

CHAPTER THREE
PUBLIC PLACES AND PROPERTY
ORDINANCE NO 95-0.05
AN ORDINANCE TO AMEND

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BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HAZEN, NORTH DAKOTA, THAT CHAPTER THREE BE AMENDED AND READOPTED TO READ AS FOLLOWS:

Article 1 Construction and Repair

3. 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.

3. 0102 Construction and Repair Permits

It shall be unlawful to construct, reconstruct, alter, grade, or repair, any public street, sidewalk, driveway, curbs, gutters, retaining walls, without having first secured a permit therefore, unless said work is performed by the city contractor. Applications for such permits shall be made to the Auditor and shall state the location of the intended pavement or repair, the extent thereof, and the person or firm who is to do the actual construction work. No such permits shall be issued except where the work will conform to the ordinances of the city.

0.103 Bond

Each applicant shall file a bond in the amount of \$1,000.00 with surety to be approved by the governing body or their appointee conditioned to indemnify the city for any loss or damage resulting from the work undertaken or the manner of doing the same.

3.0104 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.

3.0105 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 Engineer or Street Commissioner shall direct him to make such repairs as may be necessary to restore such sidewalk to a safe condition. Should he fail, within a reasonable time, to follow the directions of the City Engineer or Street Commissioner, the City Engineer or Street Commissioner shall report the facts to the governing body that shall then proceed, as provided in the laws of the State of North Dakota, to make such sidewalk safe.

3.0106 Application for Permit

An applicant for a permit hereunder shall file with the City Auditor an application showing:

1. Name and address of the owner, or agent in charge, of the property abutting the proposed work area.
2. Name and address of the party doing the work.
3. Location of the work area.
4. Attached plans or sufficient sketches showing details of the proposed alterations.
5. Estimated cost of the alterations.
6. Such other information as the governing body shall find reasonably necessary to the determination of whether a permit should be issued hereunder.

3.0107 Fees

The applicant for a permit shall submit with his application the fee set by Resolution of the City Commission.

3. 0108 Standard for Issuance of Permit

The governing body shall issue a permit hereunder when he finds:

1. That the work will be done according to the standard specifications of the city for public work of like character.
2. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of ingress and egress to and from the property affected and adjacent properties.
3. That the health, welfare and safety of the public will not unreasonably impaired.

3. 0109 Sidewalk Requirement

1. Sidewalks shall be required to be installed and maintained on all developed lots within the city limits of the City of Hazen. A developed lot shall be defined as any lot with any type of permanent structure, except that a group of adjoining lots owned by one party shall be considered as a unit of property and the owner will be required to install and maintain a sidewalk on each lot therein. Lots that have been designated as park property shall also be considered as developed lots, whether or not any structure is located thereon.
2. Sidewalks shall be required on all vacant lots or property which lies between two or more developed lots on each side thereof. The Hazen City Commission shall have the authority to use its discretion in requiring sidewalks to be installed and maintained on any undeveloped lots within a development area in the city, even though such lot does not fall within the aforementioned criteria.
3. All sidewalks shall be constructed according to such specifications as are established by the governing body. Petitions for creation of improvement districts for sidewalk construction may be submitted to the city for review and possible use in financing such construction.

3. 0110 Sidewalk Construction

1. Sidewalk Grade:

All sidewalks shall be constructed in accordance with the elevation and grade of the adjacent curb and gutter or the grade will be furnished by the City Engineer. Under no circumstances will sidewalks be constructed before the installation of curb and gutter.

2. Sidewalk Width:

- a. All sidewalks in residential districts shall have a width of five (5) feet.
- b. All sidewalks in commercial and/or industrial districts shall have a minimum width of ten (10) feet, where the property involves a commercial or industrial use.
- c. These requirements are subject to availability of sufficient right-of-way.

3. Sidewalk Locations:

All sidewalks shall be located within the boulevard which will be defined as the remaining right-of-way between the curb and the property line at the following criteria:

Residential Area: The outside edge (dwelling side) shall be 12 inches from the property line in areas where the boulevard is 10 feet or wider. In areas where the boulevard is less than 10 feet, the outside edge shall be constructed next to or on the property line.

In no case shall the sidewalk be constructed next to the curb within a residential district unless right-of-way width, topographic or existing sidewalk features require the sidewalk next to the curb. These specific cases must meet the approval of the governing body.

