

**HASTINGS CITY COUNCIL
WORKSESSION AGENDA**

**Council Chambers – City Hall
220 North Hastings Avenue
July 20, 2020
5:30 PM**

ROLL CALL:

MOTION TO ADOPT CURRENT AGENDA for July 20, 2020 Worksession.

PUBLIC NOTICE - Official Notice of the Worksession was published in the Hastings Tribune on Friday, July 17, 2020. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is available. Also, a current copy of the Nebraska Open Meetings Act is posted and accessible to members of the public.

DISCUSSION ITEMS

1. Discussion on City Communications.
2. Review of City Code Chapters 23-Parks and Cemeteries, 24-Lake Hastings and 39-Trees and Shrubs.
3. Discussion of Block Party Policy.

ADJOURN:

The Mayor and City Council reserve the right to enter into an executive session at any time during the meeting, in accordance with the Nebraska Open Meetings Act, even though the closed session may not be indicated on the agenda.

It is the intention of the Mayor and City Council to take up the items on the agenda in sequential order. However, the Mayor and City Council reserve the right to take up matters in a different order to accommodate the schedules of the city council members, person having items on the agenda, and the public.

From: Clint Schukei
Sent: Wednesday, July 1, 2020 5:13 PM
To: David Ptak
Cc: Michaela Borrell
Subject: Public Record/Communication Issues

Dave,

I have been asked to comment on communication concerns resulting from the use of multiple email accounts. This most often occurs where an elected official uses not only their City assigned email to them but also utilizes their personal or business email account for public business. Employees might also utilize multiple accounts. There are several challenges that come about from utilizing multiple communication methods and/or accounts. I see concerns in two main areas. The two areas are (1) the effectiveness of public communications themselves and (2) public record issues that result from using multiple accounts.

COMMUNICATIONS

Obviously, the utilization of multiple accounts creates some opportunity for errors and miscommunication. It is important that there are clearly articulated preferred methods of conversation and that everyone knows both where to send and where to receive communication about City actions. What those preferred communications should be is a policy decision. I would anticipate that policy decisions would be based on such things as best practices, personal preferences, resource availability and other factors. Obviously, there would be less confusion possible with a single uniform source that leaves the users responsible for managing the communication sent to them. Anecdotally, I know of an elected official in another city that requested that all communication directed to him be sent to three or four different email accounts and via text to two different phone numbers. That sort of request makes it very difficult for the sender of messages to communicate effectively. A clear policy with clear expectations would be helpful to assure that good communication occurs.

PUBLIC RECORDS

Using multiple accounts for City business creates several public record related issues. Public records include any record related to City business or records created using City equipment or resources. Common public record issues involve record retention and difficulties in producing City documents when required because of a public record request, litigation or even as part of a response to a complaint made by a citizen to a federal or state agency.

We must recognize that there are state statutes that require retention of records for a certain period of time. This relates to paper records, emails and text messages. Furthermore, the retention requirements are required without regard to whether it is an email on the City of Hastings account, a private email account, or text messages. The need to access these various communication may result from a simple public record request, litigation or perhaps a request from a state or federal agency in response to a complaint from a citizen. Emails ending with "@cityofhastings.org" are archived. Emails on individual or business email account are obviously not archived by the City. It is extremely desirable that all communication methods utilized have some sort of archival mechanism.

Everyone needs to be aware that utilization of any private or business communication account makes that account subject to public records requests and discoverable in any litigation. The utilization of private accounts could result in communications that the account holder may not want to have needing to be turned over as part of litigation or other records search. This is troublesome because no one wants to have others sorting through their private emails. There is potential for things to get messy when asking employees or officials to make their private accounts available so that they can be searched to determine the presence of public records in those various accounts.

Still more difficult are text messages. They are most times on private devices and accounts and are not archived or you have to go through a service provider to obtain. They present special challenges that are very difficult to address. The Nebraska Attorney General has determined that text messages are public records. The best advice is to avoid use of text messaging absent an archival system. Obviously refraining from use of text messages has become very difficult in contemporary society.

CONCLUSION

City officials and staff need to be aware of the challenges regarding communication and public records. While we all enjoy the benefits of modern communication technology we need to work diligently to limit the exposure that technology and its utilization creates for both the City and the individual user. This is easier to accomplish if fewer accounts are used and if the accounts are archived.

Clint

Clint Schukei
City Attorney

CHAPTER 23

PARKS AND CEMETERIES.

Reference: Neb. Rev. Stat. Sections 16-241 to 16-245; Sections 12-401 to 12-403, and Sections 16-695 to 16-697.02.

Article I. Cemeteries.

- 23-101. Repealed. (Ord. No. 3685-6/99)
- 23-102. Repealed. (Ord. No. 3685-6/99)
- 23-103. Repealed. (Ord. No. 3685-6/99)
- 23-104. Damaging property, etc., in parks and cemeteries.
- 23-105. Perpetual Care Trust Fund.

