

TITLE III.

PARKS AND BOULEVARDS

CHAPTERS:

3-01. Parks.

3-02. Boulevards.

3-03. Trees. (Source: Ord. 2015-58, Sec. 1)

CHAPTER 3-01

PARKS

SECTIONS:

- 3-0101. Acceptance by City of Kindred Provisions of State Law.
- 3-0102. Compensation of Park Board Members.

3-0101. **ACCEPTANCE BY CITY OF KINDRED PROVISIONS OF STATE LAW.** The provisions of Chapter 40-49 of the North Dakota Century Code, and any amendments thereto, are accepted by the City Council of the City of Kindred, it being the intent of the City to have a Park District of the City of Kindred with all the powers and responsibilities as set out in Chapter 40-49 of the North Dakota Century Code, and all amendments thereto.

3-0102. **COMPENSATION OF PARK BOARD MEMBERS.** Each duly elected and qualified member of the Board of Park Commissioners shall receive compensation for their services as set by resolution of the City Council.

CHAPTER 3-02

BOULEVARDS

SECTIONS:

- 3-0201. Definitions.
- 3-0202. Prohibited Acts or Encroachments.
- 3-0203. Permits.
- 3-0204. Driving on Sidewalk or Boulevard.
- 3-0205. Care of Boulevard.
- 3-0206. Failure of Landowner to Care for Boulevard.
- 3-0207. Penalty.

3-0201. **DEFINITIONS.**

1. “Boulevard” or “Berm” shall mean that area of ground between the roadway and the sidewalk or, if there be no sidewalk, it is the area of the ground between the roadway and the dedicated limits of the street or avenue.
2. “Roadway” shall mean that portion of the street or avenue improved, designed, or ordinarily used for vehicular travel.

3-0202. **PROHIBITED ACTS OR ENCROACHMENTS.**

1. **Parking.** No person shall stop, stand, or park a motor vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, upon a sidewalk or boulevard.
2. **Signs.** Any sign or signs or billboard, except official or quasi-official signs, standing or erected upon a boulevard is a public nuisance and may be abated by removing the sign.
3. **Buildings.** No person shall erect or cause to be erected or permit any building or structure to stand upon the boulevard, other than a mailbox.
4. **Storage.** It is prohibited to store any equipment, building materials, inventory, or any other material upon the boulevard.

3-0203. **PERMITS.** Nothing herein shall prohibit the parking of motor vehicles upon the sidewalk or boulevard, the erection of signs or billboards upon the boulevard, the maintaining of a building or structure upon the boulevard, or the storage of equipment, material or inventory upon the boulevard if written application is made to the City Council requesting the privilege of parking motor vehicles upon the sidewalk or boulevard, the erection of signs or billboards upon the boulevard, the maintaining of a building or structure upon the boulevard, or the storage of

equipment or inventory upon the boulevard, and the City Council grants such permission by resolution.

3-0204. **DRIVING ON SIDEWALK OR BOULEVARD.** No person shall drive any vehicle over, across, or upon any sidewalk, curb, or boulevard except where there are driveway crossings. Provided, however, the owner or occupant or his agents or employees may drive over the same temporarily when necessary to obtain access to the premises if permission to do so is first obtained from the City Auditor. The City Auditor, in granting such permission, may require protective measures to protect the curb, sidewalk, and boulevard, which protective measures must be removed immediately after such temporary use.

3-0205. **CARE OF BOULEVARD.** It shall be the responsibility of the abutting property owner to seed or sod the boulevard. No gravel, pavement, or other hard surface may be placed on the boulevard except for a driveway or sidewalk. No tree, shrub, or other plant or vegetation growth may be planted within the boulevard without permission granted by resolution by the City Council. Any person or entity desiring to place gravel, pavement, or other hard surface, or tree, shrub or other plant or vegetable growth in the boulevard may make written application to the City Council, and the City Council, by resolution, may approve such request when the City determines that it is in the best interests of the City to do so or where there is some other extenuating circumstance which would make the planting or maintaining of grass difficult or inappropriate. In addition, the City Council may place any reasonable conditions (such as relating to the maintenance and/or height) of any material or vegetation placed or planted on the boulevard. Such conditions shall be binding upon the abutting property owner and any of his or her successors in interest.

3-0206. **FAILURE OF LANDOWNER TO CARE FOR BOULEVARD.** If the abutting property owner fails to care for the boulevard in such a manner that the City Council feels has the potential to pose a health or safety hazard, then the City Council may by resolution order the abutting landowner to take such steps as are necessary to rectify the condition. If the abutting landowner fails to comply with the directive of the City Council within 30 days, then the City Council may cause such steps to be done and may assess the costs of the same against the taxes on the abutting landowner's property.

3-0207. **PENALTY.** A violation of this chapter may be punishable as an infraction as set forth in Section 1-0211 of these ordinances.

