

## Staff Report. Proposed Text Amendments

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Amendment proposed to Chapter 30 of the Oak Code of Ordinances to amend a portion of Article IV Boards and Commissions, Division 2, Planning and Zoning Board, Section 30-168 *Powers and Duties* ordinance.

### Sec. 30-168. Powers and duties.

The planning and zoning board shall have the following powers and duties:

- (1) To hear and recommend to the town council matters in accordance with the terms of this chapter; to wit: zoning map amendments and zoning vested rights;
- (2) To hear and recommend to the town council matters on appeal from the enforcement officer for soil erosion; to wit: subdivisions, site plans, and soil erosion plans;
- (3) To hear and recommend to the town council matters pertaining to road name changes, road closings, right-of-way vacations, easement removals, right-of-way encroachments, and watershed matters as assigned;
- (4) To provide recommendations to the town council with regard to any of the above matters which may be appealed; as well as those matters which remain with the town council as original jurisdiction such as text amendments and minor watershed modifications;
- (5) To develop a comprehensive plan for the territory under its jurisdiction, subject to specific direction from the town council;
- (6) To make such other studies and plans and review such other related matters as directed by the town council;
- (7) To review and approve new or altered plans including: subdivisions, clustered or attached residential development, planned unit developments, office, commercial, and industrial developments, street and utility improvements, and any other proposals for development specified by this chapter and waivers authorized in division 8 of article VIII;
- (8) To make recommendations to the town council on all minor and major watershed modification requests;
- (9) ~~To serve as the town's tree board, and to hear and recommend to town council matters relating to trees including landscape plans and tree preservation plans, and to advise staff, other boards, and town council on maintaining and enhancing the town's tree resources; and~~
- (10) To exercise any other power and authority provided to it by the town council, this chapter and state law.

Staff comments:

The Arbor Day Foundation (ADF) has advised that our tree ordinance needs to be revised to maintain Tree City USA standards. Specifically, we need an ordinance in place that regulates trees on municipally owned property, establish a board to develop and oversee implementation of an annual tree plan, and establish a minimum standard of care and associated enforcement. Over the last several months staff, with the assistance of the Tree City Committee, has developed the attached Tree Ordinance, to ensure compliance with ADF standards. With the creation of a Tree Board that is separate from the Planning and Zoning Board the P&Z Board powers and duties need to be changed to reflect the change.

## Chapter 37

### TREES

#### ARTICLE I.

#### REGULATION OF PUBLIC AND STREET TREES

##### **Sec. 37-1. Purposes.**

(1) The primary purpose of this chapter is to regulate the planting, maintenance and removal of trees on municipally owned public property, street trees maintained by the town in NCDOT rights-of-way within the town, and on municipally owned property wherever located. In order to protect and conserve trees on public property and rights-of-way, this chapter provides for the pruning, treatment and removal of trees as is deemed necessary by the Town Council. This chapter is also intended to provide for the trimming or removal of trees on public 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.

(2) A secondary purpose of this chapter is to encourage the protection of trees and express the town's intent to use trees to create a more natural and healthy human environment. This chapter is not intended to be punitive nor to cause hardship to any person who uses reasonable care and diligence to protect trees within the town or on town property.

(3) This chapter shall further provide for the establishment of an advisory committee known as the Tree Board which shall be responsible for promoting trees and tree care throughout the town and for developing a town tree plan.

##### **Sec. 37-2. 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:

(1) *Town arborist* means a citizen, consultant, or staff person skilled and trained in forestry that assists the town with maintaining a healthy urban forest.

(2) *Large tree* means a large tree growing to over forty (40) feet in height at maturity, usually deciduous that is planted to provide a canopy cover for shade.

(3) *Master tree plan* means a written document that guides the work of the urban forestry program.

(4) *Medium tree* means a tree growing thirty (30) feet to forty (40) feet in height at maturity.

(5) *Public tree* means a tree now or hereafter growing on any public street right-of-way or public land within Oak Ridge corporate limits.

(6) *Small tree* means a small to medium tree, growing fifteen (15) feet to thirty (30) feet in height at maturity.

(7) *Street tree* means a tree maintained by the town, on land lying within rights-of-way on either side of all streets, avenues, or ways within the town.

(8) *Urban forest* means the collection of shrubs, trees, vegetation, and associated natural features that make up the town tree canopy and the area required for its sustainable growth.

(9) *Urban forestry* means the planning, establishment, protection, and management of trees, vegetation, and associated natural features, individually, in small groups, or under forest conditions within the town.

**Sec. 37-3. Permit and bond.**

It shall be unlawful for any person other than a town employee or a contractor under the supervision of a town employee to prune, treat, or remove any street tree or park tree within the town without first filing an application and procuring a permit from the town manager. The town maintains the right to review the application and the tree in question in determining whether or not to issue a permit. No permit shall be issued to any person until such person shall have filed with the town manager an insurance policy in the minimum amounts of one hundred thousand dollars (\$100,000.00)/three hundred thousand dollars (\$300,000.00) for bodily injury and fifty thousand dollars (\$50,000.00) property damage indemnifying the town or any person injured or damaged resulting from any act regulated by this chapter.

