

Chapter 14

STREETS AND SIDEWALKS

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ARTICLE 1 GENERAL USE REGULATIONS

Sec. 14-1 (a). Obstruction of sidewalks by trees, shrubbery, etc. prohibited.

No person shall allow limbs of trees, shrubbery, fence posts, gates or other material to obstruct the sidewalks so as to interfere with their free use by pedestrians.

Sec. 14-1(b). Obstruction of Vision.

No wall, fence or other structure shall be erected or maintained, and no hedge, tree or other obstruction shall be maintained that does, will or may cause danger by obstructing the view of traffic, vehicular or pedestrian, on a public sidewalk or street.

Sec. 14-2. Placement, maintenance of signs, awnings, shades, etc., restricted.

- (a) No person shall suspend or display or cause to be suspended or displayed any sign, flag, article, awning, shade, or merchandise or other thing over any sidewalk or street in the town unless the same be safely and securely fastened and so located and constructed as to leave the way unobstructed unless the lowest part thereof be at least seven (7) feet above the sidewalk or street. In no case shall an awning or shade extend beyond the line of the sidewalk. No such sign, flag, article or merchandise or other thing shall be so suspended or maintained without written permission from the selectmen, which permission shall be revocable. Any person having such permission and suspending or displaying any such signs, flags, articles or merchandise or other things shall in all respects conform to any direction in relation to the location, extent, construction and maintenance thereof, which shall be given by the selectmen.
- (b) No sign, article of personal property, merchandise, artifacts or works of art shall be displayed or maintained on any public street, sidewalk, parking area, common or other public property except for a limited time only and upon the prior written approval of the board of selectmen, for due cause shown.

Sec. 14-3. Roof guards required in certain instances.

A person owning or controlling a building from which snow, ice or water slides or falls, or may slide or fall upon a street or sidewalk within the limits of the town, shall construct and maintain such guard upon the roof of said building as will prevent snow, ice or water from sliding or falling

from the same upon the street or sidewalk.

Sec. 14-4. Removal of snow from sidewalks on certain streets - Required.

Upon the following streets or portions of streets each property owner shall clear all snow and ice from any sidewalk or sidewalks adjacent to his property within forty-eight (48) hours of the accumulation thereof: Main Street, Elliot Street to its intersection with School Street, Harris Place, Flat Street, Elm Street, High Street to its intersection with Retting Place, Canal Street to its southerly intersection with Clark Street, and Bridge Street.

Sec. 14-5. Same - By town upon owner's failure; collection of costs.

- (a) In the event that any property owner shall neglect or otherwise fail to remove all snow and ice within forty-eight (48) hours of the accumulation thereof, the town may remove or cause to be removed the same at the expense of the property owner.
- (b) In the event that said property owner shall not reimburse the town for such expense within a reasonable time after receiving notice thereof, the town may recover such expense, together with all legal costs, in an action of contract brought under this section.

Sec. 14-6. Reserved.

Sec. 14-7. Removal of litter and debris from sidewalks.

- (a) Upon the following streets or portions of streets it shall be the duty of each property owner or person in possession of any business located on the street level of a building to maintain in a clean and orderly fashion any sidewalk or sidewalks and curbs adjacent to their property and sweep or otherwise remove and dispose of debris, including, but not limited to, litter and dirt within twenty-four (24) hours of accumulation thereof: Main Street; Elliot Street to its intersection with School Street; Harris Place; Flat Street; Elm Street; High Street to its intersection with Retting Place; Canal Street to its southerly intersection with Clark Street; and Bridge Street. Debris shall not be placed in streets or in storm sewers or drains but shall be disposed of in a sanitary manner.
- (b) Failure to comply Section 14-7(a) shall be deemed a public nuisance and unlawful. Persons found in violation of Section 14-7(a) shall receive a warning for the first offense and a twenty dollar (\$20.00) fine for each subsequent offense and the waiver fee shall be ten dollars (\$10.00). Each day that a violation shall continue to exist shall constitute a separate violation.

