

## ARTICLE V. - TREES

## Sec. 5-329. - [Master plan governing tree maintenance, planting, and removal.]

This chapter, along with the Thunderbolt Urban Forest Five-Year Plan and a Standards and Specifications document that outlines requirements for tree care and management, constitute the town's master plan governing tree maintenance, planting, and removal except as set forth in section 5-329. (Adopted 1/09/2013)

- A. *Purpose*. It is the intention of this chapter to promote the preservation of trees on residential, commercial, and waterfront property and to protect the public health, safety, and general welfare by providing regulations for the planting, maintenance, and removal of trees within the Town of Thunderbolt.
- Trees are an integral part of our community and the ecological systems in which the community exists. They provide significant economic, social and ecological benefits. They are as necessary as water, roads, and energy to sustaining healthy communities.
- The collection of trees on both public and private properties in a community is called an urban forest. In the urban forest, a single tree may be as important as a patch of forest remnant. To avoid losing this valuable resource, we must set into place, laws to preserve existing trees while we plant and maintain new ones to sustain the urban forest system.
- B. *Applicability*.
1. *Public property*. The Town of Thunderbolt has full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks and public places of the town. No person shall plant, remove, cut above the ground or disturb any tree on any street, park, or public right-of-way without first filing an application and procuring a permit from the town. The person receiving this permit shall abide by the standards set forth in this chapter.
  2. *Private property*. The Town of Thunderbolt has full power and authority over all trees located on private property that constitute a hazard or a nuisance; and to any tree deemed to be a specimen tree whether on public or private property as described herein. The definition of specimen tree shall be the same as set forth in chapter 5, section 5-329.1D(1) of the town's ordinances. The Town of Thunderbolt has the authority to enter onto private property wherein there is located a tree that is suspected to be a public nuisance or hazard and to order its removal, if necessary. A nuisance or hazard is defined as any tree with an infectious disease, or insect problem or is dead or dying.
- C. *Responsibility and authority*. There is hereby created and established a Town of Thunderbolt Tree Commission which shall consist of six members—five residents and one supervisory-level/or elected official—appointed by the mayor with the approval of the town council. Members of the board shall serve without compensation. The terms of tree commission appointees shall be three years, except that the terms of two of the members appointed to the first commission shall be for only one year and the terms of two members of the first commission shall be two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

It shall be the responsibility of this commission to promulgate the urban forest five-year plan rules, regulations, standards and specifications, for the care, conservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such rules, regulations, standards and specifications shall be presented to the mayor and council for approval and adoption and upon adoption shall be considered a part of this chapter.

- D. *Tree protection.* A tree inventory on public property will be conducted under the supervision of the Thunderbolt Tree Commission. The purpose will be to identify all trees on public lands and to protect trees of historic value or unusual qualities (called specimen trees). In addition to specimen trees as defined in chapter V, section 5-329, a tree may qualify as a specimen tree if it is associated with a historic event or person, or is part of a scenic enhancement.
- E. *Permits.* Permits are required for all tree removal on public property. This will assure that no entity may damage, prune, or remove a tree from public property in the Town of Thunderbolt, without the written permission of a town designee. Residents are not charged for tree removal permits which may be obtained from the Thunderbolt town offices. Permits are also required for removal or trimming of specimen trees or trees that constitute a nuisance or hazard on private property.

No person except employees of the Town of Thunderbolt or a contractor hired by the town may trim or remove trees protected by this chapter without first obtaining a permit from the town.

