

CHAPTER III
PUBLIC PLACES AND PROPERTY
Article 1
CONSTRUCTION AND REPAIR

103.0101 SUPERVISION

All construction maintenance and repair of public streets, alleys, sidewalks and other public ways shall be under the supervision of the city engineer or commissioner of streets and public improvements. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinance.

103.0102 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.

103.0103 DUTY OF OWNER TO MAINTAIN

It shall be the duty of the owner of any property along which a sidewalk has been constructed to maintain the same in good repair and safe condition. Should any such owner fail so to maintain such sidewalks, the city council may notify the owner to repair same and if he does not repair same within the time specified, the city may cause the sidewalk to be repaired and the cost thereof assessed to the property. The procedure for notification in assessment of costs shall be as set forth in Chapter 40-29, NDCC.

103.0104 SIDEWALKS BUILT TO GRADE

All sidewalks shall be constructed in accordance with the elevation and grade therefor to be furnished by the city engineer, and shall be constructed under his direction and supervision, or if the city has no engineer, sidewalks shall be constructed under the supervision of street commissioner.

103.0105 WIDTH OF SIDEWALKS

All sidewalks hereafter constructed within the limits of the city of Taylor shall be constructed with the following widths:

1. All sidewalks in the residential district shall be constructed five feet in width four inches in thickness and shall slope from the inside edge toward the street.

- a. In locations where the right-of-way width is sixty (60) feet or less the sidewalks shall be constructed on the property line.
 - b. In locations where the right-of-way width is greater than sixty (60) feet the sidewalk shall be constructed eighteen (18) inches out from the property line.
 - c. In no case in the residential district shall the sidewalk be constructed adjacent to the curb unless right-of-way width or topographic features require and then only with specific approval of the governing body.
2. All sidewalks in the commercial and/or industrial districts shall be constructed from the property line to the back of the curb and the width of sidewalk shall be governed by the width of street section.
 - a. In areas where commercial development is not complete the entire sidewalk need not be constructed. A section seven and one-half (7½) feet in width adjacent to the curb shall be constructed thus leaving an area for structural foundations.

103.0106 MATERIALS AND MANNER OF CONSTRUCTION

The kind and quality of material of which, and the manner in which sidewalks, driveways, curb and gutter, relaying of block walks, and paving repairs shall be constructed shall be as follows:

103.0107 CITY CONTRACTOR

The city auditor shall receive bids for the construction of sidewalks, driveways, curb and gutter and paving repair as the city may find necessary to have done. Such bids shall be made upon blanks furnished by the city engineer or street commissioner and shall conform to specifications filed with the city auditor by the city engineer or street commissioner 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 of Taylor 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 of Taylor, conditioned that said contractor shall maintain and keep in good repair, for a period of two (2) years from date of final estimate all sidewalks, driveways, curb and gutter, and paving repairs so constructed by such contractor under the

terms of such contract, and that in case of default under the part of such contractor to so maintain and keep such improvements in good repair made by him for the said period of two (2) years, or in case they shall within said time begin to crumble or disintegrate or become cracked or broken to such an extent that, in the opinion of the city engineer or street commissioner, the same is not a satisfactory compliance with the specifications for the construction thereof, then the city engineer or street commissioner may direct that such sidewalks, driveways, curb and gutter, or paving repairs be immediately repaired or relaid in whole or in part as he shall deem best, and the contractor shall immediately cause the same to be repaired or relaid; and in the case of the contractor's neglect, refusal or failure so to repair or to relay the same, the city, at any time within said two (2) year period, or thereafter, may cause the same to be repaired or relaid, and the cost thereof, whether done by the city directly or through a contract, may be recovered against said contractor and the surety upon such bond. Any person desiring to engage in the business of constructing paved driveways, sidewalks, curbs and retaining walls in or along the streets and alleys shall make application to the city auditor for a license to do such work, and shall present with his application evidence of experience and competency in such work. If upon examination of such evidence the city auditor is satisfied as to the experience and competency of the applicant, he shall approve his application, which shall be filed with the city auditor, together with a surety bond in the sum of Five Thousand Dollars (\$5,000) approved by the governing body for the execution of all work in strict conformity with the provisions of this chapter and the protection, indemnification and saving harmless of the city of Taylor from any or all loss, claim, suit or damages, direct or consequential, which the city may sustain through violation of any of the provisions of this chapter, by the license holder, or through negligence of the license holder, or in any other manner whatsoever. Upon the filing of the application and bond, the city auditor shall issue a license to the applicant.

