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CHAPTER 284. TREES

[HISTORY: Adopted by the City Council of the City of Bangor as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Land development — See Ch. 165.

ARTICLE I. Dangerous Trees and Branches

[Adopted as Ch. VII, Art. 8; amended 10-10-1990 by Ord. No. 90-329]

§ 284-1. Property owner responsible.

Every property owner shall maintain the trees on his or her property in a safe and healthy manner and keep trees properly trimmed and pruned so as to prevent hazards or injury to persons and their property in their use and occupancy of public ways and public or private property.

§ 284-2. Inspections.

The City Forester shall, from time to time, seek entry to private property in order to inspect the trees and shrubs located thereon. The Forester shall first seek the property owner's permission to conduct such an inspection. If entry is refused, the Forester may seek an administrative inspection warrant as permitted by law. Should a condition of extreme danger be known to exist, the warrant requirements of this section may be dispensed with, but only if there is a reasonable cause to believe that the delay involved in compliance with the warrant requirement would pose a serious imminent danger to persons and their property using or occupying public ways or public or private property.

§ 284-3. Nuisance.

A tree located on privately owned property shall be deemed a nuisance if it, or any part of it, by reason of its condition

and in the professional judgment of the Forester:

- A. Is likely to fall onto adjacent public ways or public or private property; or
- B. Is not pruned to a height of 14 feet above the traveled portions of the public ways and public sidewalks.

§ 284-4. Removal.

Upon the finding that any tree, or part thereof, constitutes a nuisance as defined in § 284-3 hereof, the City Forester shall notify the property owner of said nuisance. The Forester shall cause said notice to be served as provided for process under Rule 4 of the Maine Rules of Civil Procedure. The notice shall identify the property in question, contain a brief description of the nuisance and the remedial action to be taken and shall state the deadline for compliance. The deadline for compliance shall depend upon the degree of danger created by the nuisance but shall in no case be longer than 60 days. In case of serious imminent danger to persons and their property, the City Forester shall have authority to require immediate compliance by the property owner. If, upon expiration of said deadline, the nuisance has not been abated, the Forester may, in addition to other remedies provided by law, cause removal of said tree or portions thereof. The costs of this service by the Forester, including labor, equipment and materials, shall be charged to the property owner.

§ 284-5. Appeals.

Any person aggrieved by a decision or notice of the City Forester under this article may appeal said decision or notice to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

§ 284-6. Violations and penalties.

Any person violating any provisions of this article by failing, neglecting or refusing to comply with any notice herein provided for, in addition to the costs of removal, shall be subject to a civil penalty of not less than \$100 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE II. Shade Trees

[Adopted as Ch. VI, Art. 10, Sec. 2; amended 12-28-1994 by Ord. No. 95-32]

§ 284-7. Care and supervision.

The Public Works Director shall have the care and supervision of all shade trees on each and every street, square, park and lane in the City. A person, firm or corporation shall not cut, trim, deface or in any way injure any such shade tree without written permission from the Public Works Director, and in all such cases shall conform to the conditions, limitations and restrictions therein stated.

§ 284-8. Violations and penalties.

[Amended 9-14-1998 by Ord. No. 98-339]

Violations of this article shall be subject to the penalties provided in 30-A M.R.S.A. § 3284.

ARTICLE III. Public Tree Program

[Adopted 1-12-2004 by Ord. No. 04-47]

§ 284-9. Tree Board.

A. The Tree Board is hereby created and established. The Board shall consist of five members appointed by the City Council. At least one member of the Board shall be a certified landscape architect, and at least one of the remaining members shall have completed certified training in arboriculture.

B. The term of the members shall be for three years, except that the term of the members appointed to the first Board shall be as follows: three shall be appointed for two years, and two shall be appointed for three years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

C. The Tree Board shall study the problems and determine the needs of the City of Bangor in connection with its public tree program. The Tree Board shall meet semiannually. It shall assist in the establishment of standards for the selection, planting, maintenance and removal of public trees, and in the dissemination of news and information on these standards and on the general tree program in the City.

D. The Tree Board shall formulate and continually update a management plan for public trees. Such plan shall be presented to the Bangor City Council, and, upon acceptance and approval by the Council, the plan shall serve as the basis for the municipal public tree program.

§ 284-10. City Forester.

The City Forester, in consultation with the Tree Board, shall have the authority to regulate the planting, maintenance, and preservation of public trees for the benefit and welfare of the public and to protect the beauty of such trees and public places, using the advice of the Tree Board where helpful and following the directives of the management plan.

§ 284-11. Permits required

A. No person shall plant, prune, remove or otherwise disturb, above or below ground, any public tree, without first filing an application with and obtaining a permit from the Public Works Director. Any permit granted shall contain a definite date of expiration, and may contain conditions attached thereto by the Public Works Director. Any violation of this article or the terms of the permit shall be grounds for revocation of the permit, after notice and hearing. In emergency situations, such as storm damage to trees, requiring immediate pruning or removal, the work may be performed without permits; however, the Public Works Director shall be notified as soon as possible.

B. It is the intent of this article to preserve public trees. The Public Works Director may issue a permit to cut down, remove or destroy a public tree under one or more of the following circumstances:

(1) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing utility services, creates unsafe vision clearance or other traffic hazard, or is otherwise dangerous to people or property.

(2) The tree is located in an area where a structure or other improvements will be placed in accordance with plans approved under the Land Use Ordinance.

C. For the purpose of this article, the term "public tree" shall mean "all shade or ornamental trees or shrubs now or hereinafter growing in any street right-of-way or park."

§ 284-12. Abuse of trees.

Unless authorized by permit issued by the Public Works Director, no person shall damage, cut, carve, transplant or remove any public tree; nor attach ropes, wires, nails, advertising posters or other contrivance; nor allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with them; nor set fire or allow any fire to burn where the fire or heat will injure a public tree.

§ 284-13. Interference with City Forester prohibited.

No person shall hinder, prevent, delay or interfere with the City Forester or any of his/her designees while engaged in carrying out the execution of this article.

§ 284-14. Development of arboricultural specifications.

The Tree Board shall have the authority to prepare the rules and regulations of the arboricultural specifications and standards, governing the planting, maintenance, removal, fertilization, pruning and bracing of public trees. Said rules and regulations shall not become effective until approved by the City Council after a public hearing.

§ 284-15. Exemptions.

The provisions of this article shall not apply to the customary operations of governmental entities or public utilities; provided, however, that any governmental entity or public utility shall consult with the Public Works Director prior to the removal of any public tree for the purpose of considering reasonable alternatives to the removal of the tree.

§ 284-16. Enforcement.

This article shall be enforced and administered by the Code Enforcement Officer. When any violation of any provision of this article is found to exist, the Code Enforcement Officer is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that the City Forester may deem appropriate or necessary to enforce the provisions of this article.

§ 284-17. Violations and penalties.

A. Notwithstanding § 284-8 of this article, the violation of any provision of this article shall be punished by a fine of not less than \$100 nor more than \$500. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. Any such penalty shall inure to the benefit of the town; and

B. Should any public tree be destroyed, the person causing the destruction shall make restitution to the City in an amount equal to the replacement value of the destroyed tree.

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