education program has been established and conducted, the City will need to conduct compliance checks and perhaps enforce existing ordinance requirements. The compliance checks would be conducted by the City Forester within current job function, where periodic inspections would occur in the four quadrants of Hastings. If non-compliance was discovered, communication and education efforts would be extended through direct personal interactions or direct informational literature distribution. Compliance would be the goal and reasonable expectations would be provided.
- Non-Compliance: the City could utilize a few different approaches to contend with property owners who knowingly refuse to comply;
 - City Forester could hire a contractor to treat the tree(s) on properties that are non-compliant and the City could bill the property owner for the direct cost. Indirect costs could also be calculated and charged to the property owner if desired.
 - City Forester could treat the tree(s) on properties that are non-compliant and the City could bill the property owner for direct costs.
 - City could hire a contractor to remove the tree(s) on properties that are non-compliant. This would also require the removal of the stump and the planting of a new boulevard tree. All fees should be billed back to the property owner.
 - In all scenario options, if a property owner refused to pay the associated costs the City could add the fees to the property owner's property tax requirements (assessment).
- Non-Compliance and Hazardous Tree Removal Cost Share Program: staff recommend that if a property owner chooses to not comply with their boulevard tree maintenance responsibilities and the boulevard tree becomes diseased, infested or hazardous that the City not participate in the cost share program for tree removal.
- Removal of Healthy Boulevard Trees: while boulevard tree maintenance and care is the responsibility of the property owner, the City retains the authority to manage all trees on public property. Property owners do not have the authority to remove any tree from the boulevard. If an unapproved removal is discovered, staff would suggest the property owner be contacted and the situation be remedied through stump removal and tree replacement in coordination with guidance from the City Forester. This information would be shared as part of the Communication and Education Strategy as it is believed this is not well known subject matter.
- Ash Trees on Private Property: property owners are 100% responsible for all care and maintenance of trees located on private property. Staff will address these responsibilities and provide recommendations and/or options for property owners as a part of the Communication and Education Strategy. It should be noted that the City Forester can require private trees to be removed if a complaint is received about the tree from a neighbor, and if the tree is deemed to be hazardous. Removal can also be required if a tree on private

property is observed to be hazardous from public property or from adjacent private property where permission to access has been provided.

Commission Discussion:

The Parks & Recreation Commission reviewed the above information at its December 2016 PRC meeting. Ultimately the PRC unanimously stated that staff's interpretation of current City Ordinance is proper and the policies are appropriate.

Attachments:

- Adopted EAB Management Plan
- *95.04 Tree Diseases And Tree Threatening Pests*
- Hazard Tree Inspection and Management Policy
- *155.53 Landscape Standards*
- *90.05 Grass, Weeds, and Trees In Streets*

City of Hastings Parks & Recreation
Project Manager: Barry Bernstein

Emerald Ash Borer Management Plan

Purpose:

By implementing the provisions in the management plan, the City is attempting to mitigate the disruption of its urban forest caused by the pending infestation of the Emerald Ash Borer. Taking a proactive approach to this problem will enable the City to minimize the risk to public safety while addressing public and private needs in an efficient and effective manner. The City will endeavor to distribute the costs associated with certain and massive tree death over a manageable time period as well as lessen the social and economic impact that such an extensive loss will have on quality of life in our community.

Scope:

Approximately 27% of all publicly owned trees within our community are Ash trees and susceptible to the Emerald Ash Borer. At this time, chemicals can be used that often delay the impact of the EAB and save some trees but there is no sure way to halt the invasion. It is likely that every Ash tree in the city will eventually die from the effects of the EAB unless treated.

This plan addresses:

1. The creation of a tree inventory
2. Methods to detect the arrival of the EAB
3. Methods to delay the spread of the EAB
4. Methods to minimize the aesthetic and environmental impacts of the EAB
5. Methods to minimize the financial impact to the City and our residents
6. Methods of educating the public about threat, spread and response to the EAB

This plan applies throughout the City on all public properties where Ash trees are currently growing as well as private properties where such trees may negatively impact public rights-of-way or other public properties.