Article 2

USE AND CARE OF STREETS, SIDEWALKS AND PUBLIC PLACES

103.0201 OBSTRUCTIONS

It shall be unlawful for any person, firm or corporation to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specified by ordinance or by the city engineer or commissioner of streets and public improvements.

103.0202 ENCROACHMENTS

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

103.0203 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 commissioner of streets or the city engineer or the official who supervises public improvements.

103.0204 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 permission from the governing body.

Any person or company which maintains poles and wires in the streets, alleys or other public places, shall, in the absence of provision 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 commissioner of streets and public improvements, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

103.0205 DEPOSITS

It shall be unlawful to deposit on any street or public place any material which may be harmful to the pavement or surface thereof, or which may do injury to any person, animal or property or render the same unclean or a nuisance.

103.0206 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.

103.0207 DISTRIBUTING HAND BILLS, ETC.

The scattering, throwing, or placing of bills, posters, advertising matter, handbills, and other similar matter on lawns, porches, yards, sidewalks, steps, streets, alleys, public ways or in or upon automobiles while parked on the streets, alleys or public ways, or public parking lots in the city of Taylor, by any person, firm, co-partnership, association, or corporation, is hereby declared to be a nuisance and unlawful.

103.0208 HEAVY VEHICLES

No person, firm, or corporation shall move, or cause to be moved, over the paved streets, sidewalks, crosswalks, culverts, bridges and viaducts, within the

city of Taylor, any engine, tractor, wagon, truck, or other vehicle, object, or thing, which will tend to injure the paving, sidewalks, crosswalk, culvert, bridge or viaduct over which the same are transported, or which exceeds, in weight 14,000 pounds per axle and exceeds 300 pounds per inch of tire width, 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 governing body and, in addition thereto, shall pay or cause to be paid to said city, upon demand, any and all damages done to the paving, sidewalks, crosswalks, culverts, bridges or viaducts. Provided that when the specified load limits herein contained will cause damage to the city paved streets, the governing body by resolution adopted, and made public, may lower said load limits for such period of time it may deem necessary. The provisions of this section shall not apply to state and federal highways through the city.

103.0209 REMOVAL OF SNOW AND ICE FROM SIDEWALK

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the city of Taylor 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; provided, however, that 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 article.

103.0210 REMOVAL OF SNOW AND ICE BY CITY

In case the owner of any lot in the city refuses or neglects to remove such ice from such sidewalk in front of or along a lot therein, the ice or snow therefrom within the time above stated or refuses to sprinkle ashes or sand on the same within the time specified for removal in such manner as to make such sidewalk safe for travel of pedestrians thereon, the same may be removed by or under the direction of the city engineer or street commissioner of the city, or ashes or sand sprinkled thereon and the necessary expenses thereof shall be charged against the abutting property by special assessment thereof in the manner prescribed by law.

103.0211 STREET CLEANING - SNOW REMOVAL

Whenever, in the judgment of the governing body or the city engineer or street commissioner of the city, it shall be necessary that streets, alleys, or public ways in the city 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.

103.0212 SAME: NOTICE

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 street commissioner the area and streets to be cleared of snow or ice or cleaned as aforesaid and the time during which such snow and ice removal and street cleaning shall be done and posting of such information in the area affected.

103.0213 IMPOUNDING

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

103.0214 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 or said street, alley, lane, or avenue, so as to prevent the free passage of persons traveling or passing on foot.

103.0215 EXCAVATIONS - PERMIT

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley or other public place in the city without having obtained a permit as is herein required, or without complying with the provisions of this article or in violation of or variance from the terms of any such permit.