Sec. 14-8. Penalty.

A person who violates any provision of this Chapter, unless otherwise provided for, shall be fined fifty dollars (\$50.00) and the waiver fee shall be twenty five dollars (\$25.00).

ARTICLE II NAMING OF STREETS AND ROADS

Sec. 14-9. Naming of Streets

The Board of Selectmen shall name all streets within the town. The Board of Selectmen may change the names of streets within town when necessary to promote the public welfare.

ARTICLE III NUMBERING OF BUILDINGS AND PROPERTY**Sec. 14-10. Numbering system established.**

A uniform system of numbering properties and principal buildings as shown on the property tax maps which are maintained by the Board of Listers is hereby adopted for use in the Town of Brattleboro.

Sec. 14-11. Administration.

The Board of Listers shall number parcels as necessary and update the property tax maps annually according to the method of numbering set forth in section 14-12. Existing numbering of parcels not in conformity with this chapter shall be changed to conform to the system herein adopted only where necessary to maintain the integrity of the overall system or to protect the public safety.

Sec. 14-12. Method of numbering.

All parcels on public streets and roads shall be assigned numbers with the number "1" on the right hand and the number "2" on the left hand, and shall proceed continuously using whole numbers only, from the place of beginning with the odd and even numbers on opposite sides. Five numbers shall be allowed for each side in 100 feet increments. Each principal building shall bear the number assigned to the frontage on which the main entrance is located. A multiple family structure composed of three or more units, shall bear one number for the principal building and each dwelling unit shall affix a letter or apartment number suffix.

Sec. 14-13. Display of Number.

- (a) Each principal building shall post numerals of a minimum of four (4) inches in height which shall be clearly identifiable from the public highway. If numerals on the building cannot be visible from the street, numerals shall be installed on a post or mailbox near the main driveway and adjacent to the public highway.
- (b) The Street Numbering Ordinance shall be enforceable by the Board of Selectmen. Penalty for failure to timely affix or permanently affix the given street number or road sign shall be \$10.00 for the first offense and the waiver fee shall be five dollars (\$5.00). If the landowner fails to affix the number within 45 days of a first offense, said failure shall be penalized in the amount of \$30.00 and the waiver fee shall be fifteen dollars (\$15.00). Such fine will be levied only after a written notice is sent to the property owner informing him of his failure to comply with this ordinance. Any landowner who fails to properly affix a number in compliance with Sec. 14-13(a) shall hold harmless and release the Town of Brattleboro for

any damages or liability in conjunction with any emergency response.

ARTICLE IV. REGULATION OF COASTING, SLEDDING, AND SKATEBOARDING ON SIDEWALKS AND STREETS

Sec. 14-14. No person shall course, coast, slide upon any skateboard, board, sleigh, sled, vehicle, or other thing, excluding children's carriages and wheelchairs (with or without motors), upon any sidewalk or on any street or highway except such sidewalks or streets as may be designated by the selectmen.

Sec. 14-15. It shall be lawful to operate a skateboard in compliance with the regulations set forth in section 14- 16 except it shall be unlawful to operate a skateboard on any of the following public places, streets and sidewalks adjacent to said streets:

- a) Numbered Routes:
 - Route 5, Putney Road
- b) Downtown Business District:
 - Arch Street -- entire length
 - Bridge Street -- entire length
 - Bullock Street -- entire length
 - Chapin Street -- entire length
 - Elliot Street from Main Street to School Street
 - Elm Street -- entire length
 - Flat Street -- entire length
 - Green Street from High Street to Church Street
 - Grove Street -- entire length
 - Harris Place -- entire length
 - High Street from Main Street to the intersection of Western Avenue and Green Street
 - Linden Street from Main Street to Cedar Street
 - Main Street -- entire length
 - Oak Street -- entire length
 - Park Place -- entire length
 - South Main Street from Main Street to Pearl Street
 - Walnut Street -- entire length
 - Whipple Street -- entire length
- c) West Brattleboro:
 - Garfield Drive -- entire length
 - George Miller Drive -- entire length
 - Hayes Court -- entire length