In locations where the existing street is not centered within the dedicated right-of-way, the sidewalk shall be constructed the same on each side utilizing the criteria above. If the boulevard is 10 feet on one side and 8 feet on the other side, then the sidewalk shall be constructed on each side next to the curb.

Commercial Areas: The sidewalk within a commercial area shall be a minimum of 10 feet wide and shall be constructed within the full width of the boulevard between the curb and property line or building line.

4. Slope of Sidewalk and Boulevard:

- a. All sidewalks shall have a minimum slope of a 1/4 inch per foot or a maximum of 1/2 inch per foot from the inside edge of the sidewalk toward the street.
- b. All boulevards shall have a minimum slope of 1/4 inch per foot or a maximum of 1 inch per foot from the outside edge of the sidewalk toward the street.

5. Materials and Manner of Construction:

All sidewalks shall be constructed using a Class B Six (6) sack cements mixture with a 28 day compressive strength of 3500psi. All sidewalks shall be four (4) inches thick, however, where sidewalks cross driveways or any other areas where vehicles pass, the sidewalk shall be six (6) inches thick. Construction joints shall be installed at the property lines and at intervals and locations according to specifications set forth by the City Engineer or Street Commissioner.

6. Landscaping:

The owner must fill, finish and maintain the landscaping of the boulevard between the sidewalk and the curb.

7. Maintenance:

All sidewalks shall be maintained in a safe condition, and sidewalks that are broken, raised, or settled, or where no sidewalk remains, shall constitute a public nuisance and must be corrected according to the requirements specified herein.

If the property owner fails to alleviate such a nuisance the City of Hazen may correct the same pursuant to the provisions of Chapter 40-29 of the North Dakota Century Code, and assess the costs thereof against the applicable property.

Any person who is convicted of violating or of failing to comply with any of the provisions of this ordinance may be punished by a fine of not more than \$500.00 or by imprisonment not to exceed 30 days or both.

3. 0111 City Contractor

The City Auditor shall receive bids for the construction of sidewalks, driveways, curb and gutter and paving repair whenever the city deems these repairs necessary. 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 Hazen 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 Hazen, conditioned that said contractor shall maintain and keep in good repair, for a period of one (1) year 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 one (1) year, or in case the sidewalks shall within said time begin to crumble 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 governing body may direct that such sidewalks, driveways, curb and gutter, or paving repairs be immediately repaired or relayed in whole or in part, and the contractor shall immediately cause the same to be repaired or relayed. In the case of the contractor's neglect, refusal or failure to repair or to relay the same, the city, at any time within said one (1) year period, or thereafter, may cause the same to be repaired or relayed, and the cost thereof, whether done by the city directly or through a contract, may be recovered from said contractor and the surety upon such bond.

Any person desiring to engage in the business of constructing paved driveways, curb 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 governing body is satisfied of the competency of the applicant, it shall approve his application. The application must be filed with the City Auditor, together with a surety bond in the sum of five thousand dollars (\$5,000.00) 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 Hazen 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 filing of the application and bonds, and approval by the governing body, the City Auditor shall issue a license to the applicant.

Article 2 Use and Care of Streets, Sidewalks and Public Places (Amended 12-8-2022)

3. 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.

3.0202 Encroachments

It shall be unlawful to erect or maintain any sign, building or structure which encroaches upon any public street or property without first securing the permission of the governing body.

3. 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 cover or railing to be approved by the Street Commissioner or the City Engineer or the official who supervises public improvements.

3.0204 Wires

It shall be unlawful to erect any poles or wires or maintain any poles or wires on, under or over any public place, street, alley or other public way without first securing the permission of 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 Street Commissioner, so that no injury shall be done either to the poles or wires or to the shrubs and trees by their contact.

3. 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.

3. 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.

3.0207 Distributing Hand

Repealed in its entirety.

First Reading: January 22, 1990 Second Reading: February 5, 1990

3. 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 Hazen, any engine, tractor, wagon, truck, or other vehicle, object, or thing, which will tend to damage the paving, sidewalks, crosswalk, culvert, bridge or viaduct over which the same is transported, or which exceeds, in weight 20,000 pounds per axle and exceeds 550 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, cross walks, culverts, bridges or viaducts, except under the direction and with the permission of the governing body and, with the understanding that such person, firm or corporation shall pay or cause to be paid to the city, upon demand, any and all damages done to the paving, sidewalks, cross walks, culverts, bridges or viaducts. Provided that when the specified load limits herein contained will cause damage to the streets, the governing body by resolution adopted, and made public, may lower these load limits for the period of time it deems necessary. The provisions of this section shall not apply to State and Federal highways through the city.