103.0216 EXCAVATIONS - APPLICATION

Applications for such permits shall be made to the auditor, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose therefor, and the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for whom or which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done.

103.0217 EXCAVATIONS - DEPOSIT

No such permit shall be issued unless and until the applicant therefor has deposited with the auditor a cash deposit or bond in the sum of \$500.00, if no pavement is involved, and if the excavation is in a paved area, to insure the proper restoration of the ground and laying of the pavement if any. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement and of making the refill if this is done by the city or at its expense, and the balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

103.0218 EXCAVATIONS - MANNER OF

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 therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and in excavations the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or tunnels; and notice shall be given to the persons maintaining any such pipes, cables or conduits or to the city department or officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel before such pipes, cables or conduits shall be disturbed.

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

103.0219 EXCAVATIONS - RESTORATION

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 relaid by the applicant, in compliance with the ordinances of the city and under the supervision of the commissioner of streets or city engineer.

103.0220 EXCAVATIONS - SUPERVISION

The commissioner of streets or the 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 him at least ten hours before the work of refilling any such tunnel or excavation commences.

ORDINANCE NUMBER 103-0222

AN ORDINANCE GRANTING A FRANCHISE TO A CABLE TV COMPANY, ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A COMMUNITY TELEVISION ANTENNA SYSTEM IN THE CITY OF TAYLOR, NORTH DAKOTA.

BE IT ORDAINED BY THE TAYLOR CITY COUNCIL.

Short Title:

This Ordinance shall be known and may be cited as the:

"Cable Television Franchise Ordinance."

I. DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When inconsistent with the context, words used in the present tense include the future, words in the plural include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of TAYLOR
- (2) "Company" a firm authorized by City Council.
- (3) "Council" is the Board of City Council persons of TAYLOR
- (4) "Person" is any firm, person, partnership, association, corporation, company or organization of any kind.

II. GRANT OF AUTHORITY

WHEREAS, the application of the Company for a Franchise or a Community Television System in the City has been on file since 4 September 1984 in the office of the City Auditor, together with a proposed rate schedule and said application and proposed rate schedule having been available for public inspection since said date; and

WHEREAS, the Council at regularly scheduled and fully public proceedings affording due process to all persons, having duly investigated and approved the Company's legal status, the character and reputation of its officers and majority stockholders, the technical and other qualifications of said Company and its personnel and having further investigated and approved the adequacy of feasibility of the proposed construction and construction arrangements of said system,

NOW THEREFORE, There is hereby granted by the City to the Company the right and privilege to construct, erect, operate, and maintain in upon, along across, above, over and under all the streets, alleys, public ways and

public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a community cable TV system for the interception, sale and distribution of television and other signals.

(1) Non-Exclusive Grant: The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive and the City reserves the right to grant similar use of said streets, alleys, public ways and places to any person at any time during the period of this Franchise.

(2) Compliance With Federal Regulations: Any modifications of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission relating to Cable Television Service shall be incorporated into the franchise granted hereunder within one year of the adoption of such modification or at the time of franchise renewal, whichever occurs first.

III. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall, at all times during the life of this Franchise be subject to all lawful exercise of the police power of the City, and to present ordinances and such reasonable regulation as the City shall hereafter by ordinance provide.

IV. CONSTRUCTION STANDARDS

(1) All construction of the Company, including installation, shall conform to the National Electric Safety Code, the statutes of the State of North Dakota and the ordinances of the City. The Company shall provide the City with a map designating the location of cable television facilities and said map shall be available for public inspection.

(2) All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the right of reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(3) In case of any disturbance of pavement, sidewalk, driveway or any other surfacing, Company shall, at its own cost and expense, and in a manner approved by the City Engineer, replace and restore all such disturbed areas in as good as condition as before said work was commenced and shall maintain the restoration in an approved condition for a period of at least one year thereafter.

(4) In the event that at any time during the period of this Franchise the City shall lawfully elect to alter or change the grade of any street, alley or other public way, the Company upon reasonable notice by the City, shall remove, relay and relocate its' poles, wires, cables, underground conduits, manholes and other fixtures at its own expense in locations to be approved by the City Engineer.