- Melrose Terrace -- entire length
- (d) All Municipal Parking Lots, including the entire Brattleboro Transportation Center.
(Amended 12/2/03)

Sec. 14-16. Skateboard operators shall follow the applicable provisions of the Town Traffic Code and the following regulations. Skateboard operators shall:

- (1) stop operating in order to yield the right of way to any pedestrian;
- (2) obey all traffic control devices, use due care at intersections and give hand signals when turning and stopping;
- (3) keep to the right of sidewalks and ride in single file;
- (4) wear a reflective vest or jacket that can be seen clearly in the dark and/or a white light armband visible for at least 500 feet and red reflector visible for 300 feet to rear while operating from one half hour after sunset until one half hour before sunrise

Sec. 14-17. Penalty.

Any person who violates any section of Article IV of this Chapter shall be fined fifty dollars (\$50.00) and the waiver fee shall be twenty five dollars (\$25.00).

ARTICLE V. REGULATION OF PUBLIC TREES

(Amendment of 2/17/04)

Sec. 14-20. Definitions.

Public Trees: "Public Trees" are herein defined as trees and shrubs located on Town-owned land or within the Town right-of-way.

Street Trees: "Street Trees" are herein defined as Public Trees on either side of all streets, avenues, bike paths and located within the bounds of a Town owned public right-of-way.

Public Shade/Ornamental trees are herein defined as:

Any tree 9 inches or greater in caliper (trunk diameter one foot above ground level) in the Rural and Rural Residential zoning districts;

Any tree 6 inches in caliper or greater in the Residential, Multiple Residential and Residential Office zoning districts;

Any tree 3 inches or greater in caliper in all other zoning districts; and

Any Public Tree intentionally planted which has not yet attained the requisite size.

Caliper measured at 4½ feet (DBH) for takedowns, mature tree removal.

Caliper measured at 1 foot above ground level for nursery stock and tree replacement.

Sec. 14-21. Creation and Establishment of a Town Tree Board.

There is hereby created and established the Brattleboro Tree Advisory Board (hereafter referred

to as the Board) which shall consist of five members, whom shall be appointed by the Selectboard. The Brattleboro Tree Advisory Board shall function under this ordinance and 24 VSA, Chapter 67, or its successor provision. The Brattleboro Tree Advisory Board shall be an advisory organization that works with the Tree Warden to promote the improvement and preservation of a healthy environment of the town as it relates to Public Trees. The Board is subject to the Vermont Open Meetings Law (1 VSA Sec. 310-314).

Sec. 14-22. Term of Office of members of the Brattleboro Tree Advisory Board.

Each member will be appointed for a period of three 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 their term. Any member may be removed from the Board for good cause. Cause shall include but not be limited to excessive absences from scheduled board meetings and clearly identified conflicts of interest. To remove a member from the Board shall require a majority vote of the Board and the concurrence of the Selectboard.

Sec. 14-23. Compensation for members of the Brattleboro Tree Advisory Board.

Members of the Board shall serve without compensation.

Sec. 14-24. Duties and Responsibilities of the Brattleboro Tree Advisory Board.

It shall be the responsibility of the Board to study, investigate, and develop and/or update annually a written plan for the care, preservation, pruning, planting, removal, or disposition of trees and shrubs in parks, along streets and in other public areas. The Board, when requested by the Town Tree Warden or any Town department, board or commission, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its responsibilities.

Sec. 14-25. Operation of the Brattleboro Tree Advisory Board

The Board shall choose its own chairperson on an annual basis during a regularly scheduled meeting in the month of October. A member will also be chosen as secretary and will properly warn and keep the minutes of each meeting. The Town Tree Warden will attend all meetings and will serve in the capacity of advisor to the Board. It will be the Tree Warden's additional responsibility to act as the liaison between the Board and other regulatory bodies within the Town. Meetings will be held once a month. If less than a majority of the members are in attendance, there is no quorum and no meeting where official actions can be taken.

