

TITLE THIRTEEN

TREES AND NOXIOUS VEGETATION

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Municipal Tree Regulations
Noxious Weeds

CHAPTER 13-1

MUNICIPAL TREE REGULATIONS

13-1-1

TITLE

This chapter shall be known and may be cited as the Municipal Tree Regulations of the City of Brandon, Minnehaha County, South Dakota.

Legislative History:
1990 Revisions

13-1-2

DEFINITIONS

- A. "Street Trees" are herein defined as the trees and all other wood vegetation on land lying between the right of way lines of all streets, avenues, alleys or other public right of way within the City.
- B. "Park Trees" are herein defined as trees and all other wood vegetation in public parks, playgrounds, cemeteries and all other areas owned by the City, or to which the public has free access as a park, playground or cemetery.
- C. "Parkway or Boulevard" are herein defined as the paved or unpaved strip of land paralleling the roadway and located between the roadway and the sidewalk area or the property line.

Legislative History:
1990 Revisions.

Authority:
SDCL § 50-10-1.

13-1-3

GENERAL AUTHORITY OF CITY

The City of Brandon is to provide for the necessary attention or action insofar as trees, brush, wood, shrubbery or debris infected with dutch elm disease, as well as any other infestations or infectious diseases are concerned.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1.

13-1-4

AUTHORITY ADMINISTRATION; PLANTING, MAINTENANCE AND REMOVAL OF TREES, PUBLIC SAFETY

The Mayor and City Council of the City of Brandon, through its Superintendent of Parks, will hereafter have authority to administer the provisions of this chapter, unless otherwise specifically provided; that they will have the authority to study the problems and determine the needs of the City of Brandon, also referred to hereinafter as the Municipality. They shall have the authority to determine the type and kind of trees to be

placed upon all municipal public streets or parts of public streets or in parks. They may assist in the dissemination of news and information regarding the selection, planting and maintenance of trees, shrubs and bushes within the corporate limits or within the area over which the municipal officials have jurisdiction, whether the same be on private or public property. The City Council and Superintendent of Parks shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1.

13-1-5

PRUNING TREES, THE MINIMUM CLEARANCE

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection, except where such service are provided for by utility firms.

The minimum clearance for any overhanging portion thereof over a sidewalk shall be ten feet whenever practicable, and shall be twelve feet over all streets except truck thoroughfares when the clearance shall be from fourteen to sixteen feet, unless otherwise designated by the City Council.

Legislative History:
1990 Revisions.
Ordinance #449, 06/03/09

Authority:
SDCL § 9-45-1.

13-1-6

HARMFUL ACTIVITIES TO TREES PROHIBITED

Unless otherwise specifically authorized by the City Council or Park Superintendent, no person shall intentionally damage, cut or carve any tree, attach any rope, wire, nails, advertising posters or other contrivances to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or to set fire or permit any fire to burn when such fire or the heat therefrom will injure any portion of any tree.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 22-34-1, 9-45-1.

13-1-7

SAFETY HAZARDS TO THE PUBLIC, TREE DISEASES

No tree shall be allowed to harbor any safety hazard to the general public, whether that tree be public or private, or to harbor any insect, disease or other pest that would be injurious or fatal to any tree in the City. Such trees include those injurious to sewer, water, electrical, telephone or gas lines, and those interfering with traffic and traffic control devices and signs, those obstructing light from any street light and those that are dead or have broken or dead limbs that are unsafe.

Any elm wood or elm tree, living or dead, within the City found to have dutch elm disease fungus, Ceratocystic Ulmi, or which could harbor the european elm bark beetle, Scolytus Multistratus, and/or the native elm bark beetle, Hylurgopinus Rufipes, shall be declared a

nuisance.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1.

13-1-8

NUISANCES; NOTICE TO OWNERS; NOTICE CONTENT; PREMISE INSPECTIONS

Any hazard as described in Section 7 shall be declared a nuisance by the City Council and within fifteen days of written notice of said nuisance, the same shall be corrected by the responsible owner or person in possession of said tree.

The Park Superintendent of City Council shall inspect or cause to be inspected all premises and places within the City in even-numbered years to determine whether any public nuisance as defined in this section exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the dutch elm disease or any elm bark bearing material reported or suspected to be infested with either species of the above named elm bark beetles. The Finance Officer shall notify owners as to location of the dutch elm infested trees. The Park Superintendent will make inspection after fifteen days to make certain of compliance with this section.

Legislative History:
1990 Revisions.

Authority:
SDCL §§ 9-29-31, 34-16-19
and 34-16-20.