(5) The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrant or main and all such poles or other fixtures place in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of th lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways; provided, however, that the company will place all wires, cables, fixtures and other equipment underground when other telephone, telegraph or other electrical utilities services are so located in such area unless the company is specifically, by action of the council permitted to do otherwise where extreme hardship would result or where an underground installation is not workable. It is the intention of this section to require that any company granted a franchise hereunder use a portion of other utility poles already erected for the development of the company's aboveground distribution system, and no company shall be permitted to erect its own poles, except where existing utility poles are inadequate to handle the additional load and where the placing of such additional poles is specifically authorized by the council or its duly authorized representatives. Locations are to be approved by the City Engineer.

(6) The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or move its' wires to permit the moving of buildings. The expense of same shall be paid by the person requesting same and the Company shall have authority to require payment in advance and not less than forty-eight hours advance notice.

(7) The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of th eCompany. All such trimming to be done with the approval of and under the supervision of the Park Board and at the expense of the Company.

V.

SERVICE AND MAINTENANCE STANDARDS

The Company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as are, or may be set forth by the Council, or by the proper Federal and/or State regulatory body.

(1) The Company shall have a maintenance service readily available to subscriber upon telephone request. The Company shall employ at least one qualified technician to provide said maintenance within 48 hours of notification.

(2) Whenever it is necessary to shut off or interrupt for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as will cause the least amount of inconvenience to its' customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice to thereof to its' customers.

(3) The franchisee and franchisor have adopted a plan for the investigation and resolution of complaints regarding cable television complaints. This plan among other things requires that the system have available at all times an agent or service personnel to receive and handle service calls and complaints; and that all subscribers to the cable system shall be notified at the time of their initial subscription of the complaint procedures.

(4) The Company shall, upon the request of any subscriber, promptly remove all wires and equipment from the premises of such subscriber at no expense to such subscriber.

(5) The Company shall at all times operate the cable system so as not to interfere with existing reception and shall prevent radiation from Company's cables to the antennas in the City. In the event the Company's operation should interfere with existing reception or radiation should emit from Company's cables to the antennas in the City and the same is not corrected within a reasonable time after the Company shall have been notified of said, then, in that event, Council of the City may terminate this Franchise.

(6) Installation and maintenance of equipment shall be such that standard color signals shall be transmitted to any subscriber receiver.

(7) Company shall install a system hereunder capable of distributing up to 12 television channels in accordance with the best accepted standard of the industry.

VI. FRANCHISE FEES : None

VII. TERM OF FRANCHISE

(1) The Franchise and rights herein granted shall take effect in force from and after the final passage hereof, as required by law, except as otherwise provided, and shall continue in force and effect for a term of (15) fifteen years, five years renewable from the effective date of this franchise.

(2) The Franchise granted hereunder may be revoked by the City in the event the Company fails to commence significant construction within one hundred eighty(180) days of the granting of the franchise.

VIII. INDEMNITY AND INSURANCE

The Company shall indemnify and save the City harmless from any and all liability, damage or expense from accident or damage either to itself or persons or property of other, which may occur by reason of the Company's activities in th cable television busienss. For this purpose and prior to commencing construction of any kind, the Company shall have in full force and effect and thereafter so maintain and file evidence thereof with the City a good and sufficient policy of insurance with liability limits of \$100,00.00 for propety damage, \$250,000.00 for bodily infury to each person and \$500,000.00 for each accident. The said policy shall protect the City from an against any kind or description which may accrue to or be suffered by the City by reason of the construction, maintenance or operation of Company's facilities.

IX. RECORDS AND REPORTS

(1) The City shall have access at all reasonable hours to all of the Company customer and servie records relating to the property and the operation of th Company and to all other records required to be kept hereunder. The following recrods and reports shall be filed with th City Auditor:

(a) Copies of such rules and regulations as may be adopted by the Company for the conduct of its' business.