Article II. Parks.

- 23-201. Parks; defined.
- 23-202. Parks; closing hours.
- 23-203. Parks; closing hours, exceptions.
- 23-204. Parks; special closing hours.

Article I. Cemeteries.

- 23-101. Repealed.** (Ord. No. 3685-6/99)
- 23-102. Repealed.** (Ord. No. 3685-6/99)
- 23-103. Repealed.** (Ord. No. 3685-6/99)
- 23-104. Damaging property, etc., in parks and cemeteries.**

No person shall cut down, injure or destroy any tree, plant or shrub, or shall injure or destroy any building, equipment, paraphernalia, marker to monument belonging to or under the supervision of the City and installed in its parks or cemeteries, or shall commit any waste of any kind therein.
(Code 1973, 9-4; Ord. No. 2259)

23-105. Perpetual Care Trust Fund.

There is hereby created a separate and distinct fund for the care and maintenance of Parkview Cemetery, to be known as the "Perpetual Care Trust Fund," which fund shall be administered as follows:

(1) The City Treasurer shall, as custodian of the Perpetual Care Trust Fund, receive by gift, grant, deed of conveyance, assignment, bequest or devise, money, stock, bonds or other valuable personal property, or real estate, from any person, firm or corporation for the purpose of endowing Parkview Cemetery with a permanent fund.

(2) All money and property received by the City Treasurer shall be held in trust in perpetuity and shall be maintained separate and distinct from any other funds of the City. The funds received shall be invested as conditioned by the donor, or as directed by the Perpetual Care Trust Fund Board.

(3) The Perpetual Care Trust Fund Board shall consist of the Mayor, Treasurer and Clerk of the City of Hastings. The principal of the Perpetual Care Trust Fund shall be invested and, from time to time reinvested, and kept invested, by the Board in securities authorized by Neb. Rev. Stat. 1943, Section 24-601.04 (Reissue 1979).

(4) The income derived from the investment of said trust fund shall be used solely for the general care, maintenance, ornamentation and embellishment of Parkview Cemetery, and shall be applied in such manner as the Perpetual Care Trust Fund Board may from time to time determine to be for the best interests of Parkview Cemetery. The Board shall in all cases abide by the wishes of the donor in applying the income derived from bequests or donations accompanied by conditions of special directions.

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(Code 1973, 9-5; Ord. No. 2772)

Article II. Parks.

23-201. Parks; defined.

Parks shall mean and include any park, playground, swimming pool, recreation center, or any other park or recreational use or facility within or without the limits of the City, which is under the City ownership or control.

(Ord. No. 2870)

23-202. Parks; closing hours.

Except as hereinafter provided, all parks shall be opened daily to the public during the hours of 6:00 a.m. to ~~11:30 p.m.~~ (11:00 p.m). It shall be unlawful for any person to occupy or be present in any park during any hours during which said park is not opened to the public.

(Ord. No. 2870)

Comment [J1]: 11:00 pm

23-203. Parks; closing hours, exceptions.

~~(1) Lake Hastings.—Persons utilizing the Lake Hastings public areas for camping or fishing shall be exempt from the foregoing closing hours.~~

(2) Special exceptions. The City Council or the Director of Parks and Recreation may, upon request by any resident of the City of Hastings, grant exceptions to the normal park closing hours for special activities, or where special circumstances arise.

(Ord. No. 2870)

23-204. Parks; special closing hours.

Any park may be declared closed to the public by the Mayor or the Director of Parks and Recreation at any time or at regular or stated intervals when necessary for:

- (1) The care and maintenance of the parks; or
- (2) The health, safety and welfare of the public; or
- (3) The protection or preservation of park property.

When so closed, the Director of Parks and Recreation shall cause notice to be posted at the entrance of said park to notify the public that the park is closed, and when so posted it shall be unlawful for any person to enter said park; and it shall be unlawful for any person to remain in said park after oral notice by the Director of Parks and Recreation, or any police officer of the City of Hastings, or other duly authorized representative of the Director of Parks and Recreation, that said park is closed, regardless of whether or not any signs have been posted.

(Ord. No. 2870)

As a result of the latest revisions, pages 201-202 have been deleted.

CHAPTER 24

LAKE HASTINGS.

Reference: As to permissible methods of fishing, see 10-118 of this Code.

Article I. In General.

- 24-101. Camping -- Length of stay.
24-102. Same -- Adoption of rules and regulations.

Article II. Boats and Boating.

