

Town of Dewey Beach, DE

Tuesday, March 7, 2017

## Chapter 173. Trees

[HISTORY: Adopted by the Commissioners of the Town of Dewey Beach 1-9-2010 by Ord. No. 672. Amendments noted where applicable.]

### GENERAL REFERENCES

Property maintenance — See Ch. 138.

Subdivision of land — See Ch. 183.

Zoning — See Ch. 185.

### 173a Approved List of Trees

## § 173-1. Definitions.

[1] *Editor's Note: Pursuant to Ord. 724, adopted 1-9-2016, all definitions throughout the Code were transferred to Ch. 1, Art. III, Definitions.*

## § 173-2. Removal of trees.

- A. Trees with a circumference of less than 20 inches measured one foot above ground level or trees that are not recognized by the Town as a native species may be removed without a permit.
- B. No tree taller than 25 feet in height measured from ground level and greater than 20 inches in circumference measured one foot above ground level, shall be removed or destroyed without written approval from the Town Code Enforcement Official, based upon the criteria set forth below.
- C. The Town Code Enforcement Official shall only permit the removal or destruction of a tree if:
  - (1) The tree is less than 40 inches in circumference, as measured one foot above ground level, and is shorter than 25 feet measured from ground level; or
  - (2) The removal or destruction of the tree is required to protect persons or property from immediate harm; or
  - (3) The tree is located within the footprint of any new construction, including the area necessary to facilitate such construction. All reasonable efforts shall be made during construction or renovation to protect from harm any and all trees otherwise protected under this chapter. To this end, the Town may identify and enforce protected areas for the protection of trees and roots during construction.
- D. No tree with a circumference of greater than 40 inches as measured one foot above ground level may be removed without a signed statement from a licensed arborist or the Town Code Enforcement Official stating the reason(s) for removal or destruction of each tree.

### § 173-3. Removal of trees within tree stands.

The Town Code Enforcement Official shall only permit the removal or destruction of one or more trees in a tree stand if:

- A. The tree stand spans less than 50 feet in all directions and has no trees larger than 25 inches in circumference, as measured one foot above ground level; or
- B. The removal or destruction of each tree or trees is required to protect persons or property from immediate harm; or
- C. The tree or trees to be removed are located within the footprint of any new construction, including the area necessary to facilitate such construction. All reasonable efforts shall be made during construction or renovation to protect from harm any and all trees otherwise protected under this chapter. To this end, the Town may identify and enforce protected areas for the protection of trees and roots during construction.

### § 173-4. Topping and pruning.

Topping of trees and tree stands shall be prohibited. Pruning for aesthetics or the health of the tree/tree stand is permitted, as is reduction when required directly under utility lines for safety.

### § 173-5. Procedures for approval.

Any person seeking permission from the Town to remove or destroy a tree or tree stand, whether in part or in total, must provide the Town Code Enforcement Official with a reasonable sketch of the property showing the location of all trees and structures on the property, including any proposed new construction or additions, and listing the size and species of each tree sought to be removed or destroyed. If any tree or trees to be removed are greater than 40 inches in circumference, a signed statement from a licensed arborist or the Town Code Enforcement Official stating the reason(s) for removal or destruction of each tree must also be provided.

### § 173-6. Violations and penalties.

A violation of any provision of this chapter is declared to be a civil offense pursuant to Chapter 80 of the Municipal Code of the Town of Dewey Beach, and shall be subject to an assessment of \$500 for each offense. Additionally, any person who violates this chapter by improperly removing or destroying one or more trees shall be required to replace each such tree with a tree of comparable size and a comparable species selected from the list of approved native species.

### § 173-7. Appeals.

Any person aggrieved by a decision of the Town Code Enforcement Official involving the denial of a request for tree-removal permit may appeal to the Board of Adjustment. A written notice of appeal must be filed with the Town Manager within 30 days of the date of the decision which is the subject of the appeal.

- A. Notice of appeal. A notice of appeal must be in writing and shall include the applicant's grounds for appeal. The notice of appeal must identify the error upon which the appeal is based and the

grounds for reversal of the Town Code Enforcement Official's decision. Any additional exhibits or evidence which the applicant would like the Board to consider on appeal may be filed with the notice of appeal.

- B. Town response; hearing. Within 15 days of the filing of a notice of appeal, the Town Code Enforcement Official may file a written response to the notice of appeal with the Town Manager. A copy of any written response shall be mailed to the applicant by the Town. The Board of Adjustment shall then set a reasonable time for a hearing of the appeal and give public notice, notify the parties in interest, and decide the appeal within a reasonable time. Any party to the appeal or any interested citizens may appear at the hearing in person, by agent, or by attorney.