

ARTICLE VII. - PUBLIC STREET TREES

Sec. 17-96. - Short title.

This article shall be referred to and cited as the public street tree code of the town.

(Ord. of 5-13-70, § 1; Ord. No. O-81-39, 5-26-81)

Cross reference— Sale of running cedar, etc., prohibited, § 11-10; placing notices or signs on trees prohibited, § 16-3.

Sec. 17-97. - Enforcement.

The town manager or his duly authorized representative shall be charged with the enforcement of this article.

(Ord. of 5-13-70, § 2)

Sec. 17-98. - Tree planting.

(a) All existing plantings of trees and shrubs on public rights-of-way and all future additions and substitutions of such plantings shall be under the authority and direction of the town manager or his duly authorized representative.

(b) (1)
Trees may be planted on the public street right-of-way of any public street in the town center districts or any public street or highway shown on the thoroughfare plan provided they comply with any plan for public street trees that has been approved by the council, and a permit has been issued by the town manager or his representative. There shall be no charge for such a permit.

(2) Trees or shrubs may be planted on the public street right-of-way of any other public street of a variety and in a location desired by the abutting property owner except that no trees or shrubs shall be planted in, or interfere with, the space reserved for sidewalks, normally a strip eight (8) feet wide behind the curb or at the edge of the public street, or close enough to any public street intersection to interfere with the sight distance at that intersection.

(c) All plantings of trees and shrubs on public property shall be subject to general considerations of public health, safety and convenience, and the material and aesthetic value accruing to the whole community. Plantings shall be generally restricted to varieties known to be suited to the local climate and environment, and shall be intended to preserve and enhance the beauty and variety of the public landscape.

(Ord. of 5-13-70, § 3; Ord. No. O-81-39, 5-26-81)

Sec. 17-99. - Prohibited trees.

It shall be unlawful to plant in any public right-of-way fruit trees (except ornamental varieties), or any other kind of tree which by the nature of its root system, brittleness of its wood, or susceptibility to disease is deemed undesirable.

(Ord. of 5-13-70, § 4)

Sec. 17-100. - Tree protection and maintenance.

The town will provide tree maintenance in the town center districts and on the thoroughfares. The town will not be responsible for the maintenance of shrubs planted on the right-of-way except those planted by the town. Shrubs which are planted on the right-of-way of any public street and not properly maintained in a safe, healthy and attractive condition may be removed by the town.

(Ord. of 5-13-70, § 5; Ord. No. O-81-39, 5-26-81)

Sec. 17-101. - Abuse or mutilation of trees.

Except to abate a nuisance as defined herein, it shall be a violation of this article to damage, destroy or mutilate any tree, shrub or plant in a public right-of-way or any public place, or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill or any other thing to or on any tree, or cause or permit any wire charged with electricity to come in contact with any such tree.

(Ord. of 5-13-70, § 6)

Sec. 17-102. - Public nuisance on public streets.

- (a) Trees, plants, shrubs or vegetation which so overhang any sidewalk or public street, or which are growing thereon, (or adjacent thereto), in such a manner as to obstruct or impair the free and full use of the sidewalk or public street by the public, either directly or by obstructing traffic vision, are hereby declared to be public nuisances.
- (b) It shall be the duty of the owner of the property wherein or whereupon any such nuisances exist to abate the nuisance by destroying or removing or trimming the growth. Trees on private property whose roots may damage sidewalks, curbs, or public streets, by causing them to buckle or break or whose roots may enter into public sewers or water mains shall also be public nuisances and may be trimmed or removed as deemed necessary by the town manager.
- (c)
 - (1) Where the roots of a public street or shrub constitute a nuisance to private property, the affected property owner may prune or cut the offending roots at his property line, provided the action will not create an unsafe condition. A permit for such cutting or pruning shall first be obtained from the town manager.
 - (2) Where the growth and limbs of public trees constitute a hazard to private property, the town, upon notice, shall correct the condition.

(Ord. of 5-13-70, § 7; Ord. No. O-81-39, 5-26-81)

Sec. 17-103. - Removal of trees.

- (a) Trees or shrubs shall not be removed from public property or public street rights-of-way without a permit issued by the town manager or his duly authorized representative. Trees and shrubs on public properties may be removed by the town only when they are dead, dangerous to life and property, seriously diseased or unsightly or constitute a nuisance, or where necessary to accommodate the construction of a public facility.
- (b) The town retains the right to remove any tree on any public street or highway right-of-way which is necessary to permit the proper maintenance or improvement of the public street.

- (c) The town may remove dead or diseased trees from the public street right-of-way on any public street in the town. A tree on the line which is half or more than halfway on the right-of-way at its base will be considered to be on the right-of-way.
- (d) Existing public trees in all sections of the town shall be preserved to the extent that is possible and feasible. Once removed, they shall be replaced unless conditions prevailing in the area are adverse to the health of such new plantings.

(Ord. of 5-13-70, § 8; Ord. No. O-81-39, 5-26-81)

Sec. 17-104. - Reserved.

Editor's note— Ord. No. I-81-39, adopted May 26, 1981, provided for the deletion of § 17-104, concerning the vote of the community appearance commission, deriving from § 9 of an ordinance adopted May 13, 1970.

Secs. 17-105—17-109. - Reserved.

Sec. 9-114. - Storage of junk, etc., removal of dead trees, weeds, etc.

It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of such residential property for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building material, building rubbish or similar items. It shall be the duty and responsibility of every such owner or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items, as listed above, including but not limited to weeds, dead trees, trash, garbage, etc., upon notice from the building official.

For the purposes of this section, an "abandoned motor vehicle" is defined as one that is in a state of disrepair and incapable of being moved under its own power.

A violation of this section shall constitute a misdemeanor, as provided by G.S. 14-4 and shall subject the violator to a fine of five hundred dollars (\$500.00) or imprisonment for not more than thirty (30) days.

(Ord. of 9-18-68, § 8(h); Ord. No. 92-4-13/O-4, § 7)

Sec. 11-12. - Removal of infected pine trees.

- (a) Representatives, contractors, employees of the North Carolina Forest Service or the Town of Chapel Hill or persons appointed by it be, and they are hereby authorized to go upon property situated within the Town of Chapel Hill, whether public or private, for the purpose of inspecting trees for the presence of said infestation, and if infested trees are found which are determined to be dangerous to the public safety or property of the citizens of the Town of Chapel Hill, to take such measures as may be reasonably necessary to prevent the spread of said infestation, including but not limited to the removal of such infested trees, provided however, that reasonable attempts will be made to inform the owner of said property prior to removal of such trees on his property, and obtain his consent therefor, provided however, that such consent shall not be required if in the event it would unreasonably delay the cutting, removal and destruction of such infested trees.
- (b) No person shall be held liable, civil or criminally for acting in obedience to orders given pursuant to the provisions of this section nor for giving of such orders or for damages to property ordered to be destroyed.
- (c) This section shall become effective from and after a resolution of the board of aldermen which finds and determines that an emergency exists dangerous to the public welfare and property of the citizens of the Town of Chapel Hill through the widespread infestation of the Southern Pine Beetle into pine trees located within the corporate limits of the Town of Chapel Hill and shall remain in effect until the board of aldermen finds and resolves that said emergency has ceased to exist.

(Ord. No. O-72-40, §§ 1—3, 10-2-72; Ord. No. O-74-51, 7-22-74)