- 24-201. Definitions.
24-202. Licenses and permits.
24-203. Applicability of chapter to exhibition boats.
24-204. Reckless operation; speed restrictions.
24-205. Operating under influence of alcohol or narcotics.
24-206. Equipment generally.
24-207. Mufflers, sirens, horns, etc.
24-208. Use of search lights.
24-209. Lights.
24-210. Disturbing endangering, etc., other boats.
24-211. Mooring at private docks without permission.
24-212. Health and conduct rules.
24-213. Erection of docks or other structures.
24-214. Rules and regulations generally.
24-215. Establishing of rules by resolution of city council.
24-216. Inspection of boats.
24-217. Lake patrol officer.
24-218. Responsibility of owner.
24-219. Penalties.

Article I. In General.

~~24-101. Camping -- Length of stay.~~

~~The maximum length of time that any person shall continuously camp or maintain a camp at the public park area at Lake Hastings shall be seventy-two hours:
(Code 1973, 18-1; Ord. No. 2387)~~

24-102. Same -- Adoption of rules and regulations.

~~The City Council may by resolution from time to time establish such rules and regulations for the use of the public park area at Lake Hastings by campers as it deems proper and such rules and regulations shall have the full force and effect of ordinance duly adopted upon the posting of such rules and regulations in a conspicuous place at Lake Hastings:~~

The City Council authorizes the adoption of the Nebraska State Boat Act of 1994 (Chapter 37 of Nebraska Revised Statutes) and all subsequent changes by reference. Any violation of the Nebraska State Boat Act and subsequent changes shall constitute a violation of this section.
(Code 1973, 18-2; Ord. No. 2387 and 3851-2/2002)

Article II. Boats and Boating.

Reference: See Neb. Rev. Stat. 1943, Section 37-1201 et seq.

24-201. Definitions.

Comment [JH1]: We would like to eliminate camping in Parks. The camping has attracted the homeless population which has presented problems for park neighbors, park users, and law enforcement.

Hastings City Code

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Boat shall mean any watercraft in or upon or docked or moored in any place in the waterway known as Lake Hastings.

Vessel shall mean every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Motorboat shall mean any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors.

Personal watercraft shall mean a class of motorboat less than sixteen feet in length which uses an internal combustion engine powering a jet pump as its primary source of motive propulsion and is designed to be operated by a person sitting, standing, or kneeling on the watercraft rather than in the conventional manner of boat operation.

Lake shall mean the surface water area of the lake known as Lake Hastings.
(Code 1973, 18-3; Ord. No. 1840 and 3851-2/2002)

24-202. Licenses and permits.

(1) No person shall operate any boat or personal watercraft (jet ski) powered by an internal combustion gasoline engine upon Lake Hastings without a permit for said boat. Permits shall be issued by **persons designated by the City Administrator (the Parks & Recreation Department)** upon payment of a fee established by the provisions of the City Council Fee Resolution in effect at the time of the application for the permit.

Comment [J2]: The Parks & Recreation Department

(2) No person shall operate any boat upon Lake Hastings without any license or certificate required for said boat by state or federal law or regulation, and proof of successful completion of an approved Nebraska Boaters Safety Course or its equivalent. Persons operating a boat upon Lake Hastings shall carry proof of course completion at all times and present proof to any law enforcement or lake patrol officer upon demand.

(3) No person convicted of or any owner of a watercraft operated by a person convicted of violating Sections 24-204. Reckless operation; speed restrictions; 24-205. Operating under influence of alcohol or narcotics; and/or 24-210. Disturbing, endangering, etc., other boats shall be allowed to operate upon Lake Hastings for the remainder of the calendar year and the following calendar year.
(Code 1973, 18-4; Ord. Nos. 1840, 3322-5/93 and 3851-2/2002)

24-203. Applicability of chapter to exhibition boats.

The provisions of this Chapter shall not be construed to prohibit the running or racing of any exhibition boats, muffled or unmuffled, during a publicly announced, properly authorized and supervised and adequately patrolled regatta or speed trial or exhibition.
(Code 1973, 18-6; Ord. No. 1840)

24-204. Reckless operation; speed restrictions.

No person shall operate a boat in a careless or reckless manner or at an excessive rate of speed so as to endanger or be likely to endanger the life or property of any person, having due regard for the presence of other boats or persons or other objects in or on the lake, nor shall any such person operate any boat at a speed which causes waves to damage docks or boats moored to docks along the lake. All boats shall reduce speed to a maximum of five (5) miles per hour when approaching or leaving the City docks or when within ninety (90') feet of the shore line; those boats leaving the docks shall have the right-of-way.
(Code 1973, 18-7; Ord. No. 1840 and 3851-2/2002)

24-205. Operating under influence of alcohol or narcotics.

No person shall operate a boat while under the influence of intoxicating liquor, narcotic drugs or opiates.
(Code 1973, 18-8; Ord. No. 1840)

24-206. Equipment generally.

No person shall operate a boat which does not meet all applicable equipment requirements of the United States Coast Guard and the State of Nebraska.

Lake Hastings

(Code 1973, 18-9; Ord. No. 1840)

24-207. Mufflers, sirens, horns, etc.