Sec. 14-26. Tree Warden's Jurisdiction, Public Shade Trees. Ref.: 2502 Title 24/ Chapter 33.

The Tree Warden shall have and the sole authority over any and all trees, shrubs, or plants planted and growing or hereafter to be planted and grown in the public right-of-way, or on any public property to which the public has free access in the Town of Brattleboro. Trees so located shall be deemed public Shade/Ornamental trees as defined in Section 14-20 of this ordinance. No Public Shade/Ornamental Tree may be removed by a private property owner without written

permission of the Tree Warden.

The Tree Warden shall have all powers granted to Tree Wardens under 24 VSA, Chapter 67 (24 VSA §2508), or its successor provisions.

The Tree Warden shall advise any regulatory boards of the Town in matters of tree health, care and maintenance as needed. All actions taken by the Tree Warden will be reported to the Tree Board and maintained in a historical file.

(The following sections 14-27 through 14-30 of the ordinance do not apply to pre-existing non-conforming Shade Trees)

Sec. 14-27. Street Tree Species to be Planted.

All species planted as Street Trees shall be selected from the booklet, *Recommended Trees for Vermont Communities* by Vermont's Urban and Community Forestry Program (Appendix A), a copy of which shall be maintained in the Planning Services Department. The planting of non-conforming species can be appealed to the Tree Warden.

Sec. 14-28. Spacing.

Spacing of Street Trees shall be in accordance with the three species size classes listed in Appendix A of this ordinance.

Sec. 14-29. Distance from Curb and Sidewalk.

The distance trees may be planted from curbs, edges of roads and sidewalks will be in accordance with the three species size classes listed in Appendix A.

Sec. 14-30. Distance from Street Corners and Fire Hydrants.

No Street Tree shall be planted closer than 30 feet of any street corner measured from the point of nearest intersecting curbs or edges of roads. No Street Tree shall be planted closer than 10 feet of any fire hydrant. Exceptions may be granted only by approval of the Town Tree Warden, after the Tree Warden's consultation with the Department of Public Works and the Tree Advisory Board as appropriate.

Sec. 14-31. Utilities.

No Street Trees other than those species listed as small trees (30' and under) may be planted under or within 10 lateral feet of any overhead utility wire. Medium and large trees shall be planted one-half the listed canopy diameter from any overhead utility line. Small trees shall be planted at least 5 feet, medium trees at least 10 feet, and large trees at least 15 feet from any underground utility line. Refer to (Appendix A) for overhead utilities recommendations.

Sec. 14-32. Construction in Vicinity of Town Trees.

Any construction within 10 lateral feet of Public Trees requires consultation with the Town Tree Warden who may provide specific written recommendations for additional protection of trees. American National Standards Institute – A300 or the current version available at the Planning Services Department will apply.

Sec. 14-33. Public Tree Care.

The Town shall have the right to plant, prune, maintain and remove Public Trees within the Town rights-of-way and on Town-owned land, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds as set forth in the following guidelines.

Maintenance:

1. All Public Tree maintenance, pruning and planting shall be in accordance with ANSI A300 standards.
2. Every reasonable effort should be made to inform the public when potentially hazardous Public Trees need extensive pruning.
3. The Town Tree Warden, at times, may need to hire an arborist to obtain further information and options on tree issues, but only upon the prior approval of the Selectboard or relevant Town Department.