3.0209 Removal of Snow and Ice from Sidewalk: Amended April 4, 2011

It shall be, and hereby is declared to be, the duty of the owner or occupant of each lot in the City of Hazen to remove from the sidewalk or walkway in front of or along the same, any ice or snow which forms, accumulates or obstructs such sidewalk, within forty-eight (48) 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 the sidewalk safe for the travel of pedestrians, is deemed a compliance with the provisions of this article. The city will make every effort to avoid placing snow on sidewalks during the course of street cleaning, but cannot guarantee this will not occur. Physical impairment of the owner/occupant may be a mitigating factor to a violation of this duty.

3.0210 Removal of Snow and Ice by City

In case the owner/occupant of any lot in the city refuses or neglects to remove ice or snow from the sidewalk in front of or along a lot, within the time allowed, or fails to sprinkle ashes or sand on the same within the time allowed so as to make the sidewalk safe for the travel of pedestrians, the snow or ice may be removed by or under the direction of the Street Commissioner, or ashes or sand may be sprinkled thereon and the necessary expenses thereof may be charged against the abutting property by special assessment in the manner prescribed in Chapter 40-29 NDCC.

3.0211 Street Cleaning - Snow Removal

A. Effective Dates

All snow and ice removal ordinance apply from October 15" to the following April 15" and any other time if declared an emergency by the city.

B. Emergency Route

The city will designate and post signs along Emergency Routes, which will be the first routes cleared by the city.

C. Parking along Designated Emergency Route

Whenever two or more inches of snow accumulates upon the public streets, as measured by National Oceanic and Atmospheric Administration (NOAA), and so long as that snow remains uncleared, or in times of adverse weather conditions that may render roads hazardous or impossible to safely use, no vehicle may be parked or left standing upon the posted street or city right-of-way until the street is cleared and cessation of snowfall or adverse weather condition.

D. Deposit of Snow on Public Right-of-Way

It shall be a violation of this ordinance for any person to place, pile, or blow snow from any private property, driveway, or sidewalk onto the City streets. This shall not apply, however, to the removal of snow from the sidewalks where there is no boulevard, and the property is zoned Central Commercial District (C-1) and provided that such snow is cleared within 24 hours and placed on the street parking lane portion. Property owners are encouraged to make every effort to clean snow from mailboxes and fire hydrants in their vicinity.

E. Suspension of Parking Ordinances

Whenever, in the judgment of the governing body or Street Commissioner of the city, it is necessary that streets, alleys, or public ways in the city be cleared of snow or ice or be cleaned by the use of wheel end loaders, graders, blowers, 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 during the period of time during which the parking ordinances are suspended.

F. Parking and Driving During Snow Removal

Parking is not allowed on streets where the snow has been plowed to the center of the street in preparation for removal with the following exceptions:

- a. Main Street from 3rd Avenue NW to 2nd Avenue NE; and

b. Central Avenue from 1 Street to 4" Street.

Motorists should avoid driving or interfering on streets where snow removal equipment is operating.

The City of Hazen is not liable for damage to vehicles or property parked illegally or in violation of this ordinance during snow removal efforts.

G. Inoperable or Abandoned Vehicles

Parking of unused disabled or vehicles incapable of being moved under their own power are not allowed on any city street or alley from October 15th to April 15". This includes, but is not limited to, campers, motor homes, recreational vehicles, boats, busses, trucks over 20,000 pounds gvw, trailers of any kind, disabled motor vehicles, motorcycles, farm or construction equipment, and unlicensed vehicles of any kind. For purposes of this ordinance, all of the aforementioned are considered vehicles.

H. Priority of Street Cleaning

Streets designated and marked as an Emergency Route will be cleared first by city crews. Secondary streets (non-emergency routes) will be cleaned as weather, equipment, and time allow. Alleys not needed for garbage pickup will be cleared last.