No person shall operate a boat with outboard motor or inboard motor unless equipped with an adequate muffled exhaust. No person shall use any siren or other noise producing or noise amplifying instrument on a boat in such manner that the peace and good order of the neighborhood is disturbed; provided, that nothing in this Article shall be construed to prohibit the use of whistles, bells or horns as signals as required by United States Motorboat Act or other state or federal law for the safe navigation of boats.

(Code 1973, 18-10; Ord. No. 1840)

24-208. Use of search lights.

No person operating a boat shall use search lights indiscriminately or in such manner as to annoy or disturb other persons or boats.

(Code 1973, 18-11; Ord. No. 1840)

24-209. Lights.

No person in charge of any boat in operation on the lake or moored in any dock shall allow the same to operate or remain during the nighttime unless properly lighted in compliance with applicable U.S. Coast Guard Regulations.

(Code 1973, 18-12; Ord. Nos. 1840)

24-210. Disturbing, endangering, etc., other boats.

No person shall operate a boat in such a manner as to unjustifiably or unnecessarily annoy or frighten or endanger the occupants of any other boat or throw up a dangerous wake when approaching another boat.

(Code 1973, 18-13; Ord. No. 1840)

24-211. Mooring at private docks without permission.

No person shall moor a boat to a private dock or beach it upon private property without the permission of the owner thereof.

(Code 1973, 18-14; Ord. No. 1840)

24-212. Health and conduct rules.

Persons in charge of or occupying boats docked at or moored to land or docks abutting the lake shall observe all the health and sanitary regulations of the City and all provisions of this Code or other ordinances of the City relating to the conduct of persons and prohibiting acts contrary to public health, moral safety or public peace. No waste material, refuse, bottles or sewage shall be discarded in the lake or park area adjacent thereto.

(Code 1973, 18-15; Ord. No. 1840)

24-213. Erection of docks or other structures.

No person shall erect or maintain any dock or other structure without securing a permit therefor from the City. No permit shall be issued for any such structure that would protrude more than six feet from the shore line of the lake. For the purpose of this Section, the shore line of the lake shall be construed to be at a contour level of one thousand nine hundred six feet.

(Code 1973, 18-16; Ord. No. 1840)

24-214. Rules and regulations generally.

The following rules and regulations for the use and operation of boats upon Lake Hastings shall apply:

(1) Launching. All boats shall be launched from the City launching ramps.

(2) Area of operation. No boat powered with a motor in excess of seven and one-half horsepower shall be operated where public notification thereof shall be posted.

Hastings City Code

(3) Traffic pattern. Power boats when placed in motion shall proceed to the traffic pattern and follow the same in a counter clockwise direction.

(4) Age of operators. No person under the age of fourteen years shall operate a motor boat of any class at any time whether accompanied by an adult or not. No person under sixteen years of age shall operate a motor boat over ten horsepower or more, unless operated in a training course under the direct supervision of an adult instructor who is at least twenty-one years of age. Direct supervision shall mean that the adult is accompanying the student upon the craft. Persons in training may not violate any other Nebraska laws regarding age limits or required education.

(5) Accidents. The operator of any boat involved in an accident resulting in injury or death to any person or in serious damage to property shall immediately stop such boat at the scene of such accident, shall give his name, address, the name and number of his boat and the name and address of the owner to the person struck or the operator or occupants of the watercraft collided with and shall render to any person injured in such accident reasonable assistance and shall promptly report such accident to the nearest or most convenient law enforcement agency.

(6) Restricted areas. No person shall operate a boat within a water area which has been clearly marked by buoys or some other distinguishing device as a bathing, swimming or other restricted area.

(7) Insurance. Each owner or operator of a boat on the lake, as herein defined, shall have in effect at all times of such operation a liability insurance policy in the minimum amount of ten thousand dollars.

(8) Water skiing rules.

(a) All ski tow boats shall follow a counter clockwise direction around the lake in the trafficway.

(b) When following another boat, the second boat shall stay at reasonable and safe distance behind the lead boat or skier.

(c) When skiing on one ski the discarded ski or disc shall not be dropped in the ski area trafficway.

(Code 1973, 18-17; Ord. Nos. 1840, 1903 and 3851-2/2002)

24-215. Establishing of rules by resolution of city council.

The City Council, by resolution, may from time to time establish such rules and regulations for the use of the public park area and lake as it may deem advisable and such rules and regulations shall have the full force and effect of ordinance duly adopted upon the posting of such rules and regulations in a conspicuous place at the City launching ramp. The City, by resolution, may from time to time establish and locate buoys and markers for the regulation of traffic upon the Lake, and any violation of the directions or restrictions thereby imposed shall be a violation of this Code.

(Code 1973, 18-18; Ord. No. 1840)

24-216. Inspection of boats.

