

TREE ORDINANCE

§95.01 PURPOSE.

The Town of Cooleemee deems it necessary and desirable in the interest of public health, safety and welfare to enact an ordinance for the maintenance, preservation, planting, and replacement of trees and shrubs and to prevent the indiscriminate pruning and removal of trees and shrubs on Town owned property and rights-of-way within the Town and on municipally owned property wherever located. The importance of trees is recognized for their shade, cooling, noise and wind reduction, soil erosion prevention, oxygen production, dust filtration, carbon dioxide absorption, aesthetic and economic enhancement of all real property, and their contribution to the general being of the citizens of Cooleemee.

The purpose of this ordinance is intended to provide for the trimming or removal of trees and shrubs on public or private land when they obscure street lights, interfere with utility lines, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare.

The main purpose of this Chapter is to encourage the protection of trees and shrubs and express the Town's intent to use trees to maintain and create a more aesthetically pleasing environment. To this end, the Town's policy towards trees within the rights-of-way and other Town property is to promote, wherever possible, the conservation, retention, and where necessary, replacement and planting of trees and shrubs.

This ordinance shall further provide for the establishment of an advisory committee known as the tree board who shall be responsible for promoting trees and tree care throughout the municipality and for developing a Town tree plan.

§95.02 DEFINITIONS.

RIGHT-OF-WAY. Is herein defined as that property located within and adjoining the streets, roads and highways within the city, which rights-of-way are owned by the Town or the State or are otherwise maintained by the Town or the State.

STREET TREES. Are herein defined as trees, shrubs, lying within rights-of-ways on either side of all streets, roads, or ways within the Town.

PARK TREES. Are herein defined as trees, shrubs, in public parks having individual names, and all areas owned by the Town, or to which the public has free access as a park.

TOWN ARBORIST. Is herein defined as the person designated by the Town to be qualified through formal education or practical experience in the fields of urban forestry, arboriculture or horticulture and who is capable of advising and administering a complete urban tree management program.

SMALL TREE. Are herein defined as any tree under thirty (30) feet at maturity.

MEDIUM TREE. Are herein defined as any tree between thirty (30) and fifty (50) feet at maturity.

LARGE TREE. Are herein defined as any tree over fifty (50) feet at maturity.

SHRUB. Any plant not considered a tree, includes grass, flowers, etc.

§95.03 CREATION AND ESTABLISHMENT OF A TOWN TREE BOARD.

There is hereby created and established a Town tree board, which shall consist of **five members**, who are citizens and residents of the town, who shall be appointed by the Town Board. The town arborist and one member of the Town Board shall be ex-officio members.

§95.04 TERMS OF OFFICE.

The term of the five persons to be appointed by the Town Board shall be three years except that the term of one 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, with the remaining two serving three years. 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.

§95.05 COMPENSATION.

Members of the board shall serve without compensation.

§95.06 ORGANIZATION.

The tree board shall adopt rules for transaction of its business and shall keep a record of its members, attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. The tree board shall set a regular schedule for meetings, and the chairman may call a special meeting upon request of a majority of members of the tree board. A majority of the members shall be a quorum for the transaction of business.

The tree board shall elect its own officers who shall include a chairman, vice-chairman, and secretary.

§95.07 DUTIES AND RESPONSIBILITIES.

(A) It shall be the responsibility of the tree board to study, investigate, counsel, and develop and/or

update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Town Board and upon its acceptance shall constitute the official comprehensive Town Tree Plan.

(B) The tree board, when requested by the Town Board, shall consider, investigate, make findings, report and recommend upon special matter or question coming within the scope of its work.

(C) The tree board shall furthermore serve as an advisory board to the Town Board with the following duties and responsibilities:

- (1) To facilitate the planting, growth and protection of trees within the Town;
- (2) To foster the communication among the citizens of the Town that would provide the needed protection of trees and to coordinate active measures to support their health and growth within the town;
- (3) To conduct a tree survey of existing trees along streets and on public property within the Town;
- (4) To investigate available grants, loans, or contributions from other governmental agencies, public or private corporations, or individuals; and to recommend the expenditure of any proceeds toward the accomplishment of the board's purpose;
- (5) To conduct continuing research, planning, and feasibility studies required to support the purposes stated herein;
- (6) To help organize and promote the continued growth of an annual Arbor Day Celebration.