3.0212 Penalty

- (a) Any violation of this ordinance may result in ticketing and/or impounding.
- (b) Any person found in violation of 3.0211 (D) of this ordinance is guilty of a non-criminal infraction and may be fined a maximum of \$500.00, as determined by the Municipal Judge
- (c) If a violator of section 3.0211 (D) fails to pay the fine within thirty (30) days of being found guilty, the City of Hazen may assess the fine against the violator's taxes if he or she owns real estate with the City of Hazen.
- (d) All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.
- (e) This Ordinance is effective upon publication.

3.0213 Authority to Ticket/Impound Vehicles

The Hazen Police Department and other persons designated by the city are authorized to ticket, remove, or have removed a vehicle from a street, public alley, parking lot or highway to a garage or other place of safety designated by the city when the vehicle is parked in violation of the suspension of parking ordinances during a snow emergency or snow removal operations. Violators will be assessed as follows:

A ticket of \$20.00 for a first offense. If the vehicle remains in violation for 24 hours or is located in such a place as to constitute a risk or impediment to the snow removal, the vehicle may immediately be towed. Each snow event will be treated as a separate event. All costs related to towing must be paid in full prior to release of the towed vehicle. See Chapter XVI, Section 14-15 for additional Impounding rules and regulations.

3. 02104 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, except in the 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.

3.0215 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 obtaining a permit, or without complying with the provisions of this article or the terms of any such permit.

3. 0216 Excavations Application

Application for a permit shall be made to the Auditor and shall describe the location of the intended excavation or tunnel, its size and purpose, 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 it shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Each such application shall contain a hold harmless agreement whereby the applicant agrees to indemnify the city for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of guarding or constructing such tunnel or excavation. The applicant will present to the Auditor proof of public liability, bodily injury and property damage insurance which will cover his operations under the permit, in the amount of at least \$50,000.00 for injury or death to one person, \$100,000.00 for injury to more than one person in a single accident, and \$25,000.00 property damage liability.

3. 0217 Excavations Fees

The fee for such permits shall be set by resolution of the governing body and shall accompany the application for a permit.

3. 0218 Reserved for Future User

3. 0219 Excavations Deposit

No such permit shall be issued unless and until the applicant has deposited with the Auditor a cash deposit or bond in the sum of \$100.00, if no pavement is involved, and if the excavation is in a paved area, the sum of \$500.00, 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.

3. 0220 Excavation 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 therefore. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and the excavator shall not anywhere undercut the surface.

The excavator shall not damage 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 appropriate city department or officer before such pipes, cables or conduits are disturbed.

The excavator shall avoid unnecessary damage or injury to any tree or shrub or the roots thereof.

3. 0221 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. Backfill shall be properly tamped, 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 relayed by the applicant, in compliance with the ordinances of the city and under the supervision of the Commissioner of Streets or City Engineer.

3. 0222 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 assure compliance with the provisions of this article. The excavator shall give notice to him at least ten (10) hours before the work of refilling any such tunnel or excavation commences.

Article 3 Housing Numbering

3. 0301 House Numbering Plan

1. Odd or Even Numbers

The numbers on the east side of the avenues will be even numbers and the numbers on the west side of the avenues will be odd numbers. The numbers on the north side of the streets will be even numbers and the numbers on the south side of the streets will be odd numbers.

2. Direction of Ascending Numbers

The numbers on the avenues will ascend going north and south from Main Street. The numbers on the streets will ascend going east and west from Central Avenue.

3. Designation of Quadrants

All Streets and avenues east of Central Avenue and north of Main Street will carry the additional designation of NORTHEAST (i. e. Third Avenue Northeast, Fifth Street Northeast). All streets and avenues west of Central Avenue and north of Main Street will carry the additional designation of NORTHWEST. All streets and avenues east of Central Avenue and south of Main Street will carry the additional designation of SOUTHEAST. All streets and avenues west of Central Avenue and south of Main Street will carry the additional designation of SOUTHWEST.

4. New Structures and Street Designations

All numbers for new houses or business places, unnumbered house or business places, and numbers for any new or presently unnumbered streets shall be designated by the governing body.

3.0302 Numbers to be placed on Buildings

The owner and occupant of every dwelling or place of business in the city shall place thereon, in a place visible from the street, figures at least 4 inches high showing the number of the structure. The owner or occupant shall do this with five days of occupying any new dwelling or business place.