(1) Any law enforcement officer or person with authority to enforce Lake Hastings regulations shall have the authority to inspect any boat in use upon or preparing for use upon Lake Hastings, shall have the duty and authority to enforce the provisions of this code and, in the exercise thereof, shall have the authority to stop and board any vessel subject to this Code.

(2) If any person with authority to enforce this Code observes a boat being used without sufficient life saving or fire fighting devices or in an overloaded or other unsafe condition as defined in the laws and regulations of the State of Nebraska or City of Hastings and in its judgment such use created an especially hazardous condition, he may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to the mooring and to remain there until the situation creating the hazard is corrected or ended.

(Code 1973, 18-19; Ord. No. 1903 and 3851-2/2002)

~~24-217. Lake patrol officer.~~

~~Each year, the Director of Parks and Recreation shall appoint a Lake Patrol Officer. The Lake Patrol Officer shall have police authority and shall be responsible for maintaining order and enforcing all regulations and City ordinances and regulations at Lake Hastings.~~

~~(Code 1973, 18-20; Ord. No. 1903)~~

Comment [J3]: No longer exists.

24-218. Responsibility of owner.

The owner of a boat shall be liable for any injury or damage occasioned by the negligent operation of such boat whether such negligence consists of a violation of the provisions of this Code or other ordinance of this City or the statutes of this State or in the failure to observe such ordinary care in such operation as the rules of the common law require. The owner shall not be liable, however, unless such boat is being used with his express or implied consent. It shall be presumed that such boat is being operated with the knowledge and consent of the owner if at the time of the injury or damage it is under the control of his wife, father, mother, brother, sister, son, daughter or other immediate member of the family.

(Code 1973, 18-21; Ord. No. 1840)

24-219. Penalties.

Any person who shall violate any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this Code, and in addition thereto may, in the discretion of the court having jurisdiction over the matter, be denied the privilege of operating any boat on the lake for a period not to exceed two years.

(Code 1973, 18-22; Ord. No. 1840)

Reference: As to general penalty, see 1-109 of this Code.

CHAPTER 39

TREES AND SHRUBS.

Reference: Neb. Rev. Stat. Section 16-248.

Article I. In General.

- 39-101. Injuring prohibited.
- 39-102. Roots obstructing sidewalks, sewers, etc.
- 39-103. Street plantings -- Permit.
- 39-104. Street plantings -- Rules and regulations.
- 39-105. Same -- Marking of line for planting.

Article II. Diseased Trees.

- 39-201. Declared nuisances; removal generally.
- 39-202. Enforcement of article.
- 39-203. Notice for removal.
- 39-204. Removal from private lands.

Article III. City Tree Board.

- 39-301. Definitions.
- 39-302. Creation and establishment of a city tree board.
- 39-303. Term of office.
- 39-304. Compensation.
- 39-305. Duties and responsibilities.
- 39-306. Operation.
- 39-307. Terrace tree species to be planted.
- 39-308. Distances and clearances for planting.
- 39-309. Public tree care.
- 39-310. Tree topping.
- 39-311. Clearance over streets and walkways.
- 39-312. Dead or hazard tree removal.
- 39-313. Access.

Article I. In General.

39-101. Injuring prohibited.

It shall be unlawful for any person to willfully, maliciously or wantonly cut down, destroy, by girdling or tapping, or otherwise injure any tree within the city, that is not owned by such person, unless permission to do so has been granted by the owner of such tree.
(Code 1973, 38-1)

39-102. Roots obstructing sidewalks, sewers, etc.

Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property, or wholly upon the abutting property, but so close to the lot line as to interfere with the making of any public improvement, or so that the roots thereof interfere with any sewer or drain, shall be deemed an obstruction under this chapter. Such roots may be removed by the street ~~(commissioner)~~ (superintendent) or ~~his~~ (his or her) duly authorized representative, at the expense of the owner, after the owner shall have failed or neglected after notice to do so.
(Code 1973, 38-2)

Comment [J1]: superintendent

Comment [J2]: his/her

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39-103. Street plantings -- Permit.

It shall be unlawful for any person to plant or cause to be planted, any tree or shrubbery in or upon any street right-of-way, parkway or other City owned property within the City, without first having obtained a permit in writing from the Director of Parks and Recreation to do so; and the terms of the permit shall be strictly followed by the person to whom it is issued. No tree or shrubbery of another or different kind shall be planted, and no tree or shrubbery shall be planted in another or different location than designated in the permit; provided, the requirement to obtain a permit shall not apply to employees of the City of Hastings when planting trees on behalf of the City.
(Code 1973, 38-3)

39-104. Street plantings -- Rules and regulations.

The Director of Parks and Recreation, in cooperation with the **City Engineer** (Tree Board), shall formulate rules and regulations for the planting of trees on City owned real estate. Said rules and regulations, and any amendments thereto, shall be approved by the Hastings City Council.

