

ARTICLE 3 - Trees

Sec. 7-3-10. - Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

Agent means any person other than the owner in charge of, or having control of, the premises. An occupant or tenant of the premises, except hotels, apartment buildings, and other multi-unit dwellings and business buildings, shall, for all purposes, be considered an agent.

Inventory means and includes a count; mapping; listing of tree species, size, location and condition; or any other parameters deemed appropriated by the Board of Trustees.

Owner means the record owner of property as shown by the records of the County Clerk and Recorder and shall also include, but not be limited to, the person having possession of the property.

Test means any test, survey, inspection or inventory conducted by the Board of Trustees, its employees, agents or appointees to determine the condition of any plants or woody vegetation; or whether such plant or woody vegetation is infested with a communicable disease or insect infestation capable of causing widespread damage.

Topping means 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. It is unlawful as a normal practice for any person to top any tree, park tree or other tree on public property. 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 regulation at the determination of the Tree Board.

Tree Board means those individuals comprised according to ordinance, to fill the terms of office of the Tree Board, as established in Chapter 2, Article 8, of this Code.

Tree, large means any tree which, at an adult or mature growth stage, would be anticipated to reach an average height size of more than 20 feet or any adult or mature tree which is more than 20 feet. However, no tree shall be authorized to be planted within the boundaries of the Town which, at an adult or growth stage, would reach an average height size of more than 30 feet without Town approval.

Tree, medium means any tree which, at an adult or mature growth stage, would be anticipated to reach an average height size of more than ten feet but not more than 20 feet, or any adult or mature tree which is more than ten feet but not more than 20 feet.

Tree, small means any tree which, at an adult or mature growth stage, would be anticipated to reach an average height size of ten feet or under, or any adult or mature tree which is ten feet or under.

Trees means small, medium or large trees, shrubs and all woody vegetation on land lying between private property lines on either side of all streets, avenues or alleys within the Town and in public parks and all areas owned by the Town or to which the public has free access as a park.

Utility means any organization, company, or corporation which provides utility services to the residents of the Town. Such services include, but are not restricted to, water, sewer, natural gas and electricity. Of particular concern are electric utilities which use overhead conductors which can interfere or be interfered with by trees and other plants.

(Prior code 2.36.005; Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-20. - Prohibited trees.

(a) It is unlawful and deemed a nuisance to sell or import into the Town or plant or cause to be planted within the Town limits any female box-elder tree (*Acer negundo*), female cottonwood tree (*Populus spices*), Siberian elm (*Ulmus pumila*), crabapple (*Malus species*), Russian olive or other undesirable plants as designated by ordinance upon any property within the Town, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance. (b) The owner of any property within the Town, upon which any tree listed in Subsection (a) above has been planted after the effective date of the ordinance codified herein, shall cut and remove such tree from his or her property after being given two days' written notice to do so by the Town. (c) In case of the failure of any owner of such property to cut and remove such tree as required in Subsection (b) above, the Town shall cut and remove such tree.

(Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-30. - Trees and limbs on public ways.

It is the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public

safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a danger to public safety shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value.

(Prior code 2.36.070; Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-40. - Control of trees and shrubs.

(a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the Town are hereby declared a nuisance. (b) The Town shall give written notice to the owner or occupant of any property abutting Town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The Town shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement. (c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the Town, unless authorized or directed by the Town. (d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the Town, except any person who notifies the Town of such injury, damage or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement.

(Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-50. - Inventory and inspection of trees.

(a) The Board of Trustees is authorized to inspect or test any plant, parts thereof, dead wood or any other plant material, on all public or private property to determine the condition of such plants in relation to disease and insects which may be detrimental to the growth and health of such plants. The Board of Trustees is authorized to take whatever steps are necessary to preserve and restore the growth, health and life of plant materials by spraying, pruning, removing or any other remedial action. Plants and trees may be removed by the Board of Trustees or its appointee if it appears such plants or trees may endanger other plants and trees or the public safety. (b) In regard to the injurious conditions which may exist on private property, the owner or agent shall be given written notice by the Board of Trustees to spray, prune, remove or take other remedial action within a specified period of time with regard to the infected material to prevent injury to other private or public plant material. Trees and any plants, parts thereof, dead wood, other plant material or vegetation may be directed to be removed by the owner or agent if the same appear to be a danger to other persons or the public safety. In the event the owner or agent does not comply after being given written notice by the Board of Trustees, the costs

and charges for such removal or appropriate maintenance and care may be charged to the owner or agent failing to so comply. Such cost or charge may be placed on the property tax notice. In the event costs or charges are to be assessed to the owner or agent, seven days' advance notice shall be given.

