

Town of Orono Ordinances

Proposed ordinance amendment to repeal and replace Chapter 38 Vegetation as follows.

Chapter 38 VEGETATION^[1]

Footnotes:

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Cross reference— Public works department, § 2-61 et seq.; land use, ch. 18.

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Cross reference—Preservation of trees in travel trailer parks and campgrounds, § 18-142(d)(11).

ARTICLE I. IN GENERAL

Secs. 38-1—38-30. Reserved.

ARTICLE II. - TREES^[2]

Sec. 38-31. Statement of purpose.

It is the purpose of this article to regulate the planting, maintenance, and removal of trees located within the public rights-of-way along public streets, and in public parks and other municipal-owned property of the town as defined in Sec 38-32.

(Ord. of 12-9-96, § 38-36)

Sec. 38-32. 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:

Drip Line means an imaginary, perpendicular line that extends from the outermost tips of the tree branches to the ground.

Person means any person, firm, partnership, corporation, company, or organization of any kind.

Property Line means the outer edge of a street or highway right-of-way.

Property Owner means the person owning property as shown by the town assessor's records.

Public Health Officer means the formally appointed Town Official who is charged with addressing Public Health matters as defined by Statute.

Public Trees means all trees now or hereafter growing within the limits of the public right-of-way along any street or highway, or within a public park or municipal-owned property.

Street or Highway means the entire width of every town way when any part thereof is open to the use of the public as a matter of right for purposes of vehicular or pedestrian passage. This is to include State rights-of-way within the Maine DOT designated Urban Compact Area only.

Tree Warden means a paid employee of the Town who acts in consultation with the chairman of the tree board as appointed by the Town Manager.

(Ord. of 12-9-96, § 38-37)

Sec. 38-33. Tree board.

(a) The Tree Board is hereby created and established. It shall consist of seven (7) members who shall be appointed by the Town Council for a term of three (3) years, except that of those first appointed one shall be for a term of two (2) years and one for a term of one (1) year. The majority of the Board shall constitute a quorum and its members shall elect the Board's chairperson and adopt rules of procedure. A minimum of three (3) regular members of the Tree Board shall have technical background in arboriculture, forestry, or other natural resource related field. The Town Council shall appoint two (2) Associate Members, each serving three (3) year terms, except one of the two first appointed shall be for a term of two (2) years. An Associate Member shall attend all meetings of the Tree Board and participate in proceedings, but may only vote when an Associate Member has been designated by the Chairperson to sit for a Member. Vacancies on the Tree Board shall be filled by appointment by the Town Council for the unexpired term.

(b) Additional non-voting members: The Tree Board has the discretion to invite volunteers to assist with Tree Board initiatives or provide technical support on a regular or as needed basis. These volunteers shall not vote.

(c) Officers: The Tree Board shall elect a Chairperson from among its members and designate a Co-, Vice, or Assistant Chairperson, and a Secretary. The term of all officers shall be one year with eligibility for reelection. The Board may create and fill such other officers as it may determine.

(d) The Tree Board shall study the problems and determine the needs of the town in connection with its public tree program. It shall assist the properly constituted officials and citizens of the town in the establishment of standards for the selection, planting, maintenance,

control of pests and diseases, removal of public trees, and in the dissemination of news and information on these standards and on the general tree program of the town. The tree board shall hold timely public meetings at which the subject of trees as it relates to the town will be discussed.

(e) The Tree Board shall formulate and continually update a management plan for public trees. Such plan shall be presented to the Town Council and upon its acceptance and approval, the plan shall serve as the basis for the municipal public tree program.

(Ord. of 12-9-96, § 38-38)

Sec. 38-34. Tree Warden.

(a) The Tree Warden shall be appointed by the Town Manager annually. The Tree Warden, 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 approved management plan.

(b) The Tree Warden shall be responsible for compliance on all contractual agreements entered into by the Town for work done on trees as covered by this article. This includes insurance, license, and other contractual requirements.

(c) The Tree Warden, in consultation with the Tree Board, shall have the authority to develop strategies to implement the Public Tree Management Plan, as adopted by the Town Council. Specific examples of these types of policies and operating procedures may include but are not limited to efforts to limit the prevalence of invasive plant species like Norway Maple, management of the Emerald Ash Borer, or Browntail Moth, or implement strategies to help reduce the spread of Pine Needle Blight or Dutch Elm Disease.

(Ord. of 12-9-96, § 38-39)

Cross reference— Responsibility of the public works department to act as tree warden, § 2-63(7).

Sec. 38-35. 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 Tree Warden. The Tree Warden shall issue a permit if, in their judgment, the proposed work is desirable and the proposed method and workmanship are in accord with current arboricultural

specifications and standards. Any permit granted shall contain a definite date of expiration, and may contain conditions attached thereto by the Tree Warden. Any violation of this article or the terms of the permit shall be grounds for revocation of the permit by the Tree Warden, after notice and hearing. A permit is also required for any tunneling or trenching within the drip line of a public tree. In emergency situations, such as storm damage to public trees, requiring immediate pruning or removal, the work may be performed without permits, however, the Tree Warden shall be notified as soon as possible.

(b) It is the intent of this article to preserve public trees. The Tree Warden, in consultation with the Chairperson of the Tree Board, may issue a permit to cut down, remove or destroy a public tree under one or more of the following circumstances:

(1) The public 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 public 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 [Chapter 18 of this Code of Ordinances].

(Ord. of 12-9-96, § 38-40)

Sec. 38-36. Landscaping.

In new subdivisions or in redevelopment of commercial property, the Tree Warden shall review landscaping plans and may make written comments and/or suggestions to the Planning Board concerning the adequacy of the plans under the management plan.

(Ord. of 12-9-96, § 38-41)

Sec. 38-37. Abuse of trees.

Unless authorized by a permit issued by the Tree Warden, 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.

(Ord. of 12-9-96, § 38-42)

Sec. 38-38. Tree protection during construction.

Persons working in construction shall take steps to protect the drip line of any public tree near any excavation, construction, or street work, and care shall be taken that injury does not occur above ground nor compaction or smothering of roots occur below ground. No person shall deposit or store any machinery or construction materials or debris which may impede the free passage of water and air to the roots of public trees. The Tree Warden may determine that damage is unavoidable to the area within the drip line of a tree and may note this as part of a Street Opening Permit approval.

(Ord. of 12-9-96, § 38-43)

Sec. 38-39. Interference with Tree Warden prohibited.

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

(Ord. of 12-9-96, § 38-44)

Sec. 38-40. Development of arboricultural specifications.

The Tree Board shall have the authority to prepare the rules and regulations of the arboricultural specifications and standards, in consultation with the Tree Warden, governing the planting, maintenance, removal, fertilization, pruning, and bracing of public trees. Said rules and regulations shall not become effective until approved by the Town Council.

(Ord. of 