CHAPTER 95: TREES

Section

95.01 Purpose

95.02 Definitions

95.03 Community Tree Board

95.04 Public tree care

95.05 Application and conflicts

95.99 Penalty

§ 95.01 PURPOSE.

The purpose of this chapter is to promote and protect the public health, safety and general welfare by encouraging and providing for well-planned tree planting improvements within the town, by encouraging proper care and maintenance of public and private trees, by controlling or eliminating tree-related hazards, by improving and maintaining community appearance, by improving the quality of life for residents, and by protecting the value of property and the related municipal revenue base.

(Ord. 2012-06, passed 5-15-12)

§ 95.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARK TREES. Trees in municipal parks and on the grounds of other municipal facilities, owned or under the control of the town, to which the public has general access.

STREET TREES. Trees located on land lying between the property lines on either side of all streets, alleys, avenues, or public ways within the town.

TOPPING. Severe cutting or pruning, down to stubs larger than three inches in diameter, within the tree crown, to the extent of removing the normal canopy and disfiguring the tree.

(Ord. 2012-06, passed 5-15-12)

§ 95.03 COMMUNITY TREE BOARD.

(A) *Creation.* There is hereby created a Swansboro Community Tree Board.

(B) *Composition and appointment.* The Community Tree Board shall consist of three to five citizens who shall reside within the town's planning jurisdiction, provided that a majority of the members shall reside within the town and that no more than one member may, due to special qualifications in thefields of forestry, silviculture, or horticulture, reside outside this area. The members shall, if feasible, include persons with experience, education, or special interest in fields related to forestry or horticulture. Each member shall be appointed by the Mayor with the approval of the Board of Commissioners, and shall serve staggered two-year terms as specified at the time of appointment. All members shall serve at the pleasure of the Board of Commissioners. The members shall serve without compensation, except for any reimbursement of town-approved expenses incurred in carrying out their duties.

(C) *Organization and operation.* The Board shall select its own officers, adopt its own rules of procedure, and keep minutes of its proceedings. A majority of its members shall be a quorum for the conduct of business.

(D) *Duties and responsibilities.* The Community Tree Board shall have the following duties and responsibilities:

(1) To develop a plan for the care, preservation, growth, planting, management, and removal of trees within street rights-of-way, municipal parks, and other municipal properties.

(2) To support and facilitate the planting, growth, and protection of trees within the town, utilizing available public and private resources.

(3) To periodically conduct and analyze surveys of street trees and other trees within the community to determine the composition and condition of the urban forest.

(4) To provide, sponsor, and facilitate the dissemination of information to the public, tree companies, public utilities, and

state agencies concerning the proper care, pruning, protection, planting, and removal of trees, particularly street trees and other trees on public property. This effort may include the organization of workshops and the preparation of publications.

(5) To develop official street tree species recommendations to guide plantings on public rights-of-way and public properties.

(6) To provide advisory assistance to private property owners concerning the appropriate care, planting, and removal of trees.

(7) To provide recommendations regarding the development, adoption, and revisions of ordinances and policies relating to community trees.

(8) To assist in the administration of public tree care regulations as may be separately provided by law.

(9) To annually submit, no later than April 15 of each year, a written report of its activities and accomplishments, as well as the use of any funds appropriated for its use.

(E) *Resources.* The Board shall have such financial resources as may be appropriated in the annual budget and such staffing assistance as may be approved by the Town Manager. Any non-municipal resources that the Board desires to utilize shall be approved by the Town Manager or, if the Manager regards it as necessary, by the Board of Commissioners.

(Ord. 2010-08, passed 2-16-10; Am. Ord. 2012-06, passed 5-15-12)

§ 95.04 PUBLIC TREE CARE.

The regulations of this section shall apply to all street and park trees within the town.

(A) *Planting.* After official street species recommendations are prepared and adopted to guide tree plantings, street trees and park trees may be planted only in accordance with the species list and guidelines. Planting at variance with the list or guidelines requires special permission from the Community Tree Board.

(B) *Pruning.* Town departments and public utilities and their agents may undertake pruning of trees to protect public safety, protect utilities facilities and public improvements, and enhance the beauty of street trees and/or public grounds, provided that pruning personnel have attended an instructional workshop or can present proof of similar acceptable instruction in the proper care and pruning of trees. Town departments, public utilities, their agents, and any other person conducting major trimming of street or park trees shall notify the Town Manager of their plans before beginning work.

(C) *Topping.* It shall be unlawful as a normal practice for any person, firm or corporation to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the Public Works Director.

(D) *Removal.* The town may remove, or cause or order the removal of, any tree or part thereof that is in an unsafe condition or that, by reason of its nature or condition, is injurious to sewers, electric power lines, gas lines, water lines, sidewalks, streets, or other public improvements, or that is affected with any injurious fungus, insect, or other pest. The town shall replant a tree for each tree removed from the public right-of-way by the town. Such replanting may be done in the public right-of-way or on private property adjoining the right-of-way with the properly owner's permission, if it is impractical to replant in the public right-of-way. This section does not prohibit the planting of street trees by property owners, provided that the selection and location of trees are compatible with existing utilities and any adopted street tree species guidelines.

(E) *Stumps.* All stumps of street and park trees shall be removed so that the top of the stump does not project above the surface of the ground.

(F) *Pruning for safe clearances.* Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that they do not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs that the Town Manager, Police Chief, or Public Works Director finds to be a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, obstructs sight distances at intersections, obstructs an eight-foot clearance above streets or sidewalks, or interferes with visibility of any traffic control device or sign.

(G) *Dead or diseased tree removal on private property.* The town shall have the right to cause the removal of any dead or diseased trees on private property within the town when they constitute a hazard to life and property, or harbor insects or disease that constitute a potential threat to other trees within the town. The town will notify, in writing, the owners of such trees. Removal of such trees shall be carried by owners at their own expense within 60 days after the date of service of notice. In the event of failure of an owner to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal to the owner. Such costs shall, if unpaid, become a lien on the property.

(Ord. 2012-06, passed 5-15-12) Penalty, see § 95.99

§ 95.05 APPLICATION AND CONFLICTS.

This chapter shall be in effect within the municipal boundaries of the town. All ordinances or parts of ordinances in conflict

with this chapter, or inconsistent with its provisions or amendments thereto, are hereby superseded to the extent necessary to give this chapter full force and effect; provided that, if any provisions of this chapter should be found to be inconsistent with any landscaping regulations contained in the town's Unified Development Ordinance, the more stringent provisions (the higher standard) shall prevail.

(Ord. 2012-06, passed 5-15-12)

§ 95.99 PENALTY.

(A) Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed $100 or 30 days in jail for each offense.

(B) Any person violating any provisions of this chapter shall also be subject to civil penalties not exceeding $100 for the first offense, $200 for the second offense, and $300 for a third or additional offenses. Each day and instance or violation shall constitute a separate offense.

(Ord. 2012-06, passed 5-15-12)