(D) The tree board shall also be responsible for developing an official street tree species list comprised of three groups of trees: small trees, medium trees, and large trees. No other than

those included in the list may be planted as street trees without permission of the tree board.

- (E) The tree board will be responsible for establishing guidelines for the spacing of Town trees in accordance with the three species size classes in the official street tree species list. These guidelines will cover spacing between street trees, the distance street trees may be planted from curbs or curb lines and sidewalks, the distance street trees may be planted from any street corner, the location of the street trees relative to overhead and underground water lines, sewer lines, transmission lines, fire plugs, or other utilities, and any other areas involving the spacing of street trees, park trees or Town-owned trees.
- (F) The tree board shall submit an annual report of its activities and recommendations to the Town Board and shall submit copies of the minutes and proceedings of its regular and special meetings.

§95.08 PUBLIC TREE CARE.

- (A) The Town shall have the right to plant, prune, maintain and remove trees, and shrubs within the lines of all streets, squares and other public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (B) The tree board may remove or cause to be removed, any publicly owned tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewer lines, electrical power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the section and location of such trees are in accordance with the guidelines for planting and spacing developed by the tree board.

§95.09 TREE TOPPING.

It shall be unlawful as normal practice, except as defined below, for any person, including the Town, 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 that interfere with or are an eminent threat to utility wires or other obstructions where other pruning practices are impractical, may be exempted from this article at the determination of the tree board.

§95.10 REMOVAL OF STUMPS.

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.

§95.11 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The Town shall have the right to cause the removal of any dead or diseased tree from private property within the town, when such tree constitutes a hazard to life and property, or harbors insects or disease which constitutes a potential threat to other trees within the Town. The Town tree board will notify in writing the owners of such trees. Removal of such trees shall be done by the owner at his own expense within 60 days of service of notice. If the owner fails to comply with the provisions of this section, the Town shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

§95.12 INTERFERENCE WITH TREE BOARD.

It shall be unlawful for any person to prevent, delay or interfere with the tree board, or any of its

agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing of any street trees, park trees, or other trees on public grounds, as authorized in this article.

§95.13 EMERGENCIES.

In the case of emergencies, such as windstorms, ice storms, fire or other disasters, the requirements of this chapter may be waived by the Town during the emergency period so that the requirements of this chapter will in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be a general waiver of the intent of this Chapter.

§95.14 PERMIT REQUIRED.

It shall be unlawful for any person to prune, treat, or remove any street tree or park tree without first filing an application and procuring a permit from the Town Clerk. The Town maintains the right to review the application and the trees in question in determining whether or not to issue a permit.

§95.15 LICENSE AND BOND.

It shall be unlawful for any person to engage in the business or occupation of pruning, trimming, or removing street or park trees without first applying for and procuring a license provided, however, that no license shall be required of any public service company, any independent contractor or agent who contracts with the Town for tree removal or trimming, or Town employees doing such work in the pursuit of such company's public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in an amount prescribed by the Town Board for bodily injury and property damage indemnifying the Town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

§95.16 REVIEW BY TOWN BOARD.

The Town Board shall have the right to review the conduct, acts, and decisions of the Town Tree board. Any person may appeal from any ruling or order of the tree board to the Town Board, which may hear the matter and make final decision.

§95.17 ORDINANCE VIOLATION.

Any person, firm or corporation who violates any provision of this chapter shall be subject to the penalties as set forth in Section 10.99, however, no notice of violation is required to be issued and a civil citation may be issued immediately to the violator.

§95.18 SEVERABILITY.

The provisions of this Ordinance are severable and if any section or part shall be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.