

Chapter 21
TREES AND SHRUBS*

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ARTICLE I. IN GENERAL

Sec. 21-1. Injury to trees, etc.

Any person who shall willfully break down, destroy, injure or remove any tree already planted or hereafter to be planted, or any of the boxes which shall or may encompass them in any street, or public place within the city shall be guilty of a misdemeanor.

Secs. 21-2--21-20. Reserved.

ARTICLE II.
PROTECTION AND PRESERVATION OF TREES*

Sec. 21-21. Purpose and intent.

The purpose and intent of this article is to encourage the preservation and protection of trees within the city and to prevent their unnecessary destruction. It is not intended to be punitive nor to cause hardship upon those individuals and concerns exercising reasonable care and diligence to protect such trees.

Sec. 21-22. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tree means any woody plant that:

- (1) Has a trunk eight (8) inches or more in diameter at one (1) foot above the ground; or
- (2) Is of a horticultural variety or is highly ornamental (such as dogwood, redbud, fringetree, crab apple, sourwood, buck-eye, or holly) and has a trunk diameter

of four (4) inches or more at one (1) foot above the ground.

Tree protective zone means that portion of any parcel of land covered by the front, side and rear yard requirements as established by the city zoning ordinance as amended.

Sec. 21-23. Application and exemption.

This article shall apply to all real property (including all commercial, industrial, business, multifamily and subdivision property) within the city, with the exceptions that it shall not apply to:

- (1) Any parcel of land used for a single-family dwelling or duplex;
- (2) The approaches (clear zones) to the Spartanburg Downtown Memorial Airport, nor to the rights-of-way of utility companies, nor federal, state or local governments.

Sec. 21-24. Director of inspections to administer and enforce article provisions.

The director of inspections shall administer and enforce this article. The director of inspections shall ensure that, wherever possible, trees are retained in the tree protective zone. For purposes of this article, the director of inspections is authorized to act to ensure that the provisions of this article are not violated, including but not limited to the issuance of citations for the violations of any provisions of this article.

Sec. 21-25. Tree protection.

- (a) *Prior to development.* Where a building permit or subdivision approval has not been issued, the destruction, within any five-year period, of more than twenty-five (25) percent of the trees on any one (1) parcel of nonexempt land, without the prior approval of the director of inspections, which approval shall not be unreasonably withheld, shall be prohibited. However, where the topography of the land is such as to necessitate extensive grading or filling to make the land suitable for future development, upon notice in writing to the director of inspections for his approval, that portion of the parcel of land so graded or filled shall

be exempted from application of this article for a period of two (2) years, or until it is developed, whichever is earlier, at which time trees so removed shall be replaced at the rate of at least ten (10) trees per acre, provided such filled or graded area will be seeded or sodded with grass within a reasonable time after completion of such filling or grading.

- (b) *During development.* Where a building permit or subdivision approval has been requested, a minimum of fifteen (15) percent of the trees in the tree protective zone, or ten (10) trees per acre (whichever is greater), shall be retained. If some or all cannot be retained as provided, these shall be replaced with trees of like or similar kind having a minimum diameter of one and one-half (1 1/2) inches and a height of eight (8) feet. Trees so replaced shall be properly maintained to ensure their survival for a period of at least eighteen (18) months from the date planted. During development, there shall be erected and maintained, where necessary, suitable protective barriers around all trees to be retained so as to prevent damage thereto. There shall be no paving with any impervious material, or grading within three (3) feet of any trees retained.

Sec. 21-26. Submission of site plans.

Where application for a building permit is submitted to the city, a site plan for the development or improvement of any nonexempt parcel of land shall be submitted therewith. No building permit shall be issued until the site plan has been reviewed and approved by the director of inspections or the planning commission and the permit as provided in section 21-27 has been issued. Such plans shall be viewed and deemed approved unless notice to the contrary shall be given within five (5) working days of submittal. When the planning commission reviews the site plans, approval shall be given by the planning commission within five (5) days after the planning commission meeting where the site plans were reviewed. If such plans are disapproved, the reasons for disapproval shall be reported in writing to the applicant. The site plans shall show, in addition to the usual requirements, the following information:

- (1) The tree protective zone; and
- (2) Trees to be maintained within the tree protective zone, with location for each to be shown with reasonable accuracy.

Sec. 21-27. Permits.

Upon written request, a tree permit may be given by the director of inspections to any person or public or private firm qualified to remove trees, and to protect those remaining. To obtain such permit, the applicant, must certify knowledge of the provisions of this article and the willingness and ability to abide by it. Such permits shall be renewable annually.

Sec. 21-28. Emergencies.

In the case of emergencies, such as wind storms, ice storms or other disasters, the requirements of this article may be waived by the director of inspections during the emergency period so as not to hamper private or public work to restore order in the city.

Sec. 21-29. Violation and penalty.

Any person violating the provisions of this article shall be guilty of a misdemeanor and in addition thereto, shall be required to replace the trees required by this article.

Sec. 21-30. Appeals.

Any person dissatisfied with the decision of the director of inspections may make a written request to the zoning board of adjustment and appeals for a hearing on whether or not the decision of the director or the planning commission is in accordance with this article.

Secs. 21-31--21-49. Reserved.

ARTICLE III.

PLANTING AND MAINTENANCE IN PUBLIC AREAS*

DIVISION 1. GENERALLY

Sec. 21-50. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street trees means trees and shrubs on land lying between property lines on either side of all streets, avenues or ways in the city.

