

AN ORDINANCE REGULATING Tree cutting, native vegetation, wetlands and shorelands protection ordinance, establish fees, providing a penalty, and declare an emergency.

#### I. TREES AND NATIVE VEGETATION ENHANCEMENT

##### Goal:

To preserve the semi-rural natural characteristics of Dunes City by maintaining and enhancing the remaining native trees and vegetation.

##### Policies:

1. All native trees and vegetation shall be preserved except where they constitute a hazard or directly block development of all legal structures except fences and utility lines.
2. Replant trees and vegetation in a non hazardous manner near areas where vegetation is removed on city streets and county roads in Dunes City jurisdiction.
3. City goals relating to scenic quality, water quality, vegetation and wildlife, open space, and recreational potential shall be given a higher priority than timber harvest within and adjacent to Dunes City's boundaries.
4. Dunes City shall support programs (state laws, for example) which benefit small woodlot management.
5. To carefully manage development on hillsides and restrict development in wetlands and shorelands in order to protect the scenic quality, surface water and groundwater quality, forest values, vegetation, and wildlife values of those areas.
6. Dunes City shall develop policies for control, protection, and management of wetlands and shoreland areas.
7. In order to improve water quality, Dunes City shall develop regulations and institute programs to:
  - a. increase public awareness of techniques and practices private individuals can employ to help correct water quality and quantity problems through vegetation preservation;
  - b. regulate site planning for new development and construction to better control drainage and erosion and to manage storm runoff through vegetation preservation and other

means;

- c. increase storage and retention of storm runoff to lower and delay peak storm flows;
- d. reduce street-related water quality and quantity problems;
- e. minimize cutting of native trees and vegetation where they do not directly interfere with construction;
- f. eliminate all native tree and vegetation removal in shorelands except for a minimum lake access passageway.

## II. TREES, NATIVE VEGETATION, WETLANDS AND SHORELAND CONSERVATION AND PROTECTION

The following definitions apply:

Groundcover - Small herbaceous and woody plants such as low-growing shrubs, ferns, mosses, wildflowers, grasses or other types of vegetation which normally cover the ground, provide stabilization on slopes slow surface runoff and absorb precipitation.

Land Clearance - The act of removing trees and groundcover in the course of preparing land for development. Land clearance is involved, for example, in road and driveway construction, utility excavation and building pad excavation.

Person - Any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including governmental agencies conducting operations within the city and all tree removal companies and persons removing trees on behalf of others.

Remove, Removal - Activities which include the cutting of trees and the injury and/or destruction of trees, by whatever method, on any lands subject to these provisions. Removal does not in any context include normal trimming or pruning of trees.

Road Committee - Persons appointed by the Dunes City Council.

Site Review Committee - Persons appointed by the Dunes City Council.

Slash - Any unutilized woody material created by tree

removal, pruning, tree thinning, and/or land clearing.

Tree - Any woody perennial plant which, when mature, shall have the following characteristics; a main axis or stem commonly achieving 10 feet in height and capable of being shaped and pruned to develop a branch-free trunk at least 9 feet in height or capable of being pruned in such a manner that the branching will grow parallel with the sidewalk or street.

Tree Removal Plan - An approved plan for tree removal which satisfies the requirements stated below.

Woodland - land composed of parcel or group of contiguous parcels covering one or more acres in total area, and under one ownership or joint management.

### III. Permit Required

1. Except for those activities specifically listed below, no person shall engage in or cause land clearance or tree or vegetation removal within the boundaries of the City of Dunes City without first having obtained a tree or vegetation removal permit.
2. Removal of vegetation in shoreland areas Ordinance #59.
3. All tree and/or vegetation removal permits issued under the provisions of this code shall be available for inspection at the job site.
4. Any trees in Dunes City roads rights-of-way will fall under the road committee authority Ordinance #59.

The requirements of this ordinance do not apply to the following activities:

1. Removal of trees having a trunk diameter of less than 4 inches.
2. Any action necessary to remove or alleviate an immediate danger to life or property (subject to a site review, time permitting.)
3. To restore utility service or to reopen a public thoroughfare to traffic.
4. Removal of trees and ground cover that are deemed nuisances (subject to site review.)
5. Removal of trees or other vegetation necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly owned and dedicated rights-of-way or public utility easements (subject to road committee

review.)