(Prior code 2.36.060; Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-60. - Standards and care of trees and vegetation.

(a) Clearance. The owner or agent of any house, building or lot shall not permit the branches of any type of plant to project over any public street, sidewalk or other public right-of-way less than eight feet above the surface of the sidewalks and not less than 14 feet above the surface of any street or alley.

(1) The spacing of street trees will be in accordance with the three size classes listed in Section 7-3-10 of this Article, and no trees will be planted closer than: a. Small trees, 30 feet; b. Medium trees, 40 feet; c. Large trees, 50 feet; except for special planting approved by the Tree Board.

(2) The distance from curbs and sidewalks that trees may be planted will be in accordance with the size classes listed in Section 7-3-10, and no trees may be planted closer to any curb or sidewalk than the following: a. Small trees, two feet; b. Medium trees, three feet; c. Large trees, four feet.

(3) No street trees shall be planted closer than 35 feet to any corner, as measured from the nearest point of intersecting curbs or curb line.

(4) No tree shall be planted closer than 15 feet to any fireplug. (b) Traffic safety. The owner of any plants overhanging public ways shall prune the branches so that the branches shall not obstruct the light from any street light and will not obstruct the view of any intersection and clear views of traffic on cross-streets.

(c) Pruning of trees. Limbs should be pruned to their bases; topping of trees shall not be done except under approval by the Tree Board. Owners or agents shall remove all dead, diseased or dangerous trees or parts thereof, or broken or decayed limbs which constitute a menace to the safety of the public.

The Town shall have the right to prune or remove any tree or other plant on private property when it interferes with the spread of light from a street light or interferes with the visibility of traffic control devices, signs or intersections and intersecting streets, and the owner or agent shall be charged for such removal or pruning.

(d) Removal of dead or diseased trees. The Town shall have the right to remove or cause the removal of any dead or diseased trees or other plants on private property, or trees or plants harboring insects or other diseases which constitute a potential threat to other plants within the Town.

The Board of Trustees shall notify in writing the owners of such plants and the owner or agent of any house, building or lot who is responsible for the removal of such plants. If such plants are not removed within reasonable periods of time, the Board of Trustees shall direct that such plants be removed by the Town and the owner or agent will be charged for such removal at a reasonable rate.

The cost of removal shall be charged on the owner's property tax notice. 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.

(e) Planting of trees. (1) On public ways, the Board of Trustees shall determine the kinds of trees and the spacing of trees that shall be planted. Owners or agents must apply for permits to plant trees on public rights-of-way, and the types of trees and spacing of such trees shall be approved by the Tree Board before the owner or agent plants such trees.

(2) The planting of shrubs or other plants, and the use of other materials, shall comply with regulations regarding traffic safety and other provisions of this Code. (3) No trees other than those listed as small trees shall be planted under or within ten lateral feet of an overhead utility, or within five lateral feet of any underground utility.

(f) Replacement of trees. In the event that a tree or other plant on Town property or on a Town right-of-