Comment [J3]: Delete and replace with Tree Board

39-105. Same -- Marking of line for planting.

It shall be the duty of the person about to plant trees on any City owned property, pursuant to the permit issued as required by Section 39-103, to call upon the **city engineer** (Parks Superintendent and/or Director of Parks & Recreation) who shall properly mark the line on which same may be planted.
(Code 1973, 38-4)

Comment [J4]: Delete and replace with Director of Parks & Recreation and/or Parks Superintendent

Article II. Diseased Trees.

Reference: Neb. Rev. Stat. Section 2-1001 et seq.

39-201. Declared nuisances; removal generally.

Trees of all species and varieties **{including elm, zelkova and planera, infected with the fungus Ceratostomella Ulmi, or}** which are in a dead or dying condition **{that may serve as breeding places for the European Elm Bark Beetle, Scolytus Multistriatus}** are hereby declared to be a public nuisance, and shall be removed and burned or buried.
(Code 1973, 38-5; Ord. Nos. 2163 and 2338)

Comment [J5]: Delete

Comment [J6]: Delete

39-202. Enforcement of article.

The Director of Parks and **Recreation** is charged with enforcement of this article, and to that end may enter upon private property at all reasonable hours for purposes of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine whether or not the same are infected. It shall be unlawful for any person to prevent the **{Director}** from entering on private property for purposes of carrying out his duties under this article, or to interfere with the **{Director}** in the lawful performance of his duties under the provisions of this article.
(Code 1973, 38-6; Ord. Nos. 2163, 2338, and 2814)

Comment [J7]: And/or Parks Superintendent

Comment [J8]: And/or Parks Superintendent

Comment [J9]: And/or Parks Superintendent

39-203. Notice for removal.

If trees on private property are found to be infected or in a dead or dying condition, the Director of Parks and Recreation shall give to the owner, tenant, agent or occupant of the premises where the same are situated, written notice by publication or personal service of the existence of such disease or of the dead or dying condition of such trees or parts thereof and require the removal and burning or burying of the same. Such notice shall also notify the owner of the premises that if such tree is not removed and burned or buried after **{twenty-one} days (30, thirty days)** notice, that such failure to remove shall subject the owner to a fine.
(Code 1973, 38-7; Ord. Nos. 2163, 2338, and 2814)

Comment [J10]: 30 days

39-204. Removal from private lands.

After due notice has been served upon the owner, tenant, agent or occupant of the premises, it shall thereupon become his duty to cause such trees to be removed and burned or buried. It shall be unlawful for any owner, tenant, agent, or occupant of any premises upon which is found any tree which is infected or in a dead or dying condition, to allow same to remain upon said premises for more than **{21} (30, thirty) days** after receiving the notice described in Section 39-203 above.

Comment [J11]: 30 days

Trees and Shrubs.

(Code 1973, 38-9; Ord. Nos. 2163 and 2338)

Article III. City Tree Board.

39-301. Definitions.

(1) Terrace trees: "Terrace Trees" are defined as trees, shrubs, bushes and all other woody vegetation on land lying between the property lines on either side of all streets and avenues within the City.

(2) Park trees: "Park Trees" are defined as trees, shrubs, bushes and all other woody vegetation in public parks.

(3) Public community forest: "Public Community Forest" is defined as all street and park trees, and other trees owned by the City as a total resource.

(4) Private community forest: "Private Community Forest" is defined as all trees within municipal boundaries but not owned by the City.

(5) Community forest manager: "The Community Forest Manager" shall be the City's Parks and Recreation Director or his or her designee and as such is responsible for administration of the Community Forestry Program.

Comment [J12]: No longer exists.

39-302. Creation and establishment of a city tree board.

There is hereby created and established a City Tree Board for the City of Hastings, Nebraska, which shall consist of seven (7) members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the City Council. The Community Forest Manager (Director of Parks & Recreation) shall be an ex-officio member of the City Tree Board.

(Ord. No. 4061-2/2006)

Comment [J13]: Director of Parks & Recreation

39-303. Term of office.

Initial appointments to the Tree Board shall be as follows: Two members to a one-year term; two members to a two-year term, and one member to a three-year term. Thereafter, all appointments to the Tree Board shall be for a three-year term. In the event a vacancy occurs during the term of any member, a successor shall be appointed to fulfill the remaining unexpired term. Members of the Tree Board shall be eligible for reappointment upon expiration of their terms of office.

39-304. Compensation.

Members of the Tree Board shall serve without compensation.

39-305. Duties and responsibilities.

The duties and responsibilities of the Tree Board shall be as follows:

(1) To beautify the appearance of the City of Hastings by promoting and encouraging the responsible planting, care, replacement, and maintenance of trees in the City.

(2) To conduct fund raising activities, the proceeds of which shall be designated for the planting of trees, shrubs, and bushes.