6. Tree removal within portions of a planned unit development, subdivision or site review for which final approval has been obtained and in accordance with the review criteria contained in Ord. #50 as amended. Such removal shall be allowable only for property development directly authorized by the planned unit development, subdivision or site review approval action.

### III. Application Review Criteria

The approval, conditional approval or denial of a request of all tree and/or vegetation removal permits shall be based on findings by the city which indicate evaluation to the following criteria and standards. In addition, specific standards shall be applied to each type of permit as provided for below:

1. The condition of trees proposed for removal, as measured by one or more of the following factors, warrants their removal:
  - (a) evidence of damage and/or disease
  - (b) danger of falling
  - (c) general health and vigor
  - (d) roots or crown interface with existing or proposed structures including necessary construction staging areas
  - (e) interference with utility services
  - (f) interference with solar access (refer to Dunes City Zoning Ordinance 50)
  - (g) pedestrian and/or vehicular traffic safety
  - (h) establishment of scenic views from the property in association with approved development activities
2. Tree removal shall not adversely effect the environment of the area. Factors to be reviewed, but are not limited to the effects include:
  - (a) scenic qualities of the area with special consideration for ridgeline and hilltop views
  - (b) the stability of nearby trees and windbreaks
  - (c) wildlife habitat
  - (d) soil stability
  - (e) surface runoff volumes
  - (f) water quality of receiving waters in the area
  - (g) potential for fire hazard
  - (h) noise
  - (i) windblock
  - (j) other environmental qualities found by the city be relevant to the proposal
3. The tree removal is necessary in order to construct proposed improvements in accordance with an approved development plan.

4. The activity will comply with tree removal standards as defined below.

#### IV. Permit Process

1. Permit Required. Except for activities exempted from the requirements and provisions of this ordinance above (larger than 4 inches at trunk.)
2. Decision Authority. Tree removal permits shall be approved, approved with modifications, or denied by the Dunes City Council.
3. Site Plan Review Procedure:
  - (a) Preapplication conference. Prior to submission of an application, the applicant shall confer with the city staff to review the application requirements.
  - (b) Professional services. Prior to making a decision the city may require an applicant to employ a licensed landscape architect, forester or other specialist if one or more of those professional services is required for compliance with this criteria or standards.
  - (c) Documentation of approved plans. After tree and/or vegetation removal permit approval, the applicant shall provide the city with three copies of the approved plan. The city shall mark them "Approved" with the date of the action. The city shall also attach the conditions of approval to the plans.
4. Decision and appeal
  - (a) Unless the applicant agrees to a longer time period, within 10 working days of receipt of a complete and conditionally approve, or deny an application for a tree and/or vegetation removal permit. The city's decision shall be based on the criteria specified above.
  - (b) If the permit includes conditions regarding restoration or replacement of trees and/or vegetation, the time within which the restoration or replacement work is to occur shall be set forth on the permit.
  - (c) Within 10 calendar days of a decision, it may be appealed by the applicant. The appeal shall be filed with the city on a form to be provided by the city, shall be accompanied by a fee (if required) and must state specifically how the city failed to properly evaluate the proposed tree and/or vegetation removal permit or make a decision consistent with the applicable criteria.
5. Appeal Notice and Action.
  - (a) Appeals from the decision of the city shall be heard by a city appointed committee.
  - (b) The committee shall hold a hearing within 20

- calendar days of the receipt of an application to appeal the city's decision.
- (c) At least 10 calendar days prior to the hearing, the city shall mail notice of the hearing to the applicant.
  - (d) Within 10 calendar days after the hearing, the city shall render a decision and mail a copy to the applicant.
  - (e) Appeals from the decision of the hearings may be heard, provided the city reviews the appeal application and decides to accept it for hearing. Dunes City will not be required to accept an appeal.
  - (f) An appeal accepted by the city shall be heard within 30 calendar days of the date the appeal is received by the city. A meeting will be scheduled within the final week of that time period.
  - (g) At least 10 calendar days prior to the hearing, the city shall mail notice of the hearing to the applicant.
  - (h) Within 10 calendar days after the hearing, the city shall render a decision and mail a copy to the applicant. The city's decision is final.