*M.V. Aud.
CD*

~~(1) A list of subscribers be submitted to City annually with payment fee.~~

X. PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED

The Company shall not, as to rates, charges, service facilites, rules, regulations, or in any other erspect, make or grant any preferences or advantages to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this Franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

XI. EXTENSION POLICY

(1) The Company is to have completed construction of energized trunk cables throughout the franchise area within one year of the date of the granting of the franchise.

(2) Subsequent extensions proposed by the Company shall be submitted to and approved by the City as follows:

The Company shall file with th City Council its' plan setting forth the stages by which it intends to extend its service into the newly annexed areas of the City. This has been formulated by the Company. No installation of facilities shall

commence until the Commission has approved the extension plan. Upon the approval by the Commission for the plan the Company shall complete the same within six months of such approval. If Council does not approve said plan, negotiations between the Company and the City, in conjunction with public proceedings shall be carried on until an acceptable policy can be determined and approved.

XII: EXTENSION BY ANNEXATION

Upon the annexation of any territory to the City, the portion of any said system that may be located or operated within such territory and upon the streets, alleys or public ground thereof, shall thereafter be subject to all terms of this grant as though it were an extension made thereunder.

XIII. APPROVAL OF TRANSFER

The Company shall not sell or transfer its' plant or system to another, nor transfer any rights under the Franchise to another without Council approval. Further, no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the City Auditor an instrument, duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the Franchise and agreeing to all the conditions thereof.

XIV. CITY RIGHTS IN FRANCHISE

(1) The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power and in the exercise of this power over the franchise that is granted; provided, that such regulations, by ordinance or otherwise, shall be reasonable and shall not be in conflict with the laws of the state.

(2) The City shall have the right during the life of the franchise, free of charge ^{where} aerial construction exists, of maintaining upon the poles of the company within the city wire and pole fixtures necessary for a police and fire alarm system; such wires and fixtures shall be constructed and maintained to the satisfaction of the company and in accordance with its specifications. The city in its use and maintenance of such wires and fixtures shall at all times comply with the rules and regulations of the company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the company and the wires and fixtures used by the city. The city shall be solely responsible for all damage to persons or property arising out of the construction or maintenance of such wires and fixtures authorized by the section and shall save the company harmless from all claims and demands whatsoever arising out of the attachment, maintenance, change or removal of such wires and fixtures to the poles of the company. In case of rearrangement of the company plant or removal of poles or fixtures, the city shall

save the company harmless from any damage to persons or property arising out of the removal or construction of the wires or other fixtures belonging to the city.

(3) The City shall have the right to supervise all construction or installation work performed subject to the provisions of this chapter and to make such inspections as it shall find necessary to ensure compliance with governing laws, ordinances and resolutions.

(4) Upon the revocation or termination of the franchise granted hereunder, the City shall have the right to determine whether the company may continue to operate and maintain its distributing system pending the decision of the City as to the future maintenance and operation of such system.

(5) Should any company fail or refuse to reasonably comply with all of the provisions of this chapter or any other rules, regulations, ordinances or resolutions enacted by the City or with any state law or rules or regulations promulgated pursuant to state law or laws, rules or regulations issued pursuant to the laws of the United States or any of its duly authorized agencies or boards, the Council shall have the power and authority, upon reasonable notice to such company and upon its failure thereafter to comply, to revoke or suspend, in the sole discretion of the council, the franchise granted hereunder.

XV. COMPANY RULES

The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonable necessary to enable the Company to exercise its rights and perform its obligations under this Franchise and to assure an uninterrupted service to its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of the laws of the State of North Dakota and, if required by law, shall be subject to approval by the proper Federal and/or State regulatory body.

XVI. RATES Chg.

The rates and charges to the subscribers of the Company shall be no greater than stated in the application of the Company for a franchise on file with the City Auditor. No increase in such rates or charges to subscribers shall be allowed except as authorized by the Council of the City of Taylor, North Dakota, and then only after an appropriate public hearing affording due process; provided, however, that at no time during the term hereof shall the monthly rates to subscriber exceed the sum of \$25.00

XVII. SEPARABILITY

If any section, sub-section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

XVIII. EFFECTIVE DATE

This Ordinance shall be in full force and effect after its passage and approval.