(3) To plan and sponsor activities in celebration of Arbor Day.

(4) To provide educational materials and programs to the public concerning the planting and care of trees.

(5) To make recommendations to the Park and Recreation Director concerning landscape plans for any new or existing public facilities constructed by the City.

(6) When requested by the City Council, to consider, investigate, make finding, report, and recommend upon any special matter or question relating to trees.

39-306. Operation.

Hastings City Code

The Tree Board 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.

39-307. Terrace tree species to be planted.

The City of Hastings, Nebraska, shall maintain an extensive list of recommended trees for planting in public areas. The purpose of this listing will be to maintain diversity in the total tree population. This list shall be available to residents of the City upon request to aid in the selection of trees for private and public properties. The list of recommended trees shall be updated periodically to reflect new developments or species that will affect the population of the Community Forest.

39-308. Distances and clearances for planting.

- Trees may be planted in the terrace where there is more than six feet between the edge of the sidewalk and the curb of the street. Street trees shall be planted no closer than three feet from a sidewalk, driveway or street.
- ~~Trees shall be planted no closer than 10 feet from any fire hydrant.~~
- ~~Trees shall be planted a minimum of 20 feet from any electric pole line with the exception of small trees 20 feet in height or less.~~
- ~~Trees shall be planted 15 feet away from any street light pole~~
- ~~Only small trees 20 feet in height or less will be allowed to be planted over or within 5 lateral feet of any underground water, sewer, electric, gas, or other utility line including services into a house~~
- ~~Trees shall be planted no closer than 5 feet away from all water and gas shut off-boxes and electrical equipment.~~
- ~~Evergreen trees are prohibited on the terrace.~~

No tree shall be planted that does not comply with the vision clearance requirements specified in Section 34-306 of the Hastings City Code.

~~No terrace tree shall be planted closer than 10 feet from any fireplug.~~

~~Special permission must be obtained from the Community Forest Manager when planting a tree within 10 feet of any point on a line on the ground immediately below any overhead utility wire.~~

39-309. Public tree care.

The City shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the right-of-way or bounds of all streets, alleys, lanes, squares, and all publicly-owned property, as may be necessary to insure the public safety.

The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature affects the safe operation and maintenance of electric power lines or other public improvements, or is seriously affected with any fatal disease.

The City shall remove and dispose of dead trees, tree stumps and large hanging, fallen or broken branches, when they are located upon city-owned property, including parks and terraces. For the purposes of this section, the term "dead" shall mean a tree which is, in the judgment of the ~~Community Forest Manager~~ (Parks Superintendent and/or Director of Parks & Recreation), at least 75% dead; ~~and the term "large" shall mean a branch of at least four inches in diameter.~~

The abutting property owners shall have the responsibility to perform normal tree care on all terrace ~~trees~~ (which includes pruning as necessary).

39-310. Tree topping.

It shall be undesirable as a normal practice for any person, firm, or city department to top any terrace tree, park tree, or other tree on public property. Topping, rounding off or pollarding is defined as the systematic cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section by the ~~Community Forest Manager~~ (Director of Parks & Recreation).

39-311. Clearance over streets and walkways.

Comment [J14]: Parks Superintendent and/or Director of Parks & Recreation

Comment [J15]: Delete

Comment [J16]: Which includes pruning as necessary.

Comment [J17]: Director of Parks & Recreation

Trees and Shrubs.

Property owners are responsible for trees on their own property as well as trees on the public way that abuts their property. Clearance over streets and walkways shall be the responsibility of the abutting property owner. A clearance of seven feet must be maintained over walkways and a clearance of 12 feet must be maintained over streets and alleys.

39-312. Dead or hazard tree removal.

Hazard trees are defined as trees with severe structural defects or splits. Removal is the responsibility of the owners of such trees and shall be accomplished within time limits set by the ~~Community Forest Manager~~ (Director of Parks & Recreation). The City will notify in writing the owners of such trees. The City shall have the right ~~(to cause to be removed)~~ (to remove) any tree within the City limits that is dead or has been declared a hazard.

Comment [J18]: Director of Parks & Recreation

Comment [J19]: to remove

39-313. Access.

It shall be unlawful for any person to prevent, delay or interfere with access to private property by the City or its representative in the legal performance of any section of this ordinance.
(Ord. No. 3190-10/90)



