

TITLE 7
PUBLIC WAYS AND PROPERTY

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CHAPTER 1

STREETS, SIDEWALKS AND PUBLIC WAYS

SECTION:

- 7-1- 1: Scope
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7-1-1: **SCOPE:** The streets and sidewalks of the town as the same are named, designated and described at the time the ordinance codified herein took effect, and as the same appear upon the official plats of the town, shall continue to be the names, designations and descriptions of said streets and sidewalks until otherwise provided by the town council. (Prior Code § 56)

7-1-2: **SUPERVISOR OF STREETS:**

- A. **Duties; Reporting:** It shall be the duty of the supervisor of streets to take charge of all the streets in the town, and superintend all work done thereon, whether under contract or otherwise; provided, that he shall at all times be subject to and act under the direction of the town council. During the progress of any improvement he shall, at least once a month, report the progress and condition of such improvement; and he shall faithfully observe and report whether any breach is made in the terms of any contract in pursuance of which any such work or improvement is in progress; and no work done upon the streets under any contract shall be paid for in full until the

supervisor of streets shall report the same to be complete, nor until such report shall be endorsed by the committee on streets and accepted by the town council. (Prior Code § 75)

- B. Enforcement: The supervisor of streets shall see that all ordinances, resolutions or orders of the town council relating to streets are properly enforced and obeyed; and he is authorized and required to take such measures as may be necessary to keep the streets free from filth and nuisances. (Prior Code § 76)

7-1-3: **SIDEWALK REPAIR:** Whenever a sidewalk is out of repair by reason of the act or omission of any person, the same shall be repaired by such person or at his expense by the supervisor of streets. (Prior Code § 57)

7-1-4: **EXCAVATIONS; PERMIT REQUIRED:** No person shall make, or cause to be made, an excavation in a street for any purpose whatever without a permit from the town council, or from some person authorized by the council, and subject to such regulations as the council may prescribe. Every application for such permission shall be made in writing and signed by the applicant, and shall set forth the dimensions of the proposed excavation and for the purpose for which it is to be used; and every such permit shall provide that the excavation permitted shall not be used for any purpose other than stated in the application, and may at any time be revoked by the said council. (Prior Code § 58)

7-1-5: **CULVERT CONSTRUCTION:**

- A. Construction Of Culverts: Any person, firm or corporation using a ditch over or across any sidewalk within the corporate limits of the town shall be required to maintain and have in good repair a good and sufficient culvert therefor, the same to be subject to the approval of the supervisor of streets. (Prior Code § 59)
- B. Protection Of Culverts And Bridges: It shall be unlawful for any person to drive or propel across any wooden bridge or culvert upon the streets of the town, any traction engine or other machinery or vehicle of great weight having cogged wheels or other device attached to the tires having tendency to cut into the roadway, without first laying a plank upon such bridge or culvert where said wheels

will traverse the same, or otherwise adequately protecting such bridge or culvert. (Prior Code § 62)

- C. **Observing Weight Limits:** It shall be unlawful for any person to drive any traction engine, other machinery or vehicle upon or across any bridge or culvert upon the streets of this town, loaded or otherwise, weighing to exceed ten thousand (10,000) pounds, without first ascertaining the carrying capacity of such bridge or culvert, and taking such action as may be necessary to adequately protect such bridge or culvert from injury incident to carrying such unusual weight. (Prior Code § 63)

7-1-6: **DITCHES, BRIDGES KEPT IN REPAIR:** The owner or owners of any ditch, canal, flume or other watercourse shall maintain the same in repair, so as to prevent waste of water or damage to the property of others. Such persons are required, by bridge or otherwise, to keep such ditch, canal, flume or other watercourse in good repair where the same crosses any public road or highway, so as to prevent obstruction to travel, or damage or overflow to such public road or highway. (Prior Code § 60)

7-1-7: **OBSTRUCTIONS:**

- A. **Prohibited:** No person shall put, place or cause to be put or placed anywhere upon a public street or sidewalk and no person owning, occupying or having control of any premises, shall, after reasonable notice by the town or any public officer, suffer to be or remain in front thereof upon the sidewalk or the half of the street next to such premises: (Prior Code § 64; amd. 2001 Code)

1. Any broken ware, glass, filth, rubbish, refuse matter, garbage, ashes, tin cans, or other like substance;

2. Any wagons, farm implements, lumber, wood, boxes, fencing, building material, merchandise or other thing, which shall obstruct such public street or sidewalk, or any part thereof, or the free use and enjoyment thereof, or the free passage over and upon the same, or any part thereof, without the permission of the town council;

3. Any goods, wares or merchandise, for sale or show or otherwise, beyond three feet (3') of the front line of the lot where such goods, wares or merchandise may be exposed.