Councilperson Gerald Rice introduced the following Ordinance and moved its adoption:

The following councilpersons voted in favor Lorion Vaagen, Robert Sutton, James Wolf, Gerald Rice.

The following voted against -0-.

The above Ordinance was declared duly passed.

First reading Sept. 3, 1985

Second reading Oct. 7, 1985

CITY OF TAYLOR

BY Roxanne Zimmerman

ATTEST:

Marlye Vaagen, Auditor

Clyde D. Schollmeyer

Roxanne Zimmerman
WITNESS

Article 3

HOUSE NUMBERING

103.0301 HOUSE NUMBERING REQUIRED

All lots, buildings and structures in the city shall be numbered in accordance with the following plan:

- A. Oak street shall serve as the general division between the west side of Taylor and the east side of Taylor. On this street and all others running in a north south direction the following numbering scheme shall apply to houses located thereon: Houses on the west side of each street shall have odd numbers, houses on the east side shall have even numbers.
- B. Main street shall serve as the general division between the north side and the east side of Taylor. On this street and all others running in an east west direction the following numbering scheme shall apply: Houses on the north side of each street shall have odd numbers, houses on the south side shall have even numbers.

103.0302 NUMBERS ON HOUSES

It shall be the duty of the owners and occupants of every house in the city to have placed thereon, in a place visible from the street, figures at least two and one-half inches high, showing the number of the house.

Article 4

UNCLAIMED AND ABANDONED PROPERTY

103.0401 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.

103.0402 UNCLAIMED AND ABANDONED PROPERTY - SEIZURE OF

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, street commissioner or other officer of the city.

103.0403 UNCLAIMED AND ABANDONED PROPERTY - HOLDING - NOTICE AND SALE

Such personal property as aforesaid shall be held by the city for a period of not less than ninety (90) days, after its seizure as provided herein and, after the expiration of said ninety (90) days the city auditor shall cause notice to be published in the official paper 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 fifteen (15) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held.

103.0404 UNCLAIMED AND ABANDONED PROPERTY - REPORT OF 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 and within three (3) days after the date of said sale, the officer making the sale shall make a report thereof to the governing body, which 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 therefor, said 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 and such officer, with said report, shall pay to the city auditor the proceeds of said sale.

103.0405 UNCLAIMED AND ABANDONED PROPERTY - BILL OF SALE

Upon the receipt of the report as specified in Section 103.0404 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.

103.0406 UNCLAIMED AND ABANDONED PROPERTY - PROCEEDS OF SALE

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 the 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.

103.0407 UNCLAIMED AND ABANDONED PROPERTY - REDEMPTION

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.

Article 5

103.0501 Part 1 ESTABLISHING PROHIBITION OF VIEW OBSTRUCTIONS INCLUDING TREES AND SHRUBS, ON STREET RIGHTS-OF-WAYS; ESTABLISHING TREE PRESERVATION AND PROTECTION; AND PROVIDING PENALTY FOR VIOLATIONS.

A. Definitions

1. City is the city of Taylor, county of Stark, state of North Dakota.
2. Person is any person, firm, partnership, association, corporation, company or organization of any kind.
3. Street refers to the entire width of every public way or right of way open for the purposes of vehicular and pedestrian traffic, including sidewalks and boulevards.
4. Public trees are all shade and ornamental trees now or hereafter growing on any street or in any public place or park.
5. Public places include all property owned by the city.
6. Opaque objects include all objects through which clear visibility cannot be obtained.

B. Nonliability of City

Nothing in this ordinance shall be deemed to impose any liability upon the city or upon any of its officers or employees nor to relieve the owner of any private property from the duty to keep trees or shrubs upon private property or under his control in a safe condition.

C. Separability

Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

D. Administration

The city council or its appointee shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of public trees to insure safety or to preserve the aesthetics of public places. The city council or its appointee shall also have the authority to regulate opaque objects when in violation of this ordinance. The city council or its appointee is responsible for the enforcement of this ordinance.