**Sec. 37-5. Penalty.**

Violation of any provision of this chapter shall constitute a misdemeanor under the provisions of G.S. 14-4 punishable by a fine of not more than \$500.00 and/or imprisonment as designated for a class 3 misdemeanor.

**Secs. 37-6—37-25. Reserved.**

ARTICLE II.

TREE BOARD

**Sec. 37-26. Creation and establishment.**

There is hereby created and established a Tree Board for the town which shall consist of five (5) members who shall be citizens and residents of this town. Such members shall be appointed by the Town Council. Ex officio members may be appointed in the discretion of the Town Council.

**Sec. 37-27. Terms of members.**

The term of the five (5) persons to be appointed by the Town Council shall be three (3) years except that the terms of two (2) of the members appointed to the first board shall be for only one (1) year and the term of two (2) members of the first board shall be for two (2) years. If a vacancy shall occur during the term of any members, his or her successor shall be appointed for the unexpired portion for the term. Ex officio members shall serve at the pleasure of the Town Council.

**Sec. 37-28. Compensation.**

Members of the Tree Board shall serve without compensation.

**Sec. 37-29. Duties and responsibilities.**

- (a) It shall be the responsibility of the Tree Board to study, investigate, develop, update annually, and administer a written master tree plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees in parks, along streets, and in other public areas. Such plan will be presented annually to the Town Council and upon its acceptance and approval shall constitute the official comprehensive town tree plan for the town.
- (b) The Parks and Recreation Director shall present to the Tree Board by their January meeting itemized budget requests for new plantings, tree replacement, maintenance, and related capital expenditures. The Tree Board shall review these requests in

developing the annual plan and shall forward the requests to the Town manager for budget consideration.

- (c) The Tree Board, when requested by the Town Council, shall consider, investigate, make findings, report, and make recommendation upon any special matter or question coming within the scope of its work.
- (d) The Tree Board shall, in addition, serve in an advisory capacity on all town-initiated construction projects.
- (e) The Tree Board shall facilitate the planting, growth, and protection of trees within the town, through a combination of education, outreach, special events, and other initiatives that further the stated objectives of this chapter.

**Sec. 37-30. Operation.**

The Tree Board shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations. The Tree Board shall set a regular schedule for meetings, and the chair 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.

**Sec. 37-31. Interference.**

It shall be unlawful for any person to prevent, delay, or interfere with the Tree Board while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removal of any street trees, park trees, or trees on public grounds as authorized in this chapter.

**Secs. 37-33--37-39. Reserved.**

ARTICLE III.

TOWN ARBORIST

**Sec. 37-40. Qualifications of a town arborist.**

The Town Council may appoint a town arborist. The person so appointed shall be a certified as an arborist by the International Society of Arboriculture, municipal specialist, and/or utility specialist, and shall have three (3) or more years' experience in forestry management; provided, the Town Council may in its discretion waive the three years' requirement if an applicant appears reasonably and otherwise qualified.

**Sec. 37-41. Duties of the town arborist.**

The town arborist shall have the following duties:

- (1) Serve as an advisory non-voting member of the Tree Board to provide technical assistance thereto.
- (2) Assist the town staff and/or paid contractors with proper pruning practices.
- (3) Assist the town with maintaining an inventory of public trees.
- (4) Assist with tree selection and planting to add new trees and/or replace dead or diseased trees.
- (5) Provide advice on public trees as part of capital improvement projects for the city.

**Secs. 19-42--19-50. Reserved.**

ARTICLE IV.  
MANAGEMENT

**Sec. 37-50. Tree Pruning Standards.**

Wherever possible, all tree pruning should adhere to ANSI A300 standards.

**Sec. 37-51. Public trees.**

(a) The town shall have the right to plant, prune, maintain, and remove trees, plants and shrubs on municipally owned property, and within public rights-of-way (subject to review and approval of NCDOT) as may be necessary to ensure public health and safety or to preserve or enhance the symmetry or beauty of such public grounds.

(b) The town may remove, or cause or order 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 sewers, electrical power lines, gas lines, water lines, or other public improvements, or is infected with or affected by any injurious fungus, insect, or other pest.

**Sec. 37-52. Tree topping.**

It shall be unlawful as normal practice except as provided in this section for any person 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 (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**Sec. 37-53. Removal of stumps.**

All stumps of street trees and park trees shall be removed below the surface of the ground so that the top of the stump will not project above the surface of the ground.

**Sec 37-54. Enforcement.**

Unless otherwise specified, any person, firm, corporation in violation of compliance with any provisions of this chapter shall be subject to the procedures, penalties, and remedies described in section 1-10.