ORDINANCE 96-03

BE IT ORDAINED by the electors of the City of Hazen that Article III of the Hazen City Ordinances, "House Numbering," be amended by the addition of a new subsection 3.0303 as follows:

3.0303 Actions to be taken to Correct Street and House Numbering

Adopted by vote of the people June 11, 1996.

1. It is recognized that the City Commission, in its March 25, 1996 meeting, voted to make major street re-naming and house renumbering changes throughout the city. The criteria for these changes and future changes to existing street names and house numbers are superseded by the following more limited plan:

a. All existing roadways in the city shall retain their current names. This includes retaining Central Avenue with its current name and location, and retaining Main Street with its current name and location. No "First Street" or "Second Street" shall be required north of Main Street and the first street north of Main Street shall continue to be named "Third Street", with "Fourth Street", "Fifth Street," "Sixth Street," and "Seventh Street" following in a northerly direction as they currently do.

b. House numbering changes to comply with article 3.0301 shall be limited to the changing of the minimum number of addresses to establish number flow in an ascending order, without establishing uniform number spacing's between numbers. Glaring errors such as a "500" number in a "400" block shall be corrected.

2. For house numeral changes imposed by the city on existing buildings, the city shall provide the new numerals, and shall provide labor assistance to elderly and disabled citizens for their installation.

3. The city shall prepare or cause to be prepared, an up-to-date city map, reflecting all roadways in Hazen. Such map shall have "grid lines" dividing the city into equal-sized grids. An alphabetical listing of all roadways shall be included, giving the grid coordinates for ease of location for each roadway. The map shall also indicate for each city block, the range of addresses on that block and shall indicate which the even side is and which the odd side of each street. This map shall be provided to all emergency response vehicles.

Article 4 Unclaimed and Abandoned Property

3.0401 Unclaimed and Abandoned Property Defined

Personal property left upon the streets, alleys and other public ways in the city shall be deemed to be unclaimed and 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.

3.0402 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.

3.0403 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 sixty (60) days, after its seizure as provided herein and, after the expiration of said sixty (60) days the city Auditor shall cause notice to be published in the official city paper stating the description of the property so seized and held, the location where the same was seized or taken by said city, and that said property will be sold, at public auction, to the highest bidder for cash, not less than ten (10) days from and after the date of the publication of such notice and the hour, date and place where said sale will be held.

3. 0404 Unclaimed and Abandoned Property Report of Sale

At the time specified in the notice the said property shall be sold by the Chief of Police of the city or by any police officer designated by the Chief, at public auction, to the highest bidder for cash and within three (3) days after the date of the sale, the officer making the sale shall report to the governing body, a 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; said report shall be made under oath and subscribed by the officer making the sale and shall be filed with the City Auditor within three (3) days after the date of the sale and such officer, with the report, shall pay to the City Auditor the proceeds of sale.

3. 0405 Unclaimed and Abandoned Property Bill of Sale

Upon receipt of the report specified in Section 3.0404 the City Auditor shall prepare a bill of sale of the property sold, conveying it to the purchaser and the Bill of Sale shall be executed by the presiding

officer of the governing body and attested by the City Auditor and delivered to the purchaser.

3.0406 Unclaimed and Abandoned Property Proceeds of Sale

The City Auditor shall retain the sale proceeds in a separate account for a period of six (6) months after the sale and if the owner doesn't claim the proceeds as hereinafter provided, the money shall thereupon be transferred to the general fund of the city.

3 0407 Unclaimed and Abandoned Property Redemption

Any person owning personal property seized as aforesaid, may at any time prior to the sale thereof, upon furnishing satisfactory proof of his ownership to the governing body, reclaim the property upon paying the expenses incurred by the city for the seizure, storage or advertising the sale thereof. Any person owning such property as aforesaid may at any time within six (6) months after its sale and upon making satisfactory proof to the governing body of his ownership, claim the sale proceeds, upon payment to the city of the necessary expenses incurred by the city for the seizure, storage and sale of the property.

