

Town of Tarboro

TREE ORDINANCE



Adopted December 2017
By Tarboro Town Council

Document Recommended by the

Tarboro Tree Advisory Board

Based on the Model Ordinance from:

Developing Tree Protection Ordinances
in North Carolina

A Guide to Local Ordinance Creation

Developed by the Nicholas Institute for Environmental Policy Solutions for (and with guidance from) the Urban & Community Forestry Program of the North Carolina Forest Service and the North Carolina Wildlife Resources Commission. 2017 edits and revision by Edward Macie USDA Forest Service (Ret.), and Consulting Urban Forester.

Trees and Landscaping Standards

Purpose and Intent

The purpose of this ordinance is to preserve the existing tree canopy and landscaping and promote the expansion of appropriate vegetation. Proper observation of this ordinance will enhance the beauty, air quality, and safety for the infrastructure and citizens of the Town of Tarboro.

The intent of this ordinance is to:

1. Reduce storm water runoff.
2. Moderate temperature and promote energy conservation.
3. Emphasize the importance of trees and vegetation as both visual and physical buffers.
4. Improve air quality.
5. Reduce the harmful effects of wind, heat, noise, and the glare of motor vehicle lights.
6. Improve surface drainage and aquifer recharge.
7. Prevent soil erosion while promoting soil stabilization and enrichment.
8. Provide shade, and energy conservation
9. Improve water quality.
10. Conserve natural resources and maintain tree canopy.
11. Provide wildlife habitat.
12. Encourage the protection and planting of native trees.
13. Require the preservation and planting of trees on site to maintain and enlarge the tree canopy cover across Tarboro.
14. Protect, facilitate, and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.

Relationship to Other Laws, Regulations, and Ordinances

1. The regulations contained in this ordinance are not intended to be substituted for requirements and standards. This ordinance is intended to provide the Town of Tarboro with additional review and regulation of the tree canopy coverage in Town of Tarboro.
2. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by another ordinance, rule, regulation, or other provision of law, whichever is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

Interpretation

1. Meaning and intent – All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in this ordinance. If a different or more specific meaning is given for a term defined elsewhere in the Code of Ordinances the meaning and application of the term in this ordinance shall control for purposes of application to this ordinance. Any term not defined herein or elsewhere in the Code of Ordinances shall be defined as it is defined in Webster's New International Dictionary most recent edition, unless the result does not accomplish the

intent of the governing bodies, leads to absurd or illogical results, or is inconsistent with the surrounding textual context.

2. References to statutes, regulations, and documents – Whenever reference is made to a resolution, ordinance, statute, regulation, manual, or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

3. Usage

a. Mandatory and discretionary terms – The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

b. Conjunctions – Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word “and” indicates that all connected items, conditions, provisions, and events apply. The word “or” indicates that one or more of the connected items, conditions, provisions, or events apply.

c. Tense, plurals, and gender – Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in a particular gender include all other genders and vice versa.

Conflicts and Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance are adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

Establishing Ordinance Applicability

General

This ordinance applies to all public property and trees within the jurisdiction of the Town of Tarboro. Trees on private property which do not extend onto public property are addressed in development regulations within the Tarboro Unified Development Ordinance.

Emergencies

In an emergency such as a wind storm, ice storm, or other disaster, the provisions of this ordinance may be waived during the emergency period if compliance would impede the rescue of life, protection of property from immediate danger or the repair of utilities. Any emergency work shall follow as closely as possible the standards outline herein. This shall not be interpreted to be a general waiver of the intent of this chapter.

Non-Liability of Town of Tarboro

Nothing in this ordinance shall be deemed to impose any liability for damages or a duty of care and maintenance upon the Town of Tarboro or upon any of its officers or employees. Persons in possession of any property shall have a duty to keep the trees upon the property and under their control in a safe, healthy condition. Any person who feels a tree located on property possessed, owned or controlled by them presents a risk to the safety of themselves, others or structural improvements on-site or off-site shall have an obligation to secure the area around the and mitigate the risk as appropriate to safeguard both persons and improvements from harm.