Administration:

The City Administrator is responsible for the implementation of this plan and has directed the Parks and Recreation Department to see that the provisions are carried out.

Plan Phases:

1. Tree Inventory

An inventory shall be created which will determine size and type of all trees within the community according to the priorities listed below. Condition of the tree should be noted. The inventory should include tree species and diameter.

- Use of GPS is ideal if possible
- Medians
- Rights of Way
- Parks
- Non-Parks City Owned Property
- Non-City Owned Public Property

2. Detecting Arrival of EAB

The City shall contact the Minnesota Department of Agriculture to determine location of existing detection trees and work with them to establish additional detection trees. Detection trees should be located at the rate of at least one per square mile within all areas of the community.

- Any Ash tree determined to be of suspicious health through the tree inventory process, should be examined immediately by an expert. Ash trees are subject to infestation by other borers besides the EAB.

- Information shall be placed in the City newsletter and local newspapers advising the public as to how to identify an Ash tree and what to look for regarding infestation. (D shaped exit holes, top - down die off etc). This information will also be available through the City's website.
- All possible sources of artificial EAB importation into the community such as nearby campgrounds, nurseries, firewood dealers, firewood piles, or yard debris centers shall be inspected for EAB infestation on a quarterly basis.
- Based on tree inventory information, the City will quarterly inspect, especially important tree locations, for outward signs of EAB infestation.

3. Methods to delay the spread of EAB

- If an EAB infestation is discovered, a thorough survey of the surrounding area will be made and acted upon. All Ash wood from pruning or removal will be inspected for EAB by looking for D-Shaped exit holes and removing bark to find larvae galleries. Any wood from a contaminated tree shall be disposed of in such a way as to prevent the spread of live larvae. Chemical treatment may be applied to critical trees in the vicinity or non-infested trees may be removed to avoid a future dangerous situation.
- Infested trees should be removed as quickly as possible when infestation is found between May and September.
- Information will be published and circulated in the community advising residents as to what has been found and how they can address the problem on their property.
- All Ash materials shall be disposed of in accordance with state guidelines.
- The City may order the removal of infested trees which are located on private property in accordance with Ordinance 95.04.

4. Methods to minimize the aesthetic and environmental impact on the community

Upon the completion of the tree inventory, the City will establish a specific plan to address every group of trees within the community. The following priorities shall be followed:

- Public trees not owned by the City (School District)
 - (See replacement plan below)
- Trees in Rights of Way
 - (See replacement plan below)
- Trees in Parks
 - Trees in parks area which are frequented by the public should be replaced for safety purposes. This also applies to non-park city owned properties. Trees in heavily forested areas can simply be allowed to die in place and decay through normal processes. Cities should notify other public agencies which own land containing Ash trees and request their cooperation in a similar manner.

Replacement Plan

As the budget permits, the portion of public Ash trees not deemed to be of high value by the City Forester will be replaced with non-host species that will enhance the planting site, are appropriate for the planting site and add to the diversity and health of the urban forest. Tree removal will be prioritized with potentially hazardous trees being removed first followed by all those which show signs of infestation. High value trees will be protected by chemical injection.

Planting programs will be budget-based and prioritized by the City Administrator to reach determined goals. No plantings will be made that cannot be maintained. The City of Hastings will reforest at a rate of one tree loss to one replacement tree of a diverse Native mix.

Environmental side effects

While the environmental impact of tree loss on the micro-environment is obvious, it is important to address the overall impact on the community in areas like storm water run off and the increase in local temperature levels due to the loss of trees. For this reason, it is important the City pursue aggressive mixed species tree planting programs as soon as possible in appropriate locations so as to mitigate the impact of extensive tree loss before it begins.