- F. *Licensing.* It shall be unlawful for any contractor to engage, without a permit, in the (1) planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, plants or shrubs within the Town of Thunderbolt's parks or rights-of-way or (2) cutting, trimming, or removing specimen trees or trees constituting a hazard or nuisance on private property.
- G. *Insurance.* Before any permits shall be issued, each applicant shall first file evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000.00 for bodily injury or death and \$100,000.00 property damage indemnifying the town or any person injured or damaged resulting from the pursuit of such endeavor as herein described.
- H. *Enforcement.* The Town of Thunderbolt Code Enforcement Officer or other officer of the town as designated by the town administrator or the mayor and council shall have the power to enforce rules, regulations and terms of this chapter.
- I. *Penalties.* Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to provisions of the ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed \$500.00 for each offense. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this chapter, the injury, mutilation, or death of a tree, shrub, or other plant located on town-owned property is caused, the cost of repair or replacement, or the appraised dollar value of such tree, shrub, or other plant, shall be borne by the party in violation. The value of trees and shrubs shall be determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens" as published by the International Society of Arboriculture. All funds collected for violation of the Thunderbolt tree ordinance will be designated solely for the planting of additional trees or shrubs.
- J. *Miscellaneous.* If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the

validity of the remaining portions of this chapter.

Note: For the "Standards and Specifications and 5-Year Plan," see the appendix to town ordinances or clerk of council.

( Ord. of 9-7-2016 )

Sec. 5-329.1. - Tree protection.

It is the intention of this chapter to promote the preservation of trees as part of the land development and construction process and to promote the preservation of trees on residential, commercial, and waterfront properties.

Trees are recognized for their historical importance as well as in shading, cooling, noise and wind reduction, soil erosion prevention, oxygen production, dust filtration, carbon dioxide absorption, and aesthetic and economic enhancement of all real property. Their contribution to the general well-being and quality of life for the citizens of Thunderbolt is recognized and valued.

Therefore, the town deems it necessary and in the interest of public health, safety, and welfare to enact and enforce an ordinance for the preservation of trees and to prevent the indiscriminate removal of trees and reduction of canopy cover within the town.

A. *Purpose* .

- (1) Provide standards for the preservation of trees as part of the land development process;
- (2) Prevent massive grading of land, both developed and undeveloped, without provision for replacement of trees; and
- (3) Protect trees during construction whenever possible in order to enhance the quality of life within the Town of Thunderbolt.

B. *Applicability* .

- (1) The terms and provisions of the tree protection ordinance and these standards shall apply to any activity, which requires the issuance of a development permit. No development permit or grading permit shall be issued until it is determined that the proposed development is in conformance with the provisions of this chapter.
- (2) No person shall remove, cause to be removed, poison, damage, trim or transplant any tree with a trunk diameter of six inches or more at breast height without first obtaining a permit, as herein provided.

C. *Exemptions upon review* .

- (1) The following shall be exempt from the provisions of this chapter:
  - (a) The removal of trees, other than specimen trees, from an owner occupied, single-family or duplex lot.
  - (b) The necessary removal of trees by a utility company within dedicated utility easements.
  - (c) The removal of trees on public rights-of-way conducted by, on behalf of, or for any activity to be dedicated to a federal, state, county, municipal or other government agency in pursuit of its lawful activities or functions in the construction or improvement of public rights-of-way.
  - (d) The removal of trees, other than specimen trees, from detention ponds and drainage

easements.

- (e) The removal of any tree, which has become or threatens to become a danger to human life or property.
- (f) The removal of trees, other than specimen trees, from recreation areas such as playgrounds, ball fields, etc.

(2) Notwithstanding the foregoing, all reasonable efforts shall be made to save specimen trees.

D. *General criteria for the determination of specimen trees or stands of trees.*

(1) *Specimen tree.*

- (a) Any tree in fair or better condition, which equals or exceeds the following diameter sizes:
  - i. 36" dbh (three feet diameter breast height)—Large hardwoods such as oaks, hickories, yellow poplars, sweet gums, etc.
  - ii. 30" dbh—Large softwoods such as pines, deodar cedars, etc.
  - iii. 4" dbh—Small trees such as dogwoods, redbuds, sourwoods, etc.
- (b) A tree in fair or better condition must meet the following minimum standards:
  - i. A life expectancy of greater than 15 years.
  - ii. A structurally sound trunk.
- (c) A lesser-sized tree can be considered a specimen tree if it is a rare or unusual species, of exceptional or unique quality, or of historical significance.
- (d) A lesser size tree can be considered a specimen tree if it is specifically used by a builder, developer, or design professional as a focal point in a landscape project.