Removal:

1. Department of Public Works and Recreation & Parks Department employees who have been notified of or recognize a concern or a problem with a Public Tree need to determine if the concern or problem is a hazard to the public's safety.
2. If the employee, in his or her judgment, determines that there is a hazard to public safety, then the employee shall contact a supervisor and secure the area, if needed.
3. The supervisor will then contact the Tree Warden for a determination. If the Tree Warden determines that the Public Tree needs to be removed, the process will proceed according to standard Town practices.
4. If the Tree Warden feels that further information should be obtained before a decision can be made, then the area should be secured, if needed, until a determination can be made.
5. If, in the opinion of the Tree Warden, a Public Shade/Ornamental Tree constitutes no hazard to public safety and is determined to be healthy but needs to be removed, then the Tree Warden will warn a public hearing and shall be held in accordance with 24 VSA §2509:

A Public Shade Tree within the residential part of a municipality shall not be felled without a public hearing by the tree warden,

except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, no hearing shall be required. In all cases the decision of the tree warden shall be final except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality. (Amended 1969, No. 238 (Adj. Sess.), § 6.)

6. Two weeks or more before scheduled removal, the public will be notified via the Selectboard meeting and/or paper of record and a sign will be posted on the Public Tree of the proposed action to be taken, and the Public Hearing time, date and place.
7. Anyone contesting the take down of a Public Tree must do so to the Tree Warden between the time of posting the tree and the hearing, at the hearing or within 24 hours of the decision having been made. After informing the Tree Warden, a written appeal must be submitted within two weeks to the Tree Warden and the Selectboard. The Tree Warden will notify the appellant by certified mail of the hearing date with the Selectboard. The decision of the Selectboard is final. Its decision and findings will be in writing and mailed to the appellant.
8. (a) The Town Tree Warden may remove or cause to be removed any public Shade Tree or part thereof which is infested with or infected by a recognized tree pest or when it constitutes a hazard to public safety. Pursuant to 24 VSA §2509, no public hearing shall be required when a public Shade Tree is infested, infected or when it is a hazard to public safety. Such tree shall be considered a hazardous tree.

(b) The Town Tree Warden may remove or cause to be removed any Public Shade Tree or part thereof which is injurious to town sewers, electric power lines, water lines or other public improvements or can otherwise be considered a public nuisance. Such tree shall be considered a nuisance tree. A public hearing shall be held before such public Shade Tree is removed. Public hearing guidelines stated above in this section will be followed.
9. Exceptions may be made with prior notice to, and acceptance by, the Tree Warden for Town employees who are maintaining roadbanks or engaging in accepted practices of right of way clearance and tree management.

Sec. 14-34. Tree Removal Mitigation. (Amended 5/18/04)

- a) For every non-hazardous Public Shade Tree taken down, a tree or trees shall be planted equal to the total caliper of inches taken. The tree(s) planted shall be consistent with Section 4344 of the Town of Brattleboro's zoning bylaws. Bare root plantings may be no less than 1 ½" in caliper when planted. Trees shall be replaced by the caliper inch, such that for every inch of diameter at 4½ feet (DBH) removed, one or more trees totaling an equal number of caliper inches shall be planted. In lieu of replacement tree(s), the Tree Warden may allow payment to be made into a

mitigation fund.

- b) The planting need not be done at the site of the take-down, but shall be carried out in accordance with the needs of the most current version of the Streetscape Master Plan. The Tree Advisory Board may advise the Tree Warden as to where the new tree or trees shall be planted.
- c) The cost of replacement or compensation for tree removal of a Public Shade Tree will be established by the Tree Warden in the permit for removal. The property owner will bear the cost of replacement and removal. The Tree Warden will administer this section of the ordinance. Should the Tree Warden or property owner deem it necessary to further negotiate the fee, the mitigation board will be called in to consult and advise. The mitigation board will consist of three members, one of whom will be the Tree Warden. The value and cost of the tree will be determined by the mitigation board and Tree Warden based on location, health, specie, community value, and other considerations. Failure to apply for mitigation does not preclude assessment of a mitigation fee. The mitigation fee may be appealed to the Selectboard within thirty days of written notification to the person or agency responsible for payment.
- d) For construction projects requiring the removal of over five Public Shade Trees, a tree removal mitigation plan will be developed prior to the removal of the trees, and enacted within a year of the project's completion.
- e) In cases of appeal or litigation, a professional arborist will be consulted to appraise tree values, using ISA formula. All projects using federal funds are required to use the ISA formula for valuing trees.
- f) If no present need is identified, mitigation funds (equal to what a planting would have cost) will be set aside for future planting or maintenance in a fund created for that purpose.
- g) A property owner can expect to access their property. If a Public Tree is a hindrance to their access and no reasonable alternative exists, after consultation with the Tree Warden no penalties for tree removal will be levied.
- h) The Town will not be held to the mitigation clause.