E. Public Safety and Protection of Property

1. Hazards Defined and Prohibited

All trees, shrubs, and opaque objects within the city shall be pruned or removed when such trees, shrubs or opaque objects constitute a hazard to life and property, or harbor insects or disease which constitute a threat to other trees and shrubs within the city. Such hazards include:

- a. Any tree, shrub, or hedge, or any part of such, which is diseased or overaged and is clearly deteriorating.
- b. Any living or standing elm tree (*Ulmus spp*) or part of any tree infected to any degree with the 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*).
- c. 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.
- d. Any tree, shrub, hedge, or opaque object, or any part of such, 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. All branches extending from tree trunks less than eight (8) feet above the ground shall be removed and all overhanging branches shall be pruned so as to maintain a minimum of twelve (12) feet vertical clearance above the established street grade.

The maintenance of any of the above hazards shall be unlawful and shall be a violation of this ordinance.

2. Notice to Remove Such Hazards.

The city shall have the power and authority to prune or remove, or order the pruning or removing of any such trees, shrubs or opaque objects on private property. The city council or its appointee shall notify a property owner in writing to prune or remove any such trees, shrubs or opaque objects on the owner's property, at the owner's expense within ten (10) days after notification. Said notification shall be sent by certified mail, return receipt requested and the ten (10) days shall begin on the date of receipt, if signed for, or mailing, if refused.

3. Action of City Upon Noncompliance: Costs.

Upon the failure, neglect or refusal of any owner so notified to

prune or remove the specified trees, shrubs or opaque objects, the city council or its appointee shall have the authority to prune or remove the specified trees, shrubs or opaque objects. Actual cost thereof shall be billed to the property owner. If the costs of remedying the condition are not paid within thirty (30) days after receipt of a statement from the city auditor, the amount shall become a lien upon the property to be included in the next tax bill rendered to the property owner and shall be assessed and collected in the same manner as other taxes against such property.

4. Inspection and Investigation

The city council, its employees or agents are authorized to inspect all premises and places within the city as often as practicable to determine whether any condition described in part E., 1. exists therein. The city council, its employees or agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to them under this ordinance.

5. Outside Storage of Wood

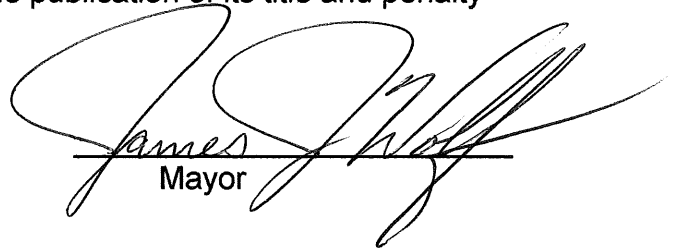
Any outside storage of wood, including cut trees used for fuel, shall be elevated off the ground at least six (6) inches to provide sufficient clearance for ventilation and to deter infestation and inhabitation by rats and other vermin.

F. Penalty for Violation of Ordinance

Any person who violates or fails to comply with any provisions of this ordinance shall be subject to a fine of not more than five hundred dollars (\$500.00).

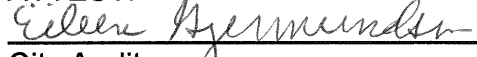
G. Effective Date

This ordinance shall be in full force and effect from and after its final passage and approval and the publication of its title and penalty clause.



Mayor

ATTEST:



City Auditor

Introduction and First Reading: September 4, 2001

Second Reading: October 1, 2001

Final Passage: November 5, 2001

Publication Date: December 3, 2001

Article 5

103.0501 Part 2 ESTABLISHING A "CITY TREE COMMITTEE"; PROTECTING THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY PROVIDING FOR THE REGULATION OF THE PLANTING, MAINTENANCE AND REMOVAL OF TREES, SHRUBS AND OTHER PLANTS WITHIN THE CITY OF TAYLOR, NORTH DAKOTA; SETTING GUIDELINES FOR THE STORAGE OF FIREWOOD WITHIN THE CITY LIMITS.

