**CHAPTER 40: VEGETATION**

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***ARTICLE I. IN GENERAL***

**40‑1 PURPOSE.**

The purpose of this chapter is to create and preserve a better living environment in the community by encouraging the planting, growth and protection of appropriate street trees throughout the town. This chapter seeks to protect the public health and welfare by encouraging development of a good tree cover in the community and securing for town residents the benefits of a healthy urban forest, such as oxygen production, noise dampening, glare reduction, air pollution, wind movement slowdown, shade from the sun, cooling of summer heat and a more attractive community appearance.

(2001 Code,  40‑1) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑2 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***STREET TREES.*** Trees, shrubs and bushes in areas owned by the town, within the rights‑of‑way, and between the front lot lines of private property and rights‑of‑way used by the public.

(2001 Code,  40‑2) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

***Cross-reference:***

*Definitions generally, see  1‑2*

**40‑340‑30 RESERVED.**

***ARTICLE II. TREE BOARD***

***Cross-reference:***

*Boards, commissions and committees, see  2‑141 et seq.*

***Statutory reference:***

*Authority to establish boards, see G.S.  160A‑146*

**40‑31 CREATED.**

There is created a Tree Board for the town.

(2001 Code,  40‑31) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑32 APPOINTMENT.**

The Tree Board shall consist of five members to be appointed by the Mayor. All appointments shall be for three years with appointment expiring each June 30.

(2001 Code,  40‑32) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑33 COMPENSATION.**

Members of the Tree Board shall serve without compensation.

(2001 Code,  40‑33) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑34 ORGANIZATION AND OPERATION.**

(A) The Tree Board shall elect its own Chairperson, adopt rules for transaction of its business and set its own schedule of meetings.

(B) A Chairpersons term shall be for two consecutive years.

(C) A public record shall be kept of attendance, meetings and actions.

(D) A quorum shall be three members.

(2001 Code,  40‑34) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑35 DUTIES AND RESPONSIBILITIES.**

(A) It shall be the duties and responsibilities of the Tree Board to:

(1) Develop and administer a comprehensive plan for the care, preservation, pruning, planting and removal of all street trees, to be known as the urban forestry plan;

(2) Serve as an advisory board to the Board of Commissioners as follows:

(a) To facilitate the planting, growth and protection of street trees and foster communications among the citizens of the town toward the implementation of sound urban forestry practices;

(b) To conduct a tree survey of existing street trees;

(c) To seek and recommend the expenditures of funds to effect its purposes; and

(d) To conduct research and planning required toward the accomplishment of its purposes.

(3) Report annually to the Board of Commissioners of its activities.

(B) No street trees may be planted or removed by the town or any of its employees or by any person without the giving of 24 hours notice to the Tree Board, pursuant to the powers of the Tree Board.

(C) To sponsor the towns Keep America Beautiful program by recruiting membership on the Keep America Beautiful (KAB) Advisory Subcommittee Board; and providing direction and resources to carry out the goals and activities of the National KAB program beginning with the pre‑certification term.

(2001 Code,  40‑35) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑36 POWERS.**

(A) Notice of intent to plant or to remove street trees shall be given to the Town Manager or his or her appointed representative by any usual means of communications by the person so intending to plant or remove. The Chairperson of the Tree Board shall be notified and he or she shall immediately advise all other members of the Tree Board. Any member of the Tree Board may require this person to desist from the proposed planting or removal pending review by the Tree Board. A meeting of the Tree Board shall be held within seven days (excluding Sundays and state legal holidays). Failure of the Tree Board to act within this seven‑day period shall result in approval of the proposed planting or removal. At this meeting, the Tree Board shall either approve or disapprove the proposed planting or removal. Any person may appeal the action of the Tree Board to the Board of Commissioners by giving notice of the appeal within 24 hours of the action in writing to the Town Manager or his or her appointed representative. The appeal shall stay all action by all persons. The Board of Commissioners shall decide if the proposed planting or removal may proceed at its next regular scheduled meeting.

(B) Nothing in this section shall prevent the removal of street trees in an emergency situation, such as wind storms, ice storms or other disasters or prevent the pruning of street trees to avoid interference with public utilities.

(C) Nothing in this section shall be interpreted to require notice of planting or removal of trees, shrubs and bushes located entirely upon private property, not within public rights‑of‑way.

(D) (1) It shall be unlawful for any person knowingly and willfully to fail to give the required notice, to plant or remove a street tree during the pendency of any proceeding before the Tree Board or the Board of Commissioners, or to violate any section of this article.

(2) Any violation shall constitute a misdemeanor and may be punished by a fine not to exceed $50 and by restitution of the full replacement value of any tree unlawfully removed, in the discretion of the court.

(E) It shall be a violation of this article to abuse, destroy or mutilate any tree, shrub or plant in a public parking strip or any other 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 growing in a public place, or to cause or permit any wire charged with electricity to come in contact with any tree, or to allow any gaseous, liquid or solid substance which is harmful to the trees to come in contact with their roots or leaves.

(F) The Tree Board shall seek to enforce this article, including the seeking of criminal prosecutions and civil remedies for violation of this article; however, no criminal prosecutions shall be sought by the Tree Board without the prior approval of the Board of Commissioners.

(2001 Code,  40‑36) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)

**40‑37 REVIEW BY THE BOARD OF COMMISSIONERS.**

Any action by the Tree Board may be reviewed by the Board of Commissioners and the final decision shall be made by the Board of Commissioners.

(2001 Code,  40‑37) (Ord. passed 2‑10‑1981; Ord. passed 11-16-2010)