CHAPTER 3-03

TREES

(Source: Ord. 2015-58, Sec. 1)

SECTIONS:

- 3-0301. Definitions.
- 3-0302. Separability.
- 3-0303. Creation and Establishment of a City Tree Board.
- 3-0304. Term of Office.
- 3-0305. Compensation.
- 3-0306. Duties and Responsibilities.
- 3-0307. Operation.
- 3-0308. Street Tree Species to be Planted.
- 3-0309. Planting Distances.
- 3-0310. Public Tree Care.
- 3-0311. Trimming; Corner Clearance.
- 3-0312. Dead or Diseased Tree Removal on Private Property.
- 3-0313. Interference with City Tree Board.
- 3-0314. Review by City Council.
- 3-0315. Penalty.

3-0301. **DEFINITIONS.** For the purposes of this ordinance, the following terms, phrases, words, and their deviations will have the meaning given herein:

- A. “Boulevard” means the space between the sidewalk or the normal location of the sidewalk and the curb line or curb.
- B. “City” is the City of Kindred, State of North Dakota, and shall mean all land in the municipal boundary.
- C. “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.
- D. “Person” means any person, firm, partnership, association, corporation, company, or organization of any kind.
- E. “Property Lines” means the outer boundaries of any lot or parcel of land.
- F. “Property Owner” shall mean the person owning such property as is shown by the Cass County, North Dakota Recorder.

- G. “Street Trees” are herein defined as trees, shrub bushes, and all other woody vegetation on land lying between the property lines on either side of all streets, avenues, or ways within the City.
- H. “Streets” means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- I. “Width of Boulevard” means the distance between the sidewalk or the normal location of the sidewalk and the curb line or curb.

3-0302. **SEPARABILITY.** Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the ordinance as a whole, or any part thereof; other than the part declared to be invalid.

3-0303. **CREATION AND ESTABLISHMENT OF A CITY TREE BOARD.** There is hereby created and established a City Tree Board for the City of Kindred, North Dakota, which will consist of five members, four of whom must be citizens and residents of the City, one of whom may be a non-resident, all of whom will be appointed by the Mayor with approval from the City Council.

3-0304. **TERM OF OFFICE.** The term of the five persons to be appointed by the Mayor will be three years, except that the term of two of the members appointed to the first Board will be for only one year, and the term of two of the members of the first Board will be for two years. In the event that a vacancy occurs during the term of any member, his/her successor will be appointed for the unexpired portion of the term.

3-0305. **COMPENSATION.** Members of the Board will serve without compensation.

3-0306. **DUTIES AND RESPONSIBILITIES.** It will be the responsibility of the Board to study, investigate, council and develop and/or update annually a written plan for the care, preservation, trimming, planing, replanting, removal or disposition 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, will constitute the official comprehensive city tree plan for the City of Kindred, North Dakota.

The City Tree Board or its Agent will be responsible for the planting, pruning, and removal of all trees located within the street rights-of-ways, 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 will be required only when the owner of the property intends to deviate from the rules and regulations contained in this ordinance.

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

3-0307. **OPERATION.** The Board will choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members will be a quorum for the transaction of business.

3-0308. **STREET TREE SPECIES TO BE PLANTED.** No species of trees other than trees or shrubs implemented by the Tree Board may be planted as Street Trees without written permission of the City Tree Board.

3-0309. **PLANTING DISTANCES.** The spacing of Street Trees will be in accordance with the three species size classes, and no trees may be planted closer together than the following: Small Trees - 20 feet; Medium Trees - 30 feet; and Large Trees - 40 feet.

1. **FROM CURB AND SIDEWALK.** The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three tree species size classes, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees - 2 feet; Medium Trees - 3 feet; Large Trees - 40 feet.
2. **FROM STREET CORNERS AND FIRE HYDRANTS.** No Street/Park Tree may be planted closer than 20 feet of a street corner, measure from the point of nearest intersecting curbs or curb lines. No Street/Park Tree may be planted closer than 10 feet of any fire hydrant.
3. **FROM UTILITIES.** No Street Trees, other than those species listed as Small Trees, 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.

3-0310. **PUBLIC TREE CARE.** The City will have the right to plant, prune, trim, spray, preserve or 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 servicing City utilities or to preserve the symmetry and beauty of such public grounds. The City Tree Board 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 lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pests.

3-0311. **TRIMMING; CORNER CLEARANCE.** Every owner of any tree overhanging any street or right-of-way within the City must trim the branches so that such branches do not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there will be a clear space of eight (8) feet above the surface of the street or right-of-way. Said owners must remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City will have the right to trim any tree or shrub on private property when it interferes with the proper spread of light, or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

3-0312. **DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.** The City will 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 City Tree Board will notify in writing the owners of such trees. Removal will be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City will have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

3-0313. **INTERFERENCE WITH CITY TREE BOARD.** It will be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of his agents, or servants, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, park trees, or trees on private grounds, as authorized in this ordinance.

3-0314. **REVIEW BY CITY COUNCIL.** The City Council will have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council, who will hear the matter and make a final decision.

13-0315. **PENALTY.** Any person violating any provision of this ordinance will be, upon conviction or a plea of guilty, subject to a fine not to exceed \$500.