

Section 1405 – Trees on Public Property

1405.01 Trees in Streets, Parkways, and Public Grounds. The following Sections regulate planting, care, preservation, and removal of trees, shrubs, and other vegetation on the City's streets and boulevard as follows:

1405.03 Definition. Street, parkway, and boulevard means the entire width between boundary lines of way or place when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

1405.05 Removal. No person shall remove or cause to remove any healthy tree or trees that are located within the limits of any street, parkway, or boulevard in the City without the prior approval of the review committee provided for herein.

1405.07 Varieties. No tree shall be planted within the limits of any street, parkway, or boulevards except for the following species: Red Maple (*Acer rubrum*), Sugar Maple (*Acer saccharum*), Hackberry (*Celtis occidentalis*), White Ash (*Fraxinus americana*), Green Ash (*Fraxinus pennsylvanica lanceolata*), Marshall's Seedless Ash, Summit Green Ash (*Fraxinus pennsylvanica Summit*), Iron Wood (*Ostrya virginiana*), American Linden (*Tilia americana*), Little Leaf Linden (*Tilia cordata*), Redmond Linden (*Tilia xeuchlora Redmond*), Glenlevin Linden (*Tilia cordata Glenlevin*), Burgason Green Ash (*Fraxinus pennsylvanica Burgason*), River Birch (*Betula nigra*), White Oak (*Quercus alba*), Northern Red Oak (*Quercus Rubra*), Greenspire Linden (*Tilia cordata Greenspire*), Japanese Tree Lilac (*Syrunga Reticulata*).

Species not listed above shall be considered if the Tree Committee determines that the planting would enhance the beauty of the area in question or would be appropriate under the circumstances.

1405.09 Right-of-Ways. No tree shall be planted within the limits of any street, parkway, or boulevard where the space available between the sidewalk and the curb is less than six feet.

1405.11 Alleyways. No tree shall be planted within the limits of any street, parkway, or boulevard which has a right-of-way of less than sixty feet in width.

1405.13 Size. No tree shall be planted which measures less than 6 feet in height above the ground.

1405.15 Spacing. There shall be a distance of not less than 27 feet and not more than 33 feet between trees without prior approval of the City Tree Committee.

1405.17 Alignment. Where curb and sidewalk now exist, all trees should be planted in the center line between the curb and the sidewalk edge.

1405.19 Sidewalks. No trees should be planted within the limits of any street, parkway, or boulevard until sidewalk and curbing has been constructed adjacent thereof unless it shall be determined by the Council that such sidewalks and/or curbing will not be constructed in the foreseeable future.

1405.21 Trimming. Trees overhanging any street or right of way within the City shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 10 feet above the surface of the sidewalk or 14 feet above the surface of the street. All tree pruning shall be done in a manner consistent with approved practices; specifically branches should be cut flush to the stem or point of intersection with another branch with the stub being left. Severe tree topping which destroys the normal shape of the tree shall not be practiced except in instances where required such as emergency cleanup following a storm or when utility or other obstruction prevents normal pruning practice. The Council may require the trimming of such trees within the City of Brainerd and may cause the abutting property owner to pay the expense of such work.

- a) The City shall have the authority to direct and require the trimming of such trees and may cause the same to be trimmed by employees of the City without cost to the abutting property owner.

1405.25 Prohibiting Planting in Streets. No person shall plant shrubs, evergreens, flowers, or vegetation of any kind which will exceed 3 feet in height at any time other than grass or the variety of trees listed in this Section (1405.07) of this Ordinance or trees otherwise approved by the City Tree Committee within the limits of any street, parkway, or boulevard in the City.

- a) The City Tree Inspector shall have the authority to require owners of abutting property to remove any shrubs, evergreens, flowers, vegetation, or trees planted after the enactment of this ordinance. The Inspector shall follow the procedure spelled out in Section 1400.15.

1405.27 Diseased Trees. The City Tree Inspector shall have the authority to require the destruction or cause to be destroyed any tree or trees within the limits of City parkway or boulevard or private real property that have been found to be infected by disease or infected by injurious insects when destruction is necessary for the protection of other trees. No action to remove diseased or infested trees shall be taken until positive diagnosis of the disease has been made and the notification procedure identified in Section 1400.15 is followed.

1405.29 New Planting by the City. The City Council may order and require the Parks and Recreation Director to plant trees within the limits of any City park or boulevard or on other City property. The cost of such tree plantings shall be paid by the City.

1405.31        Material on the Street. No building material or materials of any kind shall be piled upon any street, parkway, or boulevard which may interfere with or injure any tree growing thereon. Until said tree or trees has been sufficiently protected by a proper guard to prevent possible injury, all restrictions issued for this purpose by the Parks and Recreation Director shall promptly be complied with.

1405.33        Attachments. No person shall attach any material to a tree within the limits of any city parkway or boulevard by nailing or any other method detrimental to said tree. Person or persons responsible for such acts whether or not intentional shall be responsible for the repair or replacement of the said tree.

1405.35        Violation. Any person or persons violating any provisions of this Ordinance shall be guilty of a petty misdemeanor.

1405.37        Enforcement. It shall be the duty of the Parks and Recreation Director, the City Tree Inspector or his designee to enforce the provisions of this Ordinance.

1405.39        Validity. The intention of the City Council is hereby expressed that the provisions of this Ordinance are severable and a determination by a court that any section or portion hereof is invalid shall not invalidate affect any other section or portion of this Ordinance.

1405.41        Review Committee. A review committee consisting of not fewer than three nor more than seven members shall be appointed by the City Council. This committee shall meet at such times as may be necessary to review the determinations made by the Tree Inspector or his designee under this Ordinance when such review is requested, in writing, by an affected person within seven days of notice of the determination. For this purpose notice shall be deemed to have been received immediately if the notice was served personally, or three days after publication if service was obtained in this manner. If review is properly requested, the review committee shall consider the determination and shall have the power to affirm, modify or reverse the decision of the Tree Inspector.

Any affected or interested party may also request a meeting of the committee to consider the granting of a variance from the provisions of Sections 1400, 1405 and 1410 of this Ordinance. In no event shall the review committee have any power or authority to determine, waive or modify any special assessments which may be levied pursuant to the provisions of this Ordinance.

(Added Ord. 950 – 1993)