

**CHAPTER THREE
PUBLIC PLACES AND PROPERTY**

ARTICLE 5 - TREE ORDINANCE

3.0501. Definitions.

Street Trees: "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of the streets, avenues or ways within the City.

Park Trees: "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

3.0502. Creation and Establishment of a Shade Tree Committee.

There is hereby created and established a Shade Tree Committee for the City of Rutland, North Dakota, which shall consist of three members - the City Auditor, one elected City Council Member, and one elected member of the Rutland Park Board.

3.0503. Term of Office. The City Council representative shall be the holder of the City Beautification Portfolio who will serve in that capacity until a successor is elected. The Rutland Park Board shall designate a member to serve on the Committee. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

3.0504. Compensation. Members of the Committee shall serve without compensation.

3.0505. Duties and Responsibilities. It shall be the responsibility of the Committee to study, investigate and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting and removal of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive annual forestry work plan for the city of Rutland, North Dakota.

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

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The Committee, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

3.0506. Operation. The Committee shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

3.0507. Street Tree Species to be Planted. The Tree Committee will formulate an official Street Tree species list for Rutland, North Dakota. The list of allowable species shall be broken down into categories of small, medium and large trees. No species other than those included in this list may be planted as Street Trees without written permission of the Shade Tree Committee.

3.0508. Spacing. The spacing of Street Trees will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer together than the following: small trees, 20 feet; medium trees, 30 feet; and large trees, 40 feet.

3.0509. Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

3.0510. Distance from Street Corners and Fireplugs. No Street Tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street Tree shall be planted closer than 10 feet of any fireplug.

3.0511. Utilities. No Street Trees other than those listed as small trees in Section 7 of this ordinance may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

3.0512. Public Tree Care. The City shall have the right to plant, prune, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety when serving City utilities or to preserve the symmetry and beauty of such public grounds.

The Shade Tree Committee 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 is injurious to sewers, electric power lines, gas line, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

3.0513. Tree Topping. It shall be unlawful as a normal practice for any person, firm, or city department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so 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 ordinance at the determination of the Shade Tree Committee.

3.0514. Pruning and Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such 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 eight feet (8') above the surface of the street or right-of-way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with the visibility of any traffic control device or signs, such pruning to be confined to the area immediately above the right-of-way.

3.0515. Dead or Diseased Tree Removal on Private Property. The City shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The Shade Tree Committee will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

3.0516. Stump Removal. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

3.0517. Interference with the Shade Tree Committee. It shall be unlawful for any person to prevent, delay or interfere with the Shade Tree Committee, or any of its agents, or servants, while engaging in and about the planting, cultivating, mulching, spraying or removing of any street trees, park trees or trees on private grounds, as authorized in this ordinance.

3.0518. Arborist License and Bond. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the City without first applying for and procuring a

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license. The license fee shall be \$25.00 annually in advance; provided, however, that no license shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$10,000 property damage indemnifying the City or any person injured or damage resulting from the pursuit of such endeavors as herein described.

3.0519. Review by City Council. The City Council shall have the right to review the conduct, acts and decisions of the Shade Tree Committee. Any person may appeal from any ruling or order of the Shade Tree Committee to the City Council who may hear the matter and make a final decision.

3.0520. Penalty Section. Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$100.

3.0521. Severability. Should any part or provision of this ordinance be declared by court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Approved October 1, 2018.