Park trees means trees, shrubs, bushes and all other woody vegetation, having individual names, in public parks and owned by the city, or to which the public has free access as a park.
(Code 1958, § 38B-31)

Sec. 21-51. Permitted species.

The list contained in this section constitutes the official street trees for the city. No species may be planted as street trees without written permission except those included in the list as follows:

- (1) Small trees, ten (10) to fifty (50) feet:

Flowering dogwood--*Cornus florida*;

Mt. Silverbell--*Halesia carolina*;

American holly--*Illex opaca* six (6) to twelve (12) feet
evergreen shrub pruned to six (6) feet or above
tree form;

Common ligustrum--*Ligustrum lucidum*;

Red tipped photinia--*Photinia X fraseri*;

Crape myrtle--*Lagerstroemia indica* (watermelon or
carolina red);

Goldenrain tree--*Kowbreuteria paniculata*;

Sourwood--*Oxydendrum arboreum*;

Cherrylaurel--*Prunus caroliniana*;

Kwanzan cherry--*Prunus senulata*;

Bradford pear--*Pyrus calleryana* Bradford;

Common sassafras--*Sassafras albidum*.

- (2) Large trees, fifty (50) to one hundred twenty (120) feet:

Red maple--*Acer rubrum*;

Sugar maple--*Acer saccharum*;
River birch--*Batula nigra*;
Hackberry--*Celtis laevigata*;
Marshall seedless ash--*Fraxinus americana* Marshall
seedless;
Maidenhair tree--*Ginko biloba*;
Sweetgum--*Liquidamber styraciflua*;
Southern magnolia--*Magnolia grandiflora*;
Virginia pine--*Pinus virginiana*;
Sycamore--*Platanus occidentalis*;
Scarlet oak--*Quercus coccinia*;
Willow oak--*Quercus phellos*;
White oak--*Quercus alba*;
Live oak--*Quercus virginiana*;
Bald cypress--*Taxodium distichum*.

Sec. 21-52. Spacing of street trees.

The spacing of street trees will be in accordance with the two (2) species size classes listed in section 21-51. No trees may be planted closer than the following:

- (1) *Small trees*. Twenty (20) to thirty (30) feet depending on type;
- (2) *Large trees*. Thirty (30) to forty-five (45) feet depending on type, except in special plantings approved by the city tree board.

Sec. 21-53. Distance of trees from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the two (2) species size classes listed in section 21-51, and no trees may be planted closer to any curb or sidewalk than the following:

- (1) *Small trees.* Two (2) feet;
- (2) *Large trees.* Four (4) feet.

Provided the City of Spartanburg or an adjacent property owner with the permission of the director of inspections of the city may plant a tree within the sidewalk by cutting the sidewalk provided that no such tree be planted closer than two (2) feet from the curb or curblines.

Sec. 21-54. Visibility distance from street corners and fire-plug clearance.

No street tree shall be planted closer than twenty-five (25) feet on any standard street (fifty-foot right-of-way) corner, or fifty (50) feet on any street corner having a right-of-way greater than fifty (50) feet, the point being located at the intersection of the right-of-way lines. No street tree shall be planted closer than ten (10) feet to any fireplug.

Sec. 21-55. Proximity to utilities.

No street trees other than those species listed as small trees in section 21-51 may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground waterline, sewer line, transmission line or other utility.

Sec. 21-56. Encroachment permits required.

Where the highway is provided and maintained by the state department of highways and public transportation, an application for an encroachment permit must be completed and approval from the resident maintenance engineer obtained before proceeding to plant any trees.

Sec. 21-57. Median trees.

Tree spacing is normally thirty (30) feet zero inches on centers with a minimum fifteen-foot setback from the beginning and ending of the median for vision clearance. Only small trees may be planted within the median.

Sec. 21-58. Public tree care.

- (a) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way 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. The opinions of adjacent property owners will be solicited in connection with any such tree care.
- (b) This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with sections 21-51 through 21-56.

Sec. 21-59. Tree topping.

It shall be unlawful as a normal practice for any person to top any street trees, park trees or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) 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 are exempted from this article.

Sec. 21-60. Penalty.

Any person violating any provision of this article shall be guilty of a misdemeanor.

Secs. 21-61--21-80. Reserved.

**DIVISION 2.
TREE BOARD***

Sec. 21-81. Created; composition.

There is hereby created and established a city tree board for the city which shall comprise:

- (1) The superintendent of parks;
- (2) The chief of planning;

- (3) The sanitation superintendent;
- (4) The chief inspector;
- (5) One (1) member of the city beautification committee to be appointed annually by the committee; and
- (6) One (1) public utility representative to be appointed by city council.

Sec. 21-82. Compensation of members.

Members of the tree board will serve without compensation other than the compensation received by those members employed by the city.

Sec. 21-83. Operation and organization.

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

Sec. 21-84. Duties and responsibilities.

The tree board will study, investigate, develop and administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The board, when requested by city council, shall consider, investigate, make findings, report and recommend upon any special matter coming within its scope of work. The plan adopted by the board will be reviewed and updated annually.

Sec. 21-85. Removal of unsafe or contaminated trees.

The 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, telephone lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

Sec. 21-86. Interference with operations.

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 article.

Sec. 21-87. Appeal of rulings.

Any person may appeal from any ruling or order of the tree board to the city council who may hear the matter and make final decision.