5. Methods to minimize the financial impact on the community

- Trees which are removed can potentially be sold for lumber value. This should be pursued where possible and where tree replacement is feasible.
- Develop a Citizen Information Package to explain public actions and recommend private procedures.
- Recruit citizens to be trained to monitor Ash locations on a quarterly basis to detect infestation as soon as possible.
- The City shall encourage residents to monitor the health of Ash trees located on private property. The City shall provide information about EAB infestation on the City website and update that information on a regular basis.
- Joint Purchasing-The City will attempt to work with Dakota County, Independent School District 200, other cities and officials who are pursuing collective contracts for the tree removal, chemical purchases, tree replacement and wood disposal. Joint disposal efforts involving multiple jurisdictions should also be explored.
- The City shall arrange for a sufficient number of employees to be come trained and/or licensed to apply chemicals to trees on City Property.
- Tree Protection Plan: Upon completion of the tree inventory, the city shall adopt a tree by tree protection plan including:
 - Chemical treatment to extend tree life
 - Tree removal
 - Utility companies should be asked to remove rather than trim Ash trees
 - Street programs involving tree removal should automatically remove Ash trees regardless of size or location
 - Tree replacement shall begin as soon as possible so that to permit the use of smaller replacement trees.
 - The Planning Commission shall not allow the use of Ash Trees to be a part of any landscaping plan which is subject to their review.

6. Public Education

- The City shall participate with aggressive public education utilizing print, cable and intranet information. This will be at least a half hour program interviewing local officials about the status of the EAB program within Dakota County.
- Information will be prepared for city newsletters and press releases about the adoption of the EAB plan and its importance to residents. Said release will also tell citizens what to look for, who to contact if they think they have an infestation and general guidelines about transporting firewood.

Additional Information:

Assumptions:

1. This plan assumes that until further research develops a treatment process, all Ash trees in the State of Minnesota will die from the Emerald Ash Borers. The plan assumes that the life of an Ash tree can be extended through the use of chemical treatment, which is best applied in late May.
2. There is a great deal of good information available about the infestation and that information is available through www.emeraldashborer.info/index.cfm

(C) *Placement.* All assigned address identification numbers shall be affixed to the building so as to be clearly visible at all times from the public street in front of the building when traveling in either direction.

(D) *Specifications.* Address identification numbers shall be at least 4 inches high, at least 1/2-inch wide and in Arabic numeral form. The color of the address identification numbers shall contrast with the color of the principal building.

(E) *Compliance.* All buildings existing on the effective date of this section shall be in compliance by 7-1-1989. All buildings presently under construction or constructed after the effective date of this section shall comply with this section before a certificate of occupancy is issued by the city.

(F) *Violations.* No property owner will be subject to prosecution for violating this section until after 2 written warnings, at least 1 week apart, have been sent to the owner by the city. Thereafter, any violations of this section shall be a petty misdemeanor. (Prior Code, § 9.33) Penalty, see § 10.99

§ 95.04 TREE DISEASES AND TREE THREATENING PESTS.

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi* (Buisman) Moreau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylurgopinus Rufipes* (Marsh);

(2) Any dead elm tree or part thereof, including branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis Fagacearum*;

(4) Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;

(5) Any other shade tree with an epidemic pest or disease. Pests include Emerald Ash Borer (*Agrilus Planipennis*) or other insect or microorganism that is harmful to trees; and

(6) All wood from shade trees with an epidemic pest, such as Emerald Ash Borer, shall be stored and/or moved only in accordance with state and federal guidelines.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in § 95.24.

Hazard Tree Inspection and Management Policy

Objective Statement:

To preserve the environmental, aesthetic and economic value that trees give to the City of Hastings while providing reasonable safety on the streets, sidewalks and public properties. We will use inspections, maintenance and corrective actions to accomplish this goal.

INSPECTION FREQUENCY

At least three times each year a survey of public trees is made to look for diseases that pose a threat and trees that are hazardous. If a tree is found that requires removal, arrangements are made or the property owner is notified. Trees suspected of being diseased or posing a hazard to the public can be reported to the City Forester for inspection.