BLOCK PARTY POLICY

Revised 06/19/13

1. Arterial or collector streets will not be considered for closure without City Council Approval.
2. Street closure will only be allowed in one block segments. Closure of intersections will not be allowed.
3. All barricades must be removed and street opened by 9 pm. Flashers will not be checked out. Block parties will be patrolled by Hastings Police Department for compliance.
4. Block shall remain accessible to all Emergency Traffic.
5. Street Department shall send copies of block party applications to the Communications Center, Police, Fire & Ambulance.
6. Street Division will not deliver or pickup barricades for Block Parties. This shall be the responsibility of event organizers. Barricades must be picked or returned during normal operating hours only.
7. Barricades shall be returned completely and in the same condition as picked up. Replacement costs will be the responsibility of the signing party. Barricades shall be returned on the following normal operating day following the event.
8. Organizers and/or participants of the Block Party shall hold the City of Hastings harmless to any and all liabilities, property damage or personal injuries during the event.
9. Neighbors not participating in the Block Party shall be allowed access to there dwellings and properties at all times.
10. Alcoholic consumption or use prohibited on all public right of ways as per City Code 8-107. See Attached
11. It shall be unlawful for any person to use, discharge, or explode any fireworks on any public street, alley, sidewalk, park or other property owned by the City of Hastings. City Code 13-508. See Attached
12. The City of Hastings reserves the right to cease, disband or deny Block Parties for reasons deemed necessary.

I have read this policy and agree to its terms:

Signed _____ Print Name _____

Date _____

Address _____ Telephone _____

Location of Block Party:

Street _____

Between _____ and _____

Date of Event _____ Hours of Event _____

(Hours later than 9 pm shall be denied)

Sec. 8-107. - Consumption on property owned by the state or certain governmental subdivisions thereof.

It shall be unlawful for any person to consume alcoholic liquors in the public streets, alleys, parking areas, roads, or highways, or inside vehicles while upon the public streets, alleys, parking areas, roads, or highways; or upon property owned by the State of Nebraska, Adams County, City of Hastings, or the School District of Hastings; provided however, alcoholic liquors, including beer, may be sold or distributed for consumption on the following premises:

- (1) At Brickyard Park, the Hastings City Auditorium, Auditorium Park, Central Park and the Hastings Museum and Museum Park, the Hastings Public Library, Duncan Field, the Terminal Building at Hastings Municipal Airport, Dutton Lainson Park and the Fixed Base Operator (FBO) building located at 3100 West 12th Street, under a special designated permit issued by the Nebraska Liquor Control Commission with the approval of the Hastings City Council;
- (2) At property controlled by the Chamber of Commerce;
- (3) For any portion of Prairie Ridge Park for which a State of Nebraska liquor license is in effect;
- (4) The City may execute a license agreement for the use of a portion of the public sidewalk by a properly licensed establishment located within the downtown area. The terms of the license agreement shall be developed according to the circumstances of the parties and any laws, rules, and regulations applicable. For purposes of this section, downtown area shall be all property abutting or located within Burlington Avenue on the west, Kansas Avenue on the east, 1st Street on the south, and 4th Street on the north; and
- (5) The City may execute a license agreement for the use of a portion of the public street for a community sponsored event pursuant to and under a special designated permit issued by the Nebraska Liquor Control Commission with the approval of the Hastings City Council. For purposes of this section, downtown area shall be all property abutting or located within Burlington Avenue on the west, Kansas Avenue on the east, 1st Street on the south, and 4th Street on the north.

(Code 1973, 3-9; Ord. Nos. 2027; 2190; 2987; Referendum of May 5, 1987; Ord. Nos. 3014-5/87, 3240-1/92, 3373-2/94, 3477-5/95, 3866-7/2002, 3964-8/2004, 4132-7/2007, 4164-2/2008, 4259-6/2010, 4335-1/2013, 4391-3/2014, 4436-4/2015, 4448-8/15, 4505-3/2017, 4511-7/2017, 4519-8/17, 4556-5/2018, 4592-5/2019)

State Law reference— Neb. Rev. Stat. § 53-186.

Sec. 13-508. - Prohibited acts.

It shall be unlawful for any person to:

- (1) Use, discharge, explode or possess any fireworks within the City before June 28th or after July 4th of any year; provided however, any person possessing a current permit as provided in this article may possess permissible fireworks between June 23th and July 6th, unless a permit for additional storage time is issued by the Fire Chief; and further provided that fireworks may be used, discharged, exploded, or possessed at any time when a special permit to do so is issued by the Fire Chief.
- (2) Use, discharge or explode any fireworks in the vicinity of any person or property in a manner which exposes such person or property to injury or damage, or within any building.
- (3) Throw any fireworks from or into a motor vehicle.
- (4) Use, discharge or explode any fireworks on any public street, alley, sidewalk, park or other property owned by the City of Hastings, without a special permit issued by the Fire Chief.
- (5) Ignite sky lanterns, or any other free-floating device which includes a flame or other heating device to heat air as a lifting mechanism shall be prohibited within the City. It shall be unlawful for any person to sell at retail or otherwise barter, exchange, or offer for sale at retail, give away, or have in their possession, discharge, light, release, use or bring into the City any said sky lanterns.

(Ord. No. 3310-4/93, 3453-1/95, 3900-5/2003, 3976-11/2004, 4142-8/2007, 4370-10/2013, 4557-7/2018)