13-1-9

REMOVAL COSTS; COLLECTION OF

The entire cost of any abatement of a public nuisance as defined in this section on trees on any public street, alley, park or other public place, except boulevards, shall be borne by the City. The cost of removing elm trees infected with the dutch elm disease fungus on private property and on boulevards shall be borne by the property owner.

In the event owner, occupant or person fails to comply with the resolution and order of the City Council of the City of Brandon to remove said nuisance, the City of Brandon shall cause said nuisance to be removed and shall either submit the costs incident to said service and removal to the Finance Officer for certification to the Minnehaha County Auditor for collection with and in the same manner as general property taxes or shall recover said costs in an action in Court.

Legislative History:
1990 Revisions.
Cross Reference: Ordinance 13-1-2(c).

Authority:
SDCL Ch. 21-10.

13-1-10

ELM WOOD

On or after November 1, 1984, no elm wood of any kind may be stored in a wood pile or in any other place within the City, and no elm wood may be used as firewood. No elm wood may be hauled into or through the City, except on its way from the City to a designated disposal area, where it must be immediately shredded, buried or burned.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-21-31.

13-1-11

COST ASSESSMENTS; RECORDS

The Finance Officer shall keep a strict account of all costs of tree removals and other

nuisances abated under this chapter in the event assessments are necessary.

Legislative History:
1990 Revisions.

Authority:
SDCL Ch. 21-10 generally.

13-1-12

INTERFERENCE BY INDIVIDUALS

It shall be unlawful for any person to hinder, prevent, delay or interfere with the City Council or any member thereof or the Park Superintendent or any other representative of said City Council, whomsoever that might be, while engaged in carrying out the execution or enforcement of this chapter, provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-29-31.

13-1-13

BUILDING BESIDE TREES

No person shall deposit, place, store or maintain upon any public place of the Municipality any stone, brick, sand, concrete or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the City Council or Park Superintendent.

Legislative History:
1990 Revisions.

Authority:
SDCL § 9-45-1.

13-1-14

PLANTING TREES IN BOULEVARD, TREE PERMIT REQUIRED

No person may plant, transplant or move any tree or shrub in the boulevard of a public street or on any public grounds without first obtaining a written "tree permit" from the City of Brandon to do such work. A tree permit fee will, from time to time, be determined by the Brandon City Council. The tree permit shall reflect at least the following information: name and address of the owner of the property, description of the property; the name and address of the person doing the work, the type, location and size of tree or shrub to be planted.

Legislative History:
1990 Revisions
Ordinance No. 321, 10//7/02.

Authority:
SDCL § 9-45-1.

13-1-15

TYPE OF TREES ALLOWED IN THE STREET BOULEVARD

The Brandon City Council shall establish, and from time to time review, a list of approved trees that may be planted in the street boulevard and other public grounds.

Legislative History:
1990 Revisions
Ordinance No. 321, 10//7/02.

Authority:
SDCL § 9-45-1.

13-1-16

REGULATION FOR PLANTING TREES IN THE BOULEVARD

After a permit has been obtained, the planting shall be completed in accordance with the following regulations.

A. No tree or planting shall be planted or permitted to grow in such a manner as to

impede vision between a height of two and one half feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the curb lines of such corner lots and a line joining points along said street lines forty (40) feet from the point of intersection as stated in Brandon Municipal Code 15-4-2.

- B. No tree shall be planted where the distance from the sidewalk to the back of the curb is less than four feet.
- C. No tree shall be planted closer than two feet from the back of the curb.
- D. Trees shall be planted a minimum of 30 feet apart unless with prior written approval from the City of Brandon.
- E. The expense for planting and removal of trees shall be the responsibility of the owner of the adjacent property.
- F. Only designated trees from the City's approved list shall be planted on the boulevard.
- G. The owner of property shall locate all utilities by placing a call to South Dakota One Call prior to planting.

Legislative History:
1990 Revisions
Ordinance No. 321, 10//7/02

Authority:
SDCL § 9-45-1.

13-1-17

TREE BOARD, APPOINTMENT, TERMS, AND MEMBERSHIP

There is hereby created and established a Tree Board for the City of Brandon, which shall consist of five members who shall be appointed by the mayor with the approval of the Brandon City Council. The Brandon City Council shall, by resolution, establish compensation and duties of the Board.

The term of the five persons serving on the Board shall be three years, except that the term of two of the members appointed to the first board shall be for only one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

Membership of the Board shall consist of one member of the City Council, one member of City staff, and three members at large.

Legislative History:
Ordinance No. 420, 4/20/08.

Authority:
SDCL § 9-45-1.