REQUIREMENTS FOR TREES TO BE COVERED UNDER THIS POLICY

1. Trees located on City property
2. Trees located within Public Right of Ways
3. Trees must be greater than 8 inches DBH
4. Trees must have a potential high risk of failure and there must be a target

Inspections will be done by certified tree inspectors, trained in evaluating hazard trees. Documentation of any hazard tree or tree suspected of being a hazard shall be filled out and kept on file. This documentation should include records of inspection, maintenance, corrective measures, and any follow-up done. The form for inspection is the Hastings Hazard Tree Report.

The City is responsible for 100% of and tree maintenance or removal on public property. On city streets the property owner is responsible to trim, cut and otherwise maintain any tree according to City Ordinance No. 155, SEC. 6.06, SUBD. 4.

The hazard trees on public street right of ways are currently being reported to property owners the same as a diseased tree. They are handled in the same way and the 60% property owner and 40% city co-op funding is provided if the city has a contractor remove the tree.

1. Front facades, and side and rear facades visible from public right(s)-of-way, the public view from adjacent properties, parts, or residential uses or districts must be composed of at least 25% of Class 1 materials, and at least 25% of Class 2 materials.

2. Side and rear facades not visible from public right(s)-of-way, parks, public view from adjacent properties or residential uses or districts may use any combination of Class 1, 2, or 3 materials. (Prior Code, § 10.28) (Ord. 506, passed 11-17-2003) Penalty, see § 10.99

§ 155.53 LANDSCAPE STANDARDS.

(A) *Intent and purpose.* The City of Hastings places a high value on landscaping and greenery in both the natural and the built environments. Landscaping and screening provide many aesthetic, ecological, economic, and health safety benefits. The provisions of this section are intended to:

- (1) Enhance the overall aesthetic conditions within the city;
- (2) Provide screening and mitigation of potential conflicts between different land uses;
- (3) Improve air quality and provide a buffer from air and noise pollution;
- (4) Ensure significant tree canopy shading to reduce glare and heat build-up;
- (5) Add visual interest to open spaces and blank facades; and
- (6) Provide definition for public walkways and open space areas.
- (7) Serve the following ecological functions:

(a) Interception and filtration of precipitation and stormwater through maximizing multiple-layered vegetative cover, rainwater gardens, and vegetative swells.

(b) Reduction of reflectance and urban heat islands through increasing canopy cover.

(c) Conservation of energy through strategic shading and the use of windbreaks.

(d) Conservation of water through xeriscaping design strategies including using decorative rock as ground cover, limiting turf areas, selecting low-water-use plants and designing efficient irrigation systems.

(e) Selection and placement of plant materials to limit required maintenance of landscaped areas.

(8) Preservation or restoration of natural amenities.

(B) *Applicability.*

(1) A detailed landscape plan must be submitted to the Planning Department in the following cases:

(a) *Application for new development.* With any application for new development requiring site plan review;

(b) *Changes to existing landscape plan.* When changes are made to an existing landscape plan on file with the city; or

(c) *Redevelopment or large addition.* When either substantial redevelopment of a site is proposed or an addition that would increase total floor area on a site by 25% or more, a landscape plan for the entire site, demonstrating compliance with the requirements of this section, must be submitted for approval.

(d) *Small addition.* When an addition is proposed that would increase total floor area of a site by less than 25%, but would physically impact the existing landscape, a modified landscape plan for the portion of the site affected by the addition, demonstrating compliance with the requirements of this section, must be submitted for approval.

(e) *Constrained sites.* The City of Hastings recognizes that highly

constrained redevelopment may have difficulty meeting the standards of this section. Given that the city would like to encourage redevelopment rather than interfere with redevelopment, highly constrained redevelopment sites may seek relief from the landscape standards. In considering planned development flexibility to landscape standards, the city shall:

1. Balance the public interest in promoting redevelopment with the public interest in providing landscaping; and

2. Consider whether reduced landscaping levels are balanced by alternative methods of providing visual interest to the site including but not limited to sculpture, public art or higher quality landscaping materials.

