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PART 9 - PARKS, RECREATION AND CULTURAL AFFAIRS

CHAPTER 8. TREES AND VEGETATION

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Sec. 9-8001. PURPOSE AND INTENT.

The purpose of this chapter is to regulate and control the planting of trees and vegetation, to encourage the protection of existing trees and vegetation on the *streets* and public and private grounds within the *City*, and to establish the standard arboricultural specifications and practices for existing and future trees and vegetation in the *City* and on *City*-owned *property* outside the corporate limits.

(Code 1959 , §21A-1)

Sec. 9-8002. DEFINITIONS.

City-owned or -controlled property. *Property* owned or leased by the *City*, or for which the *City* has a vegetation easement or planting contract; or upon which the *City* has an easement for *street*, sidewalk, greenway, park, alley, utility or other public purpose.

Planting contract. A two-party contract between the *City* and a *property* owner allowing the *City* to plant and maintain vegetation on private *property*, if agreeable to the *owner*.

Right-of-way. A strip of land upon which Raleigh has the right to construct a *street*, sidewalk, bicycle path, use for public utilities or landscape with plants or to carry out any other public purpose.

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Tree permit. Consent given *in writing* by the Urban Forester to a *person*, firm or *agency* to alter or remove any tree or to do anything that would affect that *City*-owned or controlled tree, including cutting or filling the soil around the roots, or allowing any toxic pollutant to injure the tree.

Urban Forester. Any *person* qualified through formal education or practical experience in the fields of urban forestry, arboriculture or horticulture who is capable of administering a complete urban tree management program.

Vegetation. Any living plant or groups of plants (tree, shrub or groundcover).

Vegetation easement. An easement across private *property* authorizing the *City* to plant and maintain vegetation and prohibiting the cutting or damaging of trees without *City* approval.

(Code 1959 , Sec. 21A-2; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8003. CREATION OF POSITION OF URBAN FORESTER.

- (a) The position of Urban Forester *shall* be created within the Department of Parks and Recreation. The Urban Forester, as the agent of the Parks and Recreation Department of the *City*, *shall* direct, regulate and control the planting and managing of trees and shrubs on all *City*-owned or controlled land.
- (b) For the purpose of carrying out the provisions of this chapter, the Urban Forester *shall* have the authority, control, supervision and direction over all trees and shrubs growing on *City*-owned or controlled *street rights-of-way* and the planting, removal, care, maintenance and protection thereof. The Urban Forester *shall* advise on all *City*-initiated construction projects in an effort to plan for and manage the *City*'s vegetative resources.

(Code 1959 , Sec. 21A-3; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8004. DUTIES OF URBAN FORESTER.

The Urban Forester *shall* have the authority to promulgate the rules and regulations governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on *City-owned or controlled property*, and *shall* direct, supervise, regulate and control the planting, maintenance and removal of all the trees growing now or hereafter on said *property*. It *shall* be the duty of the Urban Forester to plan for an urban forestry program (*City tree program*), which should include:

- (a) Planting and managing trees for their functional use as well as for the aesthetic qualities.
- (b) Recycling trees and fiber.
- (c) A comprehensive tree plan for the *City* after consideration of existing and future utility and environmental factors when recommending a specific species for each of the *streets* and other public sites in the *City*.
- (d) Tree planting priorities.
- (e) Suggested tree list for Raleigh, with priorities, the purpose of which would be to guide the voluntary efforts of citizens in selecting trees for planting on private *property* or for donation to the *City*, such list to distinguish generally among the conditions or places of use.
- (f) A *vegetation* education program for the public, including advisory guidelines, planting and maintenance details, costs and benefits of *vegetation* in the *City*.
- (g) A tree and landscape inventory and analysis.

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- (h) Advising other *City* departments on all projects that would affect Raleigh *vegetation*.
- (i) The Urban Forester *shall* have the authority to review all requests for *permits* for any planting, removal and/or trimming or cutting of trees on all *City*-owned or controlled *rights-of-way*. The Urban Forester *shall* also have authority to attach reasonable conditions to these *permits* and to grant or deny them.
- (j) Objective standards, criteria and procedures for trimming, pruning, cutting, removal, moving, fencing and protection of *vegetation*. Criteria *shall* include sight distances required at *street* intersections and other places. Specific procedures and criteria for utility companies and building contractors *shall* be prepared.
- (k) List and description of undesirable conditions that would probably require on-site examination by the Urban Forester and prompt treatment as described in §9-8008, such list not to be considered exhaustive.
- (l) The comprehensive tree plan, the tree list and other plans and policies recommended by the Urban Forester must be approved by the director of the Parks and Recreation Department, the Parks and Recreation Advisory Committee and/or the Greenway Commission, where the greenways are involved.