- B. **Receiving, Delivering Goods:** No person receiving or delivering goods, wares or merchandise in this town shall place or keep upon, or suffer to be placed or kept upon any sidewalk in said town any goods, wares or merchandise which he may be receiving or delivering for a longer period than ten (10) hours. (Prior Code § 64)

7-1-8: **LIABILITY IN OCCUPYING STREET:** Whoever is duly permitted to occupy a part of the street while making an excavation, or for any other purpose, shall provide a safe and convenient passage for public travel around or over the obstruction so caused and shall be responsible to the town for all injuries sustained in consequence of his neglect to so do. (Prior Code § 61)

7-1-9: **WEED REMOVAL:** It shall be unlawful for any person owning, occupying or controlling any real property within the corporate limits of this town to allow weeds to remain on the property which he owns, occupies or controls for a period of more than five (5) days after notice from the street supervisor, or to fail or neglect to remove weeds on the sidewalk or ditch banks in front of his premises after said notice has been given. (Prior Code § 66)

7-1-10: **TREES¹:**

- A. **Injury Prohibited:** No persons shall fasten a horse or other animal to a tree on the public highways, streets or alleys in this town, nor cause a horse or other animal to stand so that said horse or animal can injure such tree. (Prior Code § 69)
- B. **Obstruction To Care:** No person shall without the written permit of the town engineer or street supervisor place or hereafter maintain upon the ground on the public highway, street or alley, stone, cement or other substance which shall impede the free passage of the water or the air to the roots of any tree in such highway, street or alley, without leaving an open space of ground outside the trunk of said tree an area not less than four feet (4') square. (Prior Code § 70)
- C. **Place Guards For Protection:** In the erection of any building or structure, the owner or builder thereof shall place such guard around

1. See also chapter 3 of this title for provisions on trees.

all nearby trees on the public highway, street or alley as shall effectively prevent injury to them. (Prior Code § 71)

- D. Attachments: No person or corporation shall, without the written permission of the town engineer or street supervisor, attach a wire insulator or any device for holding any wire or pole to any tree growing or planted upon any public highway, street or alley of this town. (Prior Code § 72)

7-1-11: **PENALTY:** Any person or persons violating any provisions of this chapter shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Prior Code § 77; amd. 2001 Code)

CHAPTER 2

CANALS AND WATERCOURSES

SECTION:

- 7-2-1: Regulations And Requirements
7-2-2: Penalty

7-2-1: **REGULATIONS AND REQUIREMENTS:**

- A. **Clean And Repair:** It shall be the duty of any person, firm or corporation, owning or operating any watercourse within this town to clean out and maintain the same in proper repair, and to construct and maintain proper dams, headgates and boxes for the distribution of the water flowing in such watercourse. (Prior Code § 78)
- B. **Prevention Of Overflow:** Whenever, by the lack of maintenance of any dam or obstruction in the natural channel of any stream, any person, firm or corporation causes the water flowing in such natural channel to be raised or backed up so that there is danger that the same will overflow the banks of such stream and cause damage to public or private property within this town, where the same would not be occasioned except for the lack of maintenance of such dam or obstruction, it shall be the duty of such person, firm or corporation, to properly raise and strengthen the banks of such stream, and to take such other measures as shall protect public or private property from injury by reason of the said obstruction kept and maintained in such natural channel. (Prior Code § 79)
- C. **Filing Name Of Watermaster:** It shall be the duty of every person, firm or corporation operating any watercourse within this town to file with the street supervisor the name of the watermaster elected or appointed upon such watercourse, and thereafter whenever any change is made in such election or appointment, the name of such watermaster shall also be filed as aforesaid. (Prior Code § 80)

- D. **Town Ditches Kept In Repair:** All owners or occupants of property in this town having ditches running in front of their lots between the street and the sidewalk are hereby required to maintain and keep said ditches clean, so that the water therein shall not flow therefrom to the injury of said streets or sidewalks. (Prior Code § 81)
- E. **Obstruction In Water Ditches:** It shall be unlawful for any person to place or maintain in or about any water ditch any obstruction of any kind, which hinders or prevents the free passage of water through such ditches. (Prior Code § 82)