(C) *Landscape plan components.*

(1) Landscape plans shall be prepared consistent with the general site plan requirements in § 155.51. The applicant shall submit a landscape plan prepared by a landscape architect, nursery designer, or other qualified person. Landscape plans shall be reviewed and approved by the Planning Department.

(2) When a landscape plan is required, the following information shall be included.

(a) *General information.*

1. Name of project, owner and developer and street address of project; and

2. Name, address, phone number of plan preparer and, if applicable, Minnesota license/certification number of the Landscape Architect or Certified Nursery and Landscape Professional (CNLP).

(b) *Landscape plan features.*

1. Scale and north arrow;

2. Locations of existing and proposed buildings and all other structures;

3. Location, height, and materials of any existing and proposed screening;

4. Location, approximate size, and common name of existing trees, shrubs, and other vegetation that are to be retained as part of the new landscaping and description of how they will be protected during construction;

5. Location and details of irrigation systems;
6. Location, width, and height of all proposed earth berms and retaining walls;
7. Planting details illustrating proposed locations of all new plant material;
8. Planting schedule containing:
 - a. Plant key;
 - b. Common and botanical plant names;
 - c. Quantity of plants for each species;
 - d. Size of plant material at time of planting and at maturity;
 - e. Root condition (balled and burlapped, bare root, container, and the like); and
 - f. Special planting instructions
9. Any other existing or proposed features that relate to or affect site finish and landscaping.

(D) *Residential building requirements (1 to 8 units per building)*. The developer or builder of any new residence (or substantial modification to an existing residence) between 1 to 8 housing units that is exclusively residential must adhere to the following requirements:

(1) *Boulevard tree requirements*. Boulevard trees shall be planted every 50 feet along public right-of-ways. The tree must be planted within 10 feet of the curb and shall not encroach within the site visibility triangle.

(2) *Front yard tree requirements*. One front yard tree shall be planted for every unit in addition to boulevard tree requirements. The tree shall be planted outside the city right-of-way.

(3) *Vegetative cover requirement*. Vegetative cover including sod, shrubs, trees and related landscaping materials must be established in all front yard areas, and within the first 20 feet from the primary structure of all side yard and rear yard areas. The vegetative cover requirement shall not preclude the construction of the following provided minimum zoning setback requirements are met: decks, patios, and placement of rock and related landscape materials associated with foundation planting adjacent to a structure.

(4) *Landscaping in drainage and utility easements.* Shallow root plantings including sod, turf, grass and shrubs shall be established in drainage and utility areas. The placement of landscaping or structures that significantly changes or impeded the designed drainage pattern shall be prohibited. The city reserves the right to review all landscaping plans subject to the provision of the city's landscape fence and easement policy, April 2005, as amended.

(E) *Commercial, industrial, institutional, and multiple-family (greater than 8 units per building) requirements.* Landscaping for all commercial, industrial, institutional, or multiple-family building greater than 8 units shall consist of a combination of deciduous, coniferous, and ornamental trees, shrubs, hedges, flowers, sod, ground cover and other natural materials. Landscaping shall cover all areas not used for structures, drives, sidewalks, or parking.

(1) *Interior parking lot.*

(a) In any aisle in excess of 30 parking stalls, an interior landscaped island shall be provided.

(b) Landscaped islands shall be provided at each end of all rows of parking in parking lots in excess of 40 parking stalls.

(c) One tree per 4,000 square feet of paved surface is required of which 75% must be deciduous, overstory trees. Trees shall be planted in medians or directly adjacent to the parking lot perimeter.

(d) The following requirements apply to all parking lot islands:

1. Each island shall contain at least 1 deciduous shade tree.
2. Each island shall not contain any shrub over 18 inches in height.
3. Islands shall have a minimum inside width of 10 feet.

(2) *Streetscape and open space.*

(a) One tree per 50 feet of lot perimeter is required. Trees shall be planted every 50 feet along public and private street frontages between the front lot line and back of curb. Remaining trees can be placed somewhere else on the site.