Creation and Establishment of a Town Tree Advisory Board

There is hereby created and established a Town Tree Advisory Board for the Town of Tarboro which shall consist of staff, community members, and a local arborist. The members shall be appointed by and serve at the pleasure of the Town Manager.

Duties and Responsibilities

It shall be the responsibility of the Board to study, investigate, council and develop and/or update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented to the Town Council and upon their acceptance and approval shall constitute the official comprehensive town tree plan for the Town of Tarboro. An Annual Work Plan will be created by this Board.

The Board, when requested by the Town Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

Operation

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Tree Species to be Planted

The endorsed trees for planting within the Town of Tarboro include the recommendations from the following documents:

- Tarboro Historic District Guidelines, March 1990
- Suggested Trees for Tarboro's Historic Common, NCFS Urban & Community Forestry Program, December 2016
- Tarboro Tree Inventory Report and Analysis, Treefull Communities, LLC, March 2011

No species other than those included in these lists may be planted without written permission of the Town Tree Board.

Table - Required Tree Variety

Trees shall be of a native variety including but not limited to those species listed within this ordinance (palm trees do not conform as trees to the intent of this section; however, they may be planted in

addition to those required by this section). In no case should any tree or plant on the North Carolina State University’s list of invasive exotic plants be planted. When planting multiple trees, more than one variety may be required.

Table - Required Tree Variety

<i>Number of Trees for Project</i>	<i>Varieties</i>
More than 10 trees required	Two or more types
20-40 trees required	No more than 50% of one type
40+ trees required	No more than 25% of one type

Tree Size Measurement

Measurements of the diameter of a tree shall be determined by measuring four and one-half feet (4½') DBH above ground level. In the case of multiple stems, only the largest shall be measured.

Minimum Installed Tree Dimensions

When planted, trees shall have the following minimum dimensions:

Table - Minimum Installed Tree Dimensions

<i>Tree Size Category (all trees at maturity size)</i>	<i>Minimum DBH</i>	<i>Minimum Height (at planting)</i>
Small Trees, 10'-20' Tall	1"	4'
Medium Trees, 20'-50' Tall	1.5"	6'
Large Trees, 50' or Taller	2"	8'

Spacing

The spacing of Street Trees will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by a landscape architect.

Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 5 feet.

Distance from Street Corners and Fire Hydrant

No Street Tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. Where an intersection contains a stop sign at each direction, trees shall not be planted within twenty (20') of the corner. No Street Tree shall be planted closer than 10 feet of any fire hydrant.

No trees shall be planted in sight triangle(s) of driveways and streets without approval from the Town's Engineering Department. On state maintained roads, both NCDOT and town standards shall apply.

Utilities

No Street Trees other than those species listed as Small Trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

No trees shall be planted within five lateral feet of any underground water line, sewer line, transmission line, or other utility line. All tree plantings within the public right-of-way require a written statement from the Public Works Department determining the location where the tree is to be planted will not impact on any underground municipal utilities. Applicants should call the 811 service, Tarboro Public Works Department, and the Tarboro Electric Department for information on other buried utility lines.

Public Tree Care

The Town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The Town Tree Board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, sidewalks, curbs, streets, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with this ordinance.

Tree Topping

It shall be unlawful as a normal practice for any person, firm, or town department 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 inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Town Tree Board. If topping is the only pruning alternative, the Tree Board may recommend tree removal.

Pruning, Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall 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 (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute 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 or interferes with visibility of any traffic control device or sign.

Removal of Stumps

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

Interference with Town Tree Board

It shall be unlawful for any person to prevent, delay or interfere with the Town Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

Violations and Penalties

Any action or inaction which violates the provisions of this ordinance may be subject to the enforcement actions outlined in the Tarboro Code of Ordinances, Appendix B, Article VII, Enforcement and Review.