#### V. Permit Requirements

1. A tree removal permit application and related information shall be submitted by the applicant on forms required by the city. Failure of the applicant to submit a complete application may be cause for denial of the permit request. If not the property owner, the applicant shall provide a signed form by the property owner consenting to the permit request.
2. The application shall be accompanied by a fee of No Charge.
3. In all cases the burden of demonstrating that applicable criteria and standards have been or can be satisfied is upon the applicant.
4. Permit approval shall be valid for a period of 6 months with 6 months extension from the date of final approval unless otherwise provided for by the city.
5. Conditions of approval may be made a part of the approval action by the city.

#### VI. Tree and Native Vegetation Removal Standards

All tree and/or vegetation removal activities shall comply with the following standards and with the permit process as stated above.

1. General Standards
  - (a) Wooded areas within 50 feet of the highwater mark of riparian zones, natural drainageways,

wetlands and other water features shall remain undisturbed.

- (b) Unless otherwise provided for by an approved site development plan, wooded areas within 100 feet of ridgelines and hilltops shall be protected consistent with the purpose of this ordinance. Hazard trees within ridgeline and hilltop areas shall be removed as they are identified.
  - (c) All remaining trunks and branches shall be disposed of in an approved manner.
  - (d) There will be a person on site at all times when burning is going on.
  - (e) Burning of slash materials shall be allowed in the immediate cleared area subject to approval by those regulatory agencies currently governing such burning.
  - (f) During tree removal operations, adequate fire suppression equipment as required by the applicable fire protection authority shall be maintained on the site. Specific fire protection may be required by the fire protection authority as a condition of approval.
2. Permit approval shall require compliance with the General Standards above and the following specific standards:
- (a) For undeveloped parcels or for lots which have further potential for being partitioned or subdivided, land clearing shall be limited to designed street rights-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as depicted on an approved development plan.
  - (b) All areas disturbed as a result of the tree and/or vegetation removal operation shall be restored to their original condition to the extent practicable and consistent with the purpose of this ordinance. Restoration may require grading, grass seeding and/or replanting trees and native vegetation and must be completed in accordance with an approved schedule.
  - (c) Where appropriate, a diversity of tree and native vegetation species shall be encouraged on the site.
  - (d) Maintenance of a basal area which provides sufficient canopy cover, reproductive capacity, understory structure and wildlife habitat in accordance with the provisions above shall be maintained (as near as possible) after clearing.
  - (e) Temporary culverts necessary to bridge

drainageways shall be removed and the drainageway restored to a reasonably natural condition following the completion of the tree and/or vegetation removal.

VII. General Tree and Vegetation Removal Guidelines

1. The proposed tree and vegetation removal activity should include provisions for the conservation and protection of trees and vegetation which are to remain in accordance with the following:
  - (a) Prior to any development or alteration of grade on a site for which a tree and/or vegetation removal permit is required, trees and/or vegetation which are not identified for removal should be protected from damage which could result from tree and/or vegetation removal or construction activity.
  - (b) On parcels for which a tree and/or vegetation removal permit is required, ribbon enclosures shall be utilized to mark groups of trees and/or vegetation within critical root zones, drainage corridors, property line buffers, ridgeline or hilltop leave areas, or other areas into which tree and/or vegetation removal activities or heavy equipment will not encroach.
  - (c) All land disturbing activity, storage of equipment, building materials, fill soil and all other materials should be kept within the development area and outside of the protective enclosure.
2. Unless waived by written consent of the adjacent property owner(s), the edges of wooded areas along property lines should be maintained as buffers except where prior development has occurred or future development is approved including ingress and egress points. These buffers should be (if possible) 10 feet or more in depth from the property line measuring into the subject property. Within these buffers, existing trees and/or vegetation should be maintained, except for hazard trees which may be removed as they are identified. (Refer to Ordinance 135)

Abatement Procedure

VIII. Inspection and Notice

1. When an allegation is presented to the recorder that a nuisance as defined in this ordinance exists, the recorder shall notify the mayor, who will designate a person or persons to inspect whether a nuisance exists.