Public hearings *shall* be conducted by the Parks and Recreation Advisory Committee and/or Greenway Commission prior to final approval. Notice of the hearings *shall* be sent to the CAC.

(Code 1959 , Sec. 21A-4; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8005. TRIMMING, PRUNING, PLANTING, AND REMOVAL OF TREES ON PUBLIC PROPERTY; PERMIT REQUIRED.

Any *person* desiring to remove, destroy, cut, severely prune, including root system, treat with a view to its preservation from disease or insects, any tree or shrub in or upon any public *street* [or other] *City*-owned or controlled *property*, *shall* first obtain a *written permit* as hereinafter provided for, on forms furnished by the Urban Forester. Any work performed under such *permit* must be done in strict accordance with the conditions of the *permit* and the provisions of this chapter. Any *person* desiring to plant a tree or shrubbery upon any public *street* must also obtain a *permit* from the Urban Forester. Before issuance of a *permit* to plant, the request must also be reviewed by the Department of Transportation to determine if the planting would create a sight distance hazard.

(Code 1959 , Sec. 21A-5; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8006. INJURING TREES OR SHRUBBERY ON PUBLIC PLACES.

- (a) It *shall* be unlawful for any *person*, except with *written permit* hereinafter provided for, to place or maintain upon the ground in any public *street* or other *City*-owned or controlled *property*, any stone, cement or other impervious matter or substance in such a manner as *may* obstruct the free access of air and water to the roots of any tree or shrub in any *street* or place. This provision *shall* not apply to paving, repairing or altering *streets* or sidewalks authorized by the *City*.
- (b) It *shall* be the responsibility of the *person* in charge of the erection, repair, alteration or removal of any building or structure, to place a guard or protector around any tree on *City*-owned or controlled *property*. If the erection, repair, alteration or removal of any structure *shall* require the trimming, pruning or removal of any tree upon *City*-owned or controlled *property*, a *written permit shall* be obtained.

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- (c) It *shall* be unlawful for any *person* to attach to any tree or shrub in or upon *City-owned or controlled property*, or the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device whatsoever, except for the purpose of protecting the tree or the public.

(Code 1959 , Sec. 21A-6)

Sec. 9-8007. TREES AND OTHER VEGETATION TO BE KEPT TRIMMED; RESPONSIBILITY OF OWNER AND URBAN FORESTER.

- (a) Trees, vines, bushes, shrubbery or flowers standing in or upon any lot or land adjacent to any public *street* or public place and having branches, limbs, trunks, or other parts projecting into the public *street* or place *shall* be kept trimmed by the *owner* or occupant of the *property* on which such vines, trees, shrubbery or flowers are growing so as not to interfere with the free and safe passage along the public way by pedestrians and vehicular traffic.
- (b) If the *owner* or occupant of the *property* does not keep this growth from projecting into or on public ground, then the Urban Forester *shall* have the authority to order its removal. The order *shall* be acted upon within fifteen (15) days from the time of the receipt of the notice which *shall* be sent by registered mail, return receipt requested. If, after fifteen (15) days, the *owner* has not responded or acted to remove the projecting growth from said vines, trees, bushes, shrubbery, or flowers, then the Urban Forester or any member of his staff *shall* have the authority to enter upon the *owner's property* to perform the work. The cost of such action *may* be charged against the *property* owner pursuant to the procedures set forth in Chapter 6 of Part 12 of this Code.

Cross reference: Abatement of public nuisances, §12-6001 *et seq.*

- (c) The *City*, its agents and contractors are required to adhere to all regulations of this section in the same manner as private *property* owners. They *may* be challenged in the same manner by the Urban Forester or his designated agent on the personal complaint of either, or by any citizen of Raleigh.

(Code 1959 , Sec. 21A-7; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8008. AUTHORITY TO TREAT OR REMOVE TREES OR SHRUBBERY ON PRIVATE GROUNDS.