Sec. 14-35. Tree Topping.

It shall be unlawful for any person, firm or Town department to top any Public Tree. 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. Public Trees severely damaged by storms or other causes, or certain trees under utility wires or

other obstruction where other pruning practices are impractical may be exempted from this section of the ordinance at the determination of the Tree Warden.

Sec. 14-36. Prohibited Activities and Substances Harmful to Tree Life.

It shall be unlawful for any person or agency owning, using or having control of substances harmful to tree life to allow such substance or substances to come in contact with the soil surrounding the roots of any Public Tree in such a manner as may injure or destroy the tree or plants.

Unless specifically authorized in writing by the Tree Warden, no person or town agency shall damage, cut, carve, attach any rope, wire, nails, advertising posters or other contrivance to any Public Tree or shrub.

Sec. 14-37. Pruning, Corner Clearance.

It shall be the responsibility of each property owner of any tree overhanging any Town right-of-way or Town-owned land to 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 area above the surface of the street and/or sidewalk to allow for pedestrian and vehicular safety and travel. 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 State or Town street light or interferes with visibility of any State or Town traffic control device or sign, or to maintain an appropriate clear space above the surface.

Sec. 14-38. Tree Removal on Private Property.

(a) The Town Tree Warden may remove or cause to be removed any private Shade Tree on private property within the town when such private tree is infested with or infected by a recognized tree pest or when it constitutes a hazard to public safety. The Town Tree Warden shall notify the owner of such private Shade Tree in writing by certified mail that removal of the tree is necessary. The appeal of this action may be taken by the private property owner, to the Selectboard. This appeal must be submitted in writing within 15 days of the receipt of certified written notification from the Tree Warden. The Selectboard will make their decision at its next meeting. The property owner will receive their decision and findings in writing.

In the event of the failure of the owner to comply, after a final adjudication that the private tree constitutes a hazard to public safety, the town shall have the right to remove the private Shade Tree pursuant to 24 VSA § 2511. A person who violates subsection (a) and fails to remove the private Shade Tree within the time required, after a final adjudication that the private tree constitutes a hazard to public safety, shall be subject to a fine of \$500.00 for each day the private Shade Tree remains and is not removed.

(b) The Town Tree Warden may remove or cause to be removed any private Shade Tree or part thereof which is injurious to town sewers, electric power lines, water lines or other public improvements or can otherwise be considered a public nuisance. The Town Tree Warden shall

notify the owner of such private Shade Tree in writing by certified mail that removal of the tree is necessary. The property owner may appeal this decision. Guidelines for appeal shall be the same as section 14-38 (a) . If it is determined that such private Shade Trees need to be removed, the town may remove it at its own expense.

Sec. 14-39. Obstruction of Streets.

It shall be the duty of any person owning private property bordering on a public street to ensure that trees and shrubs on that property are pruned in a manner that will not obstruct or shade streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct the view of any street or alley intersection. If trees are interfering with utility wires, it is the obligation of the appropriate utility company to correct the situation.

Sec. 14-40. Arborist and Bond.

Before securing a contract with the Town for arboricultural services, a contractor must have possession of liability insurance in the minimum amounts of \$1,000,000 aggregate, general liability per occurrence indemnifying the Town or any person injured or damage resulting from the pursuit of such endeavors as herein described. All tree work performed on Public Trees must conform to the most recent ANSI A300 Standards.

Sec. 14-41. Penalties

Any person violating any provision of this ordinance shall be subject to a fine of \$500.00 for each offense; and a separate offense shall be deemed committed on each day on which a violation occurs or continues.