A. Definitions

1. City is the city of Taylor, county of Stark, state of North Dakota.
2. Person is any person, firm, partnership, association, corporation, company or organization of any kind.
3. Street refers to the entire width of every public way or right of way open for the purposes of vehicular and pedestrian traffic, including sidewalks and boulevards.
4. Public trees are all shade and ornamental trees now or hereafter growing on any street or in any public place or park.
5. Public places include all property owned by the city.
6. Opaque objects include all objects through which clear visibility cannot be obtained.

B. Nonliability of City

Nothing in this ordinance shall be deemed to impose any liability upon the city or upon any of its officers or employees nor to relieve the owner of any private property from the duty to keep trees or shrubs upon private property or under his control in a safe condition.

C. Separability

Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

D. Administration

1. General

The city council or its appointed Tree Committee shall have the authority and jurisdiction of regulating the planting, maintenance and removal of public trees to insure safety or to preserve the aesthetics of

public places. The city council or its appointee shall also have the authority to regulate opaque objects when in violation of this ordinance. The city council or its appointee is responsible for the enforcement of this ordinance.

2. Creation and Establishment of a Tree Committee

There is hereby created and established a Tree Committee for the city of Taylor, North Dakota, which shall consist of five (5) members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the council. The Tree Committee should be citizens with consideration to those who have knowledge of or interest in public tree maintenance, park or recreation members as well as citizens with nursery background.

3. Term of Office

The term of the five individuals to be appointed by the Mayor shall be three (3) years, except that the term of two (2) of the members appointed to the first Committee shall be for only one (1) year and the term of two members of the first Committee shall be for two (2) years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

4. Compensation

Members of the Committee shall serve without compensation.

5. Duties and Responsibilities

a. It shall be the responsibility of the Committee to study, investigate and develop and/or update annually a written plan for care, preservation, trimming, planting, replanting and removal of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive annual forestry work plan for the city of Taylor, North Dakota.

b. The Tree committee, or its agent, shall be responsible for overseeing the planting, pruning and removal of all trees located within the street rights-of-ways, easements, alleys and parks of the city. The owner of land abutting on any street may, when acting within the provisions of this ordinance, prune, spray, plant or remove trees in that part of the street abutting his land not used for public travel. a street tree permit shall be required only when the owner of the property intends to deviate from the rules and regulations contained in this ordinance.

E. Operation

The Tree Committee shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

F. Street Tree Species to be Planted

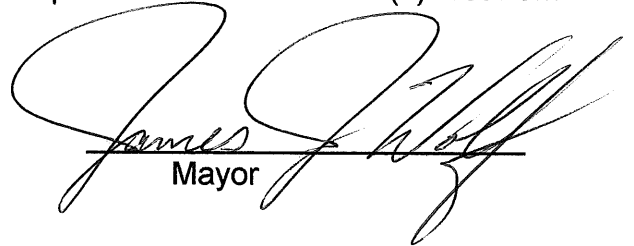
The Tree Committee will formulate an official street tree species for Taylor, North Dakota. The list of allowable species shall be broken down into categories of small, medium and large trees. Street trees of any species will only be planted when there is adequate space available. No species other than those included in this list may be planted as street trees without written permission of the Tree Committee,

G. Spacing

The spacing of street trees will be in accordance with the three species size classes listed in part F of this ordinance, and no trees may be planted closer together than the following: small trees, twenty (20) feet; medium trees, thirty (30) feet; and large trees, forty (40) feet. Trees will be planted a minimum of twenty-five (25) feet back from any corner bordering a street intersection.

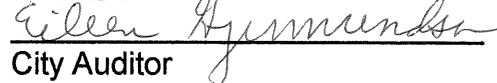
H. Distance from Curb and Sidewalk

The distance trees may be planted from curb lines and sidewalks will be in accordance with the three species size classes listed in part F of this ordinance, and no trees may be planted closer than four (4) feet from any curb.



Mayor

ATTEST:



City Auditor

Introduction and First Reading: November 5, 2001

Second Reading: December 3, 2001

Final Passage: December 3, 2002

Publication Date: December 22, 2001