7-2-2: **PENALTY:** Any person violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Prior Code § 83; amd. 2001 Code)

CHAPTER 3

TREES¹

SECTION:

- 7-3-1: Definitions
- 7-3-2: Tree Board
- 7-3-3: Regulations And Requirements
- 7-3-4: Arborists; License And Bond Required
- 7-3-5: Interference With Tree Board Prohibited
- 7-3-6: Review By Town Council; Appeal
- 7-3-7: Penalty

7-3-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

PARK TREES: Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the town, or to which the public has free access as a park.

STREET TREES: Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the town. (Ord., 12-17-1992; amd. 2001 Code)

7-3-2: **TREE BOARD:**

- A. Created: There is hereby created and established a town tree board, which shall consist of five (5) members, citizens and residents of this town, who shall be appointed by the mayor with the approval of the town council.

1. See also section 7-1-11 of this title for provisions on trees.

- B. **Term Of Office:** The term of the five (5) persons to be appointed by the mayor shall be five (5) years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. (Ord., 12-17-1992; amd. 2001 Code)
- C. **Compensation:** Members of the board shall serve without compensation.
- D. **Duties And Responsibilities:**
1. It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, 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 annually to the town council and upon its acceptance and approval shall constitute the official comprehensive town tree plan.
 2. The board, when requested by the town council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.
- E. **Operation; Quorum:** 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. (Ord., 12-17-1992)

7-3-3: REGULATIONS AND REQUIREMENTS:

- A. **Tree Species To Be Planted:** The tree board develops and maintains a list of desirable trees for planting along streets in three (3) size classes based on mature height: small (under 20 feet), medium (20 feet to 40 feet) and large (over 40 feet). Lists of trees not suitable for planting will also be created by the tree board.
- B. **Spacing:** The spacing of street trees will be in accordance with the three (3) species size classes listed in subsection A of this section, and no trees may be planted closer together than the following: small trees, thirty feet (30'); medium trees, forty feet (40'); and large trees, fifty feet (50'); except in special plantings designed or approved by a landscape architect.

- C. **Distance From Curb And Sidewalk:** The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three (3) species size classes listed in subsection A of this section, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet (2'); medium trees, three feet (3'); and large trees, four feet (4').
- D. **Distance From Street Corners And Fireplugs:** No street tree shall be planted within thirty five feet (35') of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within ten feet (10') of any fireplug.
- E. **Utilities:** No street trees other than those species listed as small trees in subsection A of this section may be planted under or within ten feet (10') of any overhead utility wire.
- F. **Public Tree Care:**
1. 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 ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
 2. The tree board may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is infected with any injurious fungus, insect or other pest. This subsection 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 subsections A through E of this section.
- G. **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 (3") 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 subsection at the determination of the tree board.

- H. **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 (severely) 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 thirteen feet (13') above street surface or eight feet (8') above the sidewalk surface. 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 or sight triangle at intersections. Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and tree board prior to any trimming by the utility company.
- I. **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 such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the town. The tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the town shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.
- J. **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. (Ord., 12-17-1992)

7-3-4: **ARBORISTS; LICENSE AND BOND REQUIRED:** It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the town without first applying for and procuring a license. The license fee shall be ten dollars (\$10.00) annually in advance; provided, however, that no license shall be required of any public service company, including electric utilities and their agents and contractors, or town employees doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of

liability insurance in the minimum amounts of three hundred thousand dollars (\$300,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage, indemnifying the town for any person injured or damaged resulting from the pursuit of such endeavors as herein described. Insurance amounts may vary in different states. (Ord., 12-17-1992; amd. 2001 Code)

7-3-5: **INTERFERENCE WITH TREE BOARD PROHIBITED:** It shall be unlawful for any person to prevent, delay or interfere with the 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 chapter. (Ord., 12-17-1992)

7-3-6: **REVIEW BY TOWN COUNCIL; APPEAL:** The town council shall have the right to review the conduct, acts and decisions of the tree board. Any person may appeal from any ruling or order of the tree board to the town council who may hear the matter and make final decisions. (Ord., 12-17-1992)

7-3-7: **PENALTY:** Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed one hundred dollars (\$100.00). (Ord., 12-17-1992)