- (a) When necessary for the immediate preservation of the public health or safety, the Urban Forester, under the power herein given, *may* cause or order the removal of any tree or part hereof on private ground which is in an unsafe condition, or which by reason of its nature is injurious to sewers or other public improvements, or which is affected with any injurious fungus, insect or other pest which *may* spread to public or other private *property*.
- (b) When not immediately necessary, but when still amounting to a public nuisance, unsafe trees as defined above *may* be removed, pruned or otherwise treated, and the cost of such action *shall* be charged against the subject *property* pursuant to the procedure set forth in Part 12, Chapter 6, of this Code.

(Code 1959 , §21A-8; Ord. No. 1990-695, §1, 12-11-90)

State law reference: 1985 S.L., Chapter 556.

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Sec. 9-8009. STANDARDS AND PERMITS.

- (a) The parks and recreation advisory board *shall*, after due investigation and study, and after consideration of both aesthetic and practical utilitarian problems, promulgate a set of objective standards and criteria for the trimming, pruning, cutting and removal of trees and shrubs on *City owned or controlled property*.
- (b) The *permits* provided for herein *shall* be granted by the Urban Forester upon application *in writing* on forms supplied by his office.

(Code 1959 , §21A-9; Ord. No. 1990-695, §1, 12-11-90)

Cross reference: Parks and greenway advisory board, §9-1011 *et seq.*

Sec. 9-8010. PLANTING PLAN REQUIRED WHERE MORE THAN TWENTY-FIVE TREES TO BE PLANTED.

Any *person* or organization desiring to plant more than twenty-five (25) trees or shrubs on *City-owned or controlled property* shall, in addition to applying for a *permit*, submit a planting plan or *written* statement in duplicate to the Urban Forester, who *shall* return one copy to the applicant and keep one copy on file with the *City*. The Urban Forester *shall* review and approve before issuing a *permit* to plant. All planting plans *shall* show accurately:

- (a) The proposed *street* width together with its subdivision of pavement, curb and gutter, parking strip and sidewalk areas to a definite indicated scale.
- (b) The location and variety of each and every proposed and existing tree or shrub within the proposed *street* line in scaled relation to the other features of the plan.
- (c) The nature of the soil in the planting space to a depth of three (3) feet, and all existing and proposed surface or subsoil drainage systems. All statements filed in lieu of a planting plan *shall* contain the same information as required on the plan.

(Code 1959 , §21A-10; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8011. APPEALS.

In the event any *person* is dissatisfied with a decision of the Urban Forester involving the application or interpretation of this chapter, such *person may* make a *written* request to the *Council* for review.

(Code 1959 , §21A-11; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8012. EXCEPTIONS.

- (a) Notwithstanding other provisions of this chapter to the contrary, nothing herein *shall* prohibit the trimming, pruning, cutting or removal of any tree or shrub on a public *street* or *right-of-way* or upon any *City-owned or controlled property*, if such trimming, pruning, cutting or removal is done in the ordinary maintenance or repair of *streets*, sidewalks, pavement markings, existing utility lines, *street* signs, traffic signs, or is done in order to repair or replace the same as a result of damage or deterioration as a result of accident, casualty, or natural elements such as wind, rain, ice, electrical storm, or the like.
- (b) Provided, also, that trimming, pruning, cutting and removal of trees and shrubs is permitted in connection with the extension of utility service from existing facilities into new or additional areas

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without the necessity of a special *permit* or permission, provided that such trimming, pruning, cutting and removal *shall* conform to any standard or criteria adopted by the parks and recreation advisory board under the provisions of this chapter.

(Code 1959 , §21A-12)

Sec. 9-8013. LEGALITY OF CHAPTER OR PARTS THEREOF.

Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same *shall* not affect the validity of any other provision of this chapter.

(Code 1959 , §21A-13)

Sec. 9-8014. VIOLATIONS; PENALTY.

The violation of any provision of this chapter *shall* constitute a misdemeanor as provided by G.S. 14-4 and Part 14 of this Code.

(Code 1959 , §21A-14)

State law reference: Violation of local ordinance a misdemeanor, G.S. 14-4.

FOOTNOTE(S):

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Cross references: Waiver of sidewalk construction standards for purposes of tree preservation, §7-2008; landscaping regulations, §10-2068 et seq. ([Back](#))