Article 5 Improvement Districts

3.0501 Street Improvement District in New City Addition

Special assessment districts, in the manner provided law, may be created in any new addition to the city for the purpose of constructing or improving any streets, including pavement, curb and gutter; provided, that the Board of City Commissioners, prior to the creation of such special assessment district and as a specific condition of the creation thereof, may require that the owner or developer of such new addition or the primary owner or developer thereof shall deposit thirty (30) percent of the total project's cost as security upon such improvement district in a financial institution of the City of Hazen's choice, to be held by the City of Hazen according to the following terms and contingencies:

1. Such deposit shall be in the name of the City of Hazen, and deposited in an institution wherein such deposits are guaranteed by an agency of the United States government.
2. Interest earned by such deposit shall be credited to such account as accrued.
3. Such deposit shall be held by the City of Hazen until fifty (50) percent of the special assessments for such project have been paid in full, or until default in the payment of special assessments due, (hereinafter defined) whichever first occurs.
4. Default in the payment of special assessments due shall be deemed to occur when receipts of special assessments, together with the balance of the principal and interest account covering such project are insufficient to pay the current year's principal and interest due, as defined within Section 40-26-08, North Dakota Century Code.
5. Upon default as defined above, the special deposit shall be utilized by the City Of Hazen to the extent necessary to pay the maturing warrants or bonds plus interest on the project, and any balance remaining shall be retained on deposit to be so applied in the event of a subsequent default.
6. Upon receipt of fifty (50) percent of the total special assessments due upon such project, the balance of the deposit shall be returned to the developers, or their

successors in interest or assignees.

For the purpose of meeting the requirements of this section, a letter of credit from a lending institution or similar assurance equal to thirty (30) percent of the estimated costs shall be sufficient to proceed with the creation of such special assessment district, unless such letter of credit or similar assurance is waived by the Board of City Commissioners.

As an alternative to the aforementioned security deposit requirement for street improvement projects, an owner or developer, who is constructing or improving any sewer or water installation, or making connections with the existing sewer and water mains of the city in conjunction with a street improvement district project to comprise one total project for the development of a new city addition, shall have the option of totally funding the water and sewer improvement project without the aid of an improvement district through the city. Should the owner or developer exercise such option of privately funding such water and sewer project, the Board of City Commissioners may then waive the requirement of a security deposit for the street improvement portion of the overall project. Such security alternative must be authorized by the Commission prior to the creation of any improvement district project.

Article 6 Taxation of Property

3.0601 Taxing of Mobile Home Residences

All mobile homes, which for the purposes of this chapter shall mean as follows:

Any non-self-propelled vehicular structure built on a chassis, having a length of 27 feet (8.23 meters) or more, ordinarily designed for human living quarters, either on a temporarily or permanent basis, and used as a residence or place of business of the owner or occupant, which is permanently attached to a foundation, and is situated on a lot or other tract of land within the City of Hazen that is also owned by the owner of such mobile home shall be taxed as real property in the same manner and on the same basis as are other permanent-type structures within the city.

First Reading: May 22, 1995 Second Reading: June 5, 1995

ARTICLE 7 SURVEY MONUMENTS

BE IT ORDAINED by the Board of City Commissioners of the City of Hazen, North Dakota, that Chapter III be amended by addition of the following Article 7:

3.0701 Monument Definition:

A survey monument is the physical object identifying the corner position of a public land corner, block corner, alley corner, lot corner, and elevation bench marks.

3.0702

It shall be unlawful for any utility company or corporation, contractor, property owner or other person to disturb, destroy or remove any survey monument within the corporate limits of the City of

Hazen.

3.0703

If any survey monument is disturbed or destroyed, the City of Hazen shall have said monument replaced by a Professional Land Surveyor registered with the State of North Dakota.

3.0704

Those parties responsible for the disturbance or destruction of any such survey monument shall reimburse the city for the actual cost of replacement.

3.0705

The City of Hazen shall bill the responsible parties for the actual cost of the replacement of the survey monument. If payment is not received within 30 calendar days from date of billing, the city will assess this amount upon the property of the responsible party.

3.0706

The parties billed shall be entitled to be heard before the City Commission on the issue of their responsibility for the bill, if they file a written request for a hearing with the City Auditor within 10 days of the mailing of the bill. The city will give notice of any hearing to the responsible parties, and, at the close of the hearing, will determine their responsibility, based on a preponderance of the evidence. Notice of the right to be heard shall be included in the initial billing to the responsible parties.

First Reading: December 28, 1998

Second Reading: January 11, 1999

Final Passage: January 11, 1999