(b) At least one shrub per 40 feet of lot perimeter must be planted.

(c) An opaque landscaping feature a minimum of 30 inches in height is required between any parking lot or driveway and the adjacent street. Said feature shall be one or combination of the following:

1. A 10-foot wide landscaped strip which must screen at least 70% of

the length of the lot frontage with an opaque barrier 30 inches high at initial planting.

2. Landscaped berms at least 3 feet in height measured from the top of street curb adjacent to the berm at a slope not greater than 3:1.

(3) *Properties adjacent to residential uses.* All off-street parking, loading facilities, exterior storage areas, mechanical area, and driveway shall be effectively screened from areas zoned or guided residential by 1 or a combination of the following:

(a) A 6-foot high opaque fence or wall. Chain link fences with slats are not acceptable.

(b) Berming or landscaping measuring at least 6 feet in height measured from the top of the parking lot or drive aisle curb. Landscaping must provide year-round screen opacity of 75% at initial planting.

(4) *Landscaping in drainage and utility easements.* Shallow root plantings including sod, turf, grass and shrubs shall be established in drainage and utility easement areas. The placement of landscaping or structures that significantly changes or impeded the designed drainage pattern shall be prohibited. The city reserves the right to review all landscaping plans subject to the provision of the city's landscape fence and easement policy, April 2005, as amended.

(F) *Performance standards.*

(1) *Rainwater gardens.* Rainwater gardens shall be encouraged to accommodate stormwater drainage and to meet landscape vegetation requirements. Rainwater gardens may be eligible for a reduction in the open space tree planting requirements upon approval of the Planning Director as follows:

(a) One square foot of raingarden shall be equal to 1 square foot of tree coverage (based on mature tree growth.)

(b) Tree planting requirements shall not be reduced greater than 50%.

(c) Raingardens cannot be substituted for landscape screening.

(2) *Site triangle/visual clearance.* No fence, wall, dense landscaping, or other visual obstruction above a height of 30 inches from the established street grade shall be permitted within the site triangle as formed by a straight line drawn between points on the property line at a distance of 30 feet in each direction from the intersection of any street, alley, parking lot entrance, or loading area.

(3) *Utility clearance.* Access to utilities (manhole covers, fire hydrants,

electrical transformers, etc.) must be maintained.

(4) *Minimum planting sizes.*

(a) Deciduous trees: 1.5 inches trunk diameter, measured 6 inches above ground.

(b) Ornamental trees: 1.5 inches trunk diameter, measured 6 inches above ground.

(c) Coniferous trees: 6 feet tall.

(d) Shrubs: minimum of 18 inches tall at planting.

(5) *Spacing.*

(a) Plant material centers shall not be located closer than 3 feet from the fence line or property line and shall not be planted to conflict with public plantings, sidewalks, trails, fences, parking areas, and driveways based on the judgement of the Planning Department.

(b) Where plant materials are planted in 2 or more rows, plantings shall be staggered in rows unless otherwise approved by the Planning Department.

(c) Where massing of plants or screening is intended, large deciduous shrubs shall be planted 4 feet on center or closer, and/or, evergreen shrubs shall be planted 3 feet on center or closer.

(6) *Permitted deciduous trees.* Deciduous tree plantings shall be reviewed by the City Forester. Please reference the *Hastings Tree Guide* for suggested planting varieties.

(7) *Overhead utility lines.* When trees are to be installed under overhead utility lines, discretion must be used in the selection of the type of species. The trees installed must not interfere with the utility lines as maximum growth.

(8) *Certificate of occupancy.* All required landscaping must be installed prior to issuance of a certificate of occupancy. In cases where occupancy will occur during winter months, a temporary certificate of occupancy will be issued and planting will be required by the next July 1. Prior to issuance of a temporary certificate of occupancy, the developer or builder shall post a cash deposit/bond as established by the Building Department.

