

2018-261

AN ORDINANCE TO AMEND THE ORIENTAL CODE OF GENERAL ORDINANCES.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF ORIENTAL,

**SECTION 1.** That Chapter H, Article I, entitled GENERAL REGULATIONS, SECTION 4, be amended as follows:

**CHAPTER M -- ORIENTAL TREES**

**ARTICLE I -- GENERAL REGULATIONS**

**Section 1 – Authority**

The provisions of this ordinance are adopted under authority granted by the General Assembly of North Carolina General Statute 160A-174.

**Section 2 – Jurisdiction**

This ordinance is applicable within the Town of Oriental, North Carolina.

**Section 3 – Title**

This ordinance shall be known as The Tree Ordinance of Oriental, North Carolina.

**Section 4 – By-Laws**

- a) Purpose – The purpose of the Oriental Tree Board is to foster the short-term and long-range management of street, park and other public trees in Oriental, North Carolina. The Oriental Tree Board will also encourage the use of trees to create a more natural and amenable human environment.
- b) Creation, Composition and Terms of Office -
- i) The Town of Oriental Tree Board was created and established as a duly constituted legal arm of the Town of Oriental by action of the Town Board of Oriental at the July 7, 1992 regular Town Meeting. The Tree Board shall consist of ~~six (6)~~ **seven (7)** regular members. The regular members shall be **(6)** citizens and residents **and up to (1) member who resides outside the Town limits** of the Town of Oriental and shall be appointed by the Town Board from names submitted by the Tree Board. Ex-officio members may be appointed as necessary by the Chairman of the Tree Board.
  - ii) Regular members of the Tree Board shall serve for two (2) year terms beginning in June, 1992. Vacancies occurring for reasons other than expiration of term shall be filled for the unexpired remainder of the term by appointment of the Tree Board Chairman.

iii) Faithful attendance at meetings of the Tree Board is a pre-requisite to membership. Any regular member missing three (3) consecutive meetings shall be removed.

iv) The Tree Board shall elect a chairman, vice-chairman and secretary. The term of officers shall be (2) years.

c) Rules, Meetings and Records – The Tree Board shall adopt rules for transaction of its business and shall keep a record of its members attendance and of its resolution, discussions, findings, and recommendations, which record shall be a public record. The Tree Board shall set a regular schedule for meetings and the Chairman may call a special meeting upon request of a majority of members of the Tree Board. A quorum shall consist of four (4) members.

d) Duties and Responsibilities – The Tree Board shall serve as an advisory board to the Oriental Town Board, including but not limited to the following duties and responsibilities;

i) to facilitate the planting, growth and protection of trees within the city.

ii) to foster the communication among the citizens of Oriental that would promote the needed protection of trees and to co-ordinate active measures to support their health and growth within the city.

iii) to establish a long-range tree program for the Town.

iv) to prepare an approved tree list for the Town.

v) to conduct and maintain a tree inventory of existing trees along streets, parks and other public property within the Town.

vi) to investigate available grants, loans or contributions from other governmental agencies, public or private corporations, or individuals; and to recommend the expenditure of any proceeds toward the accomplishment of the Tree Board's purposes.

vii) to appoint advisory task forces to make recommendations relative to specialized studies.

viii) to conduct continuing research, planning and feasibility studies required to support the purpose stated herein.

e) Report to the Town Board of Oriental – The Tree Board shall submit to the Town Board an annual report as of June 30. Copies of the minutes and proceedings of the regular and special meetings of the Tree Board shall be kept as a public record.

## ARTICLE II -- DEFINITIONS

### Section 1 – Definitions

*Tree Board* - That legal board established July 7, 1992, whose purpose is the short and long range management of street, park, and other public trees in Oriental, North Carolina.

*Tree or Shrub* - All woody vegetation presently or hereafter planted in any public area.

*Maintenance* - All operations of trimming, pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below the ground.

*Public Area* - All public land, easements and rights-of-way owned or held by the Town, including easements and rights-of-way for streets, alleys, sidewalks, utility lines and facilities, median strips and other Town facilities. This includes public parks having individual names, all areas owned by the Town or to which the public has free access as a park, playgrounds and other properties controlled and maintained by the Town.

*Parking Lot* - An area designed for parking of vehicles including approaches and internal circulation areas associated with commercial and multifamily structures exceeding six (6) or more spaces.

*Buffer* - A landscaped area containing trees, shrubs and a suitable ground cover used to separate a land use from an adjacent street right-of-way.

## ARTICLE III -- PURPOSE

### Section 1 – Public Areas

The first purpose of this ordinance is to regulate the planting, maintenance and removal of trees and shrubs in public areas. In order to protect and conserve trees in public areas, this ordinance provides for the pruning, treatment and removal of trees, root systems and shrubs as the Tree Board deems necessary, acting under the authority of the Town Board. This ordinance is also intended to provide for the trimming and removal of trees in public areas when they obscure street lights, interfere with surface and subsurface utility lines, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare as the Tree Board determines, acting under the authority of the Town Board.

### Section 2 – Intent

The second purpose of this ordinance is to express the Town's intent to use trees to create a more natural and congenial living environment.

### Section 3 – Tree Board Responsibility

The Tree Board shall be responsible for promoting the best use, selection and care of trees in public areas, approval of parking lot landscape plans, and for the administration of the long range Public Tree Master Plan.

#### **ARTICLE IV -- AUTHORIZATION REQUIRED**

##### **Section 1 – Written Approval Required**

No person shall plant vegetation or maintain, remove, or otherwise disturb, any tree or shrub in any public area without first receiving written approval from the Tree Board. Routine maintenance of public areas by the Town or its subcontractors shall be coordinated with the Tree Board.

##### **Section 2 – Town's Responsibility**

In cases of public vehicular safety, the Police Chief or the Town Administrator may immediately remove limbs obstructing traffic signs or impairing vehicular visibility.

##### **Section 3 – Waiver of Permits**

In case of emergencies, including windstorms, ice storms, and other disasters, permits may be waived by the Tree Board during the immediate emergency period so as not to hamper emergency work.

##### **Section 4 – Public Areas**

The Tree Board may initiate tree or shrub planting or removal in public areas. Town residents may initiate tree or shrub planting or removal in public areas with the written approval of the Tree Board. Nearby property owner(s) will be notified of planned tree and shrub planting or removal.

##### **Section 5 – Town Property**

All plantings now and hereafter installed in public areas shall become the property of the Town of Oriental and shall be under the control of the Town and subject to all regulations of the Town thereafter.

##### **Section 6 – Parking Lot Landscaping**

The Tree Board shall review landscape plans for parking lots relative to species selection and overall design.

#### **ARTICLE V -- ENFORCEMENT**

##### **Section 1 – Powers and Duties**

The Tree Board acting under the authority of the Town Board shall have the general powers and duties to:

- (a) Direct, manage, supervise, and control the Town Landscape Program to include all plantings, removal, maintenance, and protection of all trees and shrubs in all public areas.
- (b) Guard all vegetation in any public area so as to prevent the spread of plant

disease or pests and to eliminate conditions deemed by the Tree Board to be dangerous to the safety of persons or property.

- (c) Administer the provisions of this ordinance.
- (e) Accept requests for planting, removal or maintenance of plantings in any public area, and accept or deny the request as required by the provisions of this ordinance.
- (f) Remove any vegetation placed without approval in a public area.
- (g) Review landscaping plans for all public parking lots in excess of six (6) parking spaces.

## **ARTICLE VI -- ABUSE OR MUTILATION OF PUBLIC TREES OR SHRUBS**

### **Section 1 – Harm to Trees**

Unless specifically authorized by the Tree Board, no person shall intentionally damage, cut, carve, transplant, or remove any tree or shrub in a public area; attach nails, advertising posters, or other contrivance to any tree or shrub in a public area; allow any gas, liquid or solid substance which is harmful to such trees or shrubs to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree or shrub in a public area.

## **ARTICLE VII -- PROTECTION OF TREES**

### **Section 1 – Protection During Construction**

All trees in any public area near any excavation, construction, or street work, shall be protected in a manner specified by the Tree Board. Private projects shall bear the cost and responsibility of the protection requirements.

### **Section 2 – Pruning Standards**

All trees in public areas shall, to the degree practicable, be pruned or trimmed only in accordance with standards established by the American National Standards Institute, Publication A-300, TREE PRUNING STANDARDS, 1995 Edition or later.

## **ARTICLE VIII -- REMOVAL AND MAINTENANCE**

### **Section 1 – Town Maintenance**

The Town will maintain trees and shrubs, and remove dead or diseased trees and shrubs in public areas as necessary.

### **Section 2 – Citizen Maintenance**

No private person shall remove trees or shrubs from public areas for any purpose without first procuring written authorization from the Tree Board. The private person who obtains such authorization shall bear the cost of removal.

## **ARTICLE IX – AUGERING**

Section 1 – To prevent excess root damage to public trees during the installation, replacement or repair of underground utilities such as water, sewer, electric, cable television, internet and telephone, contractors and utility providers are required to auger under the tree's root system at a minimum depth of 18 inches according to the following specifications:

Tree Diameter in inches At 4.5 feet above ground	Auger Distance from Face of Tree in feet
0 – 2.5	1
2.6 – 4.5	2
4.6 – 9.5	5
9.6 – 14.5	10
14.6 – 19.5	12
Over 19.5	15

The Tree Board may permit shallower augering if there is justification for doing so such as a high water table. In the event of an emergency the Town Manager may suspend the augering requirement to repair and restore essential services.

### **ARTICLE X – SEPARABILITY CLAUSE**

#### **Section 1 - Separability**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **ARTICLE X -- VIOLATION**

The violation of any provision of this ordinance shall constitute a misdemeanor as provided by G.S. 14-4. In addition to penalties as described in G.S. 14-4, damage to or destruction of Town of Oriental trees shall have a civil penalty of \$50 per diameter inch per tree up to a maximum of \$500 per violation. Each tree shall be considered a separate violation. Tree diameter is measured at 4.5 feet above grade for trees greater than 12 inches in diameter, 12 inches above grade for trees 4 to 12 inches in diameter and, 6 inches above grade if smaller than 4 inches in diameter.

**Section 3.** That these changes become effective immediately following adoption.

**ADOPTED THIS 7<sup>th</sup> DAY OF august, 2018.**

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Sally Belangia, Mayor

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Diane H. Miller, Town Manager

Ordinance # 2018-261 \_\_\_\_\_