2. If the inspectors conclude, as a result of the inspection, that a nuisance exists, they shall inform the mayor. The mayor shall then direct the recorder to post on the property where the nuisance exists, a notice directing the owner and person in charge of the property to abate the nuisance.
3. At the time of the posting of notice, the recorder shall send a copy of the notice by registered or certified mail to the owner and the person in charge of the property to the last known address of the person or persons.
4. The notice to abate shall include the following:
  - (a) A description of the real property, by street address or otherwise, on which the nuisance exists.
  - (b) A description of the nuisance.
  - (c) A direction to abate the nuisance within 10 days from the date of the notice.
  - (d) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged as a lien against the property.
  - (e) A statement that failure to abate a nuisance may warrant imposition of a fine.
  - (f) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the recorder within 10 days of the date on the posted or mailed notice, whichever is later.
5. Upon completion of the posting and mailing, the recorder shall execute and file a certificate stating the date and place of the mailing and posting.
6. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or person in charge shall not make the notice void, and in such case the posted notice shall be sufficient.

IX. Abatement by the Person Responsible

1. Within 10 days after the posting and mailing of the notice as provided in section VIII., the owner or person responsible shall remove the nuisance or file a statement that no nuisance exists, as provided in this section, subsection 2.
2. The owner or person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the recorder.
3. The statement shall be referred to the council as a part of its regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the person

protesting may appear and be heard by the council, as may the person complaining of a nuisance, and other interested parties. The council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where written objection to the notice has been filed.

4. If the inspection designated in section VIII. determines that an emergency exists, the inspector shall notify the mayor, and the mayor may call an emergency meeting of the council and cause to be served on the owner and the person in charge of the property a notice that they must attend the emergency meeting if they wish to object to the proceeding. The emergency meeting shall be conducted pursuant to the regular abatement proceedings in so far as reasonably practical to do so.
5. If the council determines a nuisance does exist, the person responsible shall within five days after the council meeting and determination, abate the nuisance, unless the council has granted a longer time to abate the nuisance for good and sufficient cause. If the council determines that an emergency exists, it may order the nuisance abated within 24 hours.

#### X. Joint Responsibility

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

#### XI. Abatement by the City

1. If the nuisance has not been abated by the person responsible within the time allowed, the city may cause the nuisance to be abated.
2. The recorder shall keep an accurate record of the expenses, including attorney costs, incurred by the city in abating the nuisance and shall include in those expenses a charge of 15 percent for the expenses of administration overhead.

#### XII. Assessment of Costs.

1. The recorder shall forward to the owner and the person in charge of the property, by registered or certified mail, a notice stating:
  - (a) The total cost of abatement, including the administrative overhead.
  - (b) That the cost will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
  - (c) That if the owner or person in charge of the

property objects to the cost of abatement they may file a written notice of objection with the recorder not more than 10 days from the date of the notice.

2. At least 10 days after the date of the notice, the council, in the regular course of business shall hear and determine the objections to the cost to be assessed.
3. If the abatement costs are not paid within 30 days from the date of the notice, the assessment of the cost stated or determined by the council shall be made by resolution and entered in the docket of city liens, and shall constitute a lien on the property from which the nuisance was removed.
4. The lien may be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the legal rate of interest. The interest shall commence to run from the date of the entry of the lien in the lien docket.
5. An error in the name of the owner or the person in charge of the property or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

#### General

#### XIII. Summary Abatement

The procedure provided by this ordinance is not exclusive, but is in addition to any procedure provided by other ordinances. The city may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

#### XIV. Penalties

1. A violation of a provision of this ordinance is punishable by a fine not to exceed \$500. Each day's violation constitutes a separate offense.
2. The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.

This ordinance shall take effect on the \_\_\_\_\_ day after enactment. Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_,

Attest:

\_\_\_\_\_  
City Recorder