(G) *Maintenance.*

(1) *Surety*. To ensure that landscaping and screening is installed as proposed and survives through at least 1 full growing season, a landscape performance surety must be submitted prior to issuance of building permits for new development where a landscape plan is required.

(a) A landscape surety for providing, installing and warranting typical landscaping and screening materials must be submitted in the amount of 125% of the value of the proposed landscaping.

(b) Once the landscaping and screening has been in place for 1 year, Planning Department staff will review the landscaping on site. If site conditions match the approved landscape plan and all material is healthy, the surety will be released. If landscaping or screening is missing or incorrectly placed or some material is not in a healthy condition, the owner will be contacted and given an opportunity to correct these issues. Once the issues are resolved, the landscape surety will be released.

(2) *Material maintenance*. The property owner must maintain all landscaping and screening materials shown on the approved landscape plan in a manner consistent with the intent and purpose of the plan. Approved landscaping and screening materials that die, become diseased or are significantly damaged must be replaced at the next appropriate planting period with new materials in conformance with the approved landscape plan.

(3) *Structure maintenance*. Landscaping and screening structures such as fences and walls must be maintained in good condition, free of graffiti, peeling paint, decay or warping, must be repaired when needed and replaced periodically to maintain a structurally sound condition. (Ord. 539, passed 10-3-2005; Am. Ord. 551, 2nd Series, passed 5-1-2006) Penalty, see § 10.99

§ 155.53.5 EXTERIOR LIGHTING STANDARDS.

(A) *Intent and purpose*. It is the intent of this Ordinance to define practical and effective measures by which the obtrusive aspects of excessive and \or careless outdoor light usage can be minimized, while preserving safety, security, and the nighttime use and enjoyment of property. These measures will curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, decreasing the unnecessary light and glare resulting from over-lighting and poorly shielded or inappropriately directed lighting fixtures.

(B) *Applicability*. For all proposed new land uses, developments, buildings, and structures that require Site Plan or Conditional Use Permit approval, all outdoor lighting fixtures shall meet the requirements of the Ordinance. All existing and future lighting shall adhere to the footcandle illumination requirements of subsection (C)(4). Building additions or modifications of twenty-five (25) percent or more in terms of additional dwelling units gross floor area, or parking spaces, either with a single additional or with

(D) *Civil suit for cost of removal.* The City Clerk shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in division (B) above, the cost of the clearing and the cost and disbursements of a civil action therefore.

(E) *Placing snow or ice in public street or on other city property.* It is unlawful for any person, not acting under a specific contract with the city, to remove snow from private property and place the same on a public street (which includes sidewalks) in the quantity, or in the manner, as to cause a hazard to travel, without adequate arrangements for the immediate removal thereof; and it is also unlawful for any person not acting under a contract with the city to dump snow on other city property. (Prior Code, § 6.05) Penalty, see § 10.99

§ 90.05 GRASS, WEEDS, AND TREES IN STREETS.

(A) *City to control trees and grass plats.* The city shall have control and supervision over all shrubs and trees upon, or overhanging all streets or other public property, and all street right-of-way or other public property.

(B) *Duty of property owners to cut grass and weeds and maintain trees and shrubs.* Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street in the center of the street. If the grass or weeds in such a place attain a height in excess of 12 inches it shall be prima facie evidence of a failure to comply with this division (D). Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefore, trim, cut, and otherwise maintain all trees and shrubs from the line of the property nearest to the street to the center of the street.

(C) *City may order work done.* The city shall, in cases of failure to comply with division (D) above, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece, or parcel of land abutting upon the street.

(D) *Assessment.* If the maintenance work is performed by the city as set forth in division (E) above, the City Clerk shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk shall, at the next regular meeting thereof, present the certificate to the Council and obtain its approval thereof. When the certificate has been approved it shall be extended as to the cost therein stated as a special assessment against the abutting land and the special assessment shall, at the time of certifying the taxes to the County Auditor, be certified and collection, or in the alternative, the city may institute civil suit to collect the cost of the service. (Prior Code, § 6.06) Penalty, see § 10.99