way is removed, damaged or otherwise destroyed by any person, that person shall be liable to the Town for the cost of the tree's removal and replacement. (g)Spraying of trees. Following inspection and determination by the inspecting authority, it shall be determined that trees shall be sprayed for fungi, insects, disease or any other condition warranting spraying. It shall be the responsibility of the Town to spray, or have sprayed, the affected trees or other plants. If it is necessary to spray trees on private property, the owner shall be charged for any necessary spraying. (h)Trees on public ways or public property. (1)It is unlawful for any person to plant, prune, spray, remove, destroy, cut, deface or in any way injure any plants growing on a public way of the Town without the approval of the Board of Trustees. The Town shall replace or repair such tree and the cost shall be charged to the violator. (2)Trees, shrubs and other vegetation planted in public ways shall be in conformity with the official list provided by the Tree Board. Such list will be prepared with the consideration of growth habits, mature size, disease resistance or other factors which minimize maintenance costs and nuisances and conform with this Code. Special consideration shall be given to possible interference with utility lines above such plantings. Plantings not in conformity with the approved list shall be removed by the owner or agent at the request of the Board of Trustees.

(Prior code 2.36.080; Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-70. - License required to perform tree service.

It is unlawful for any person to engage in the business or occupation of planting, pruning, spraying or removing trees without first applying for and procuring a license to do such work in the Town. Before any license is issued, each applicant shall file evidence of proficiency in carrying out the work, evidence of safety training for all personnel, evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 for property damage, indemnifying the Town and its agents, the Tree Board or any person injured or damaged resulting from the pursuit of such endeavors as described in this Article. The license fee is set forth in the Consolidated Fee Schedule, Appendix 2-F to this Code.

(Prior code 2.36.090; Ord. No. 680, § 1, 7-7-2015)

Sec. 7-3-80. - Administrative procedures.

(a)Notice. Prior to maintenance by the Town, the Board of Trustees shall attempt to notify the owner or agent and any contiguous property owners; however, the Town shall not be held liable for failure to give notice. The Board of Trustees, its employees, independent contractors, agents and appointees shall have reasonable right of access to perform the duties and rights accorded by this Article to enter upon private property. (b)Interference. It is unlawful for any person to prevent, delay or interfere with the Tree Board, the Board of Trustees or their agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street or park trees, plants or trees and plants on private property, as authorized in this Article. (c)Costs and charges. Whenever in Sections 7-3-10, 7-3-30 and 7-3-50 through 7-3-70 of this Article, costs or charges are to be assessed or paid by

owners or agents, the Board of Trustees may add such costs or charges to the property from which the tree, plant, dead wood or parts of tree and plant material was or is located on such property, and the same shall be a lien on such property and collected as a lien and assessment and placed on the property tax notice. The Board of Trustees may, at its election, bring suit to collect all charges and costs from any owner or agent. (d)Posting. Posting may be made by placing on a tree or other plant to be affected or on the premises to be affected a written notice of the action to be taken and the time after which such action may be taken at least seven days prior to any action being taken or costs or charges being assessed. Posting may be made in lieu of any other or further written or advance notice to an owner or agent pursuant to Sections 7-3-10, 7-3-30 and 7-3-50 through 7-3-70.

(Prior code 2.36.100; Ord. No. 680, § 1, 7-7-2015)

ARTICLE 8 - Tree Board

Sec. 2-8-10. - Established; membership.

There is created and established a Tree Board, which shall consist of five members, citizens and residents of the Town, who shall be appointed by the Mayor with the approval of the Board of Trustees. One member of the Tree Board shall be a member of the Board of Trustees, and one member of the Tree Board shall be a member of the Planning Commission.

(Prior code 2.36.010; Ord. No. 680, § 1, 7-7-2015)

Sec. 2-8-20. - Term of office.

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

(Prior code 2.36.020; Ord. No. 680, § 1, 7-7-2015)

Sec. 2-8-30. - Compensation.

Members of the Tree Board shall serve without compensation.

(Prior code 2.36.030; Ord. No. 680, § 1, 7-7-2015)

Sec. 2-8-40. - Duties.

(a) It shall be the responsibility of the Tree Board to study, investigate, counsel and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the Board of Trustees and, upon their its acceptance and approval, shall constitute the official Comprehensive Town Tree Plan. (b) The Tree Board, when requested by the Board of Trustees, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(Prior code 2.36.040; Ord. No. 680, § 1, 7-7-2015)

Sec. 2-8-50. - Organization.

The Tree Board 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.

(Prior code 2.36.050; Ord. No. 680, § 1, 7-7-2015)