(2) *Specimen tree stands.* A contiguous grouping of trees, which has been determined to be of high value. Determination is based upon the following criteria:

- a. A relatively mature, even-aged stand.
- b. A stand with purity of species composition or of a rare or unusual nature.
- c. A stand of historical significance.
- d. A stand with exceptional aesthetic quality.

(3) *Critical root zone (CRZ)* . The area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter. Example: The CRZ radius of a 20-inch diameter tree is 30 feet.

E. *Removal of trees—Conditions and exceptions.*

(1) Tree removal shall be disallowed in the following circumstances:

- (a) Soil erosion or runoff problems will result due to topography, soil type, or proximity to flood plain or river protection areas; and the removal will substantially alter the existing soils adversely with regard to runoff and erosion. Information submitted by the town's public works staff member or other town environmental staff may be used in this evaluation.
- (b) Specimen trees are located on site and cannot be adequately protected or replaced. Additionally, removal may be disallowed if reasonable accommodations can be made to alter the proposed project to save specimen trees and have not been made.

1. When removal of a specimen tree cannot be avoided, newly planted (two-inch or greater) or (of a similar type, i.e., hardwood, softwood, small tree) not meeting the size requirement for provided in an amount that equals the total inches of removed specimen trees.  
(Example: A 36" and a 40" hardwood is proposed for removal. 76" total inches of planted or additional preservation of non-specimen trees shall be required. This could be accomplished by either planting 76" worth of two-inch or greater similar type trees, by preserving 76" of trees of a similar type that are not considered specimen due to being under the size requirement, or a combination of planting and additional tree preservation.)
    - (c) *Property degradation.* The removal will have a significant adverse effect on property values of any adjoining property.
    - (d) *Pruning.* Any substantial amount of pruning which results in unsightly appearance or predisposing the tree to pathogens, reducing the health and vigor of the tree.
  - (2) *Exceptions.* Tree removal from a site may be allowed if:
    - (a) The tree is located in an area where a structure or improvement will be placed and the tree cannot be relocated on the site because of age, type or size of tree.
    - (b) The tree is diseased or structurally unsound.
    - (c) The tree is injured and/or poses an imminent danger.
    - (d) The tree interferes with existing utility service.
    - (e) The tree creates an unsafe vision clearance for vehicular movement.
  - (3) Trees must be relocated or replaced on site in accordance with the provisions of the Thunderbolt zoning ordinance. Prior to approval of the tree protection plan, the arborist shall require relocation or replacement of each tree being moved or removed on the site to be supplemented with additional trees to establish within the tree protection zone a minimum of one tree per 500 square feet of minimum required open space.
  - (4) *Existing trees.* Any existing trees of not less than two inches dbh left in good growing condition on the property shall be counted toward the minimum number required. All replacement trees will be maintained properly to ensure their survivability.
  - (5) *Debris removed.* All debris from trees cut or substantially damaged shall be removed from the site in a timely fashion, including the removal of any portion of the tree stump above the original natural grade or elevation of land, unless accepted by the arborist for a specific reason such as, but not limited to, unusually large size or age.
  - (6) It is required that all reasonable efforts be made to save specimen trees. Reasonable effort shall include, but not be limited to, alteration of building design; alternate location of building, parking area, water retention drainage pipes; or relocation of utilities.
- F. *Breach of ordinance.* Any person(s) who violate any provision of this chapter or who fails to comply with any notice issued may be subject to legal prosecution resulting in a maximum fine of:
- \$200.00 First offense.
- \$300.00 Second offense.
- \$500.00 Third offense.

Each day during which any violation of the provision of this chapter shall occur or continue shall be a separate offence and will be tried accordingly.

This chapter, like any ordinance adopted by the Town of Thunderbolt, shall be enforced by the local law enforcement agency, Thunderbolt Police Department. (Council, 10/17/2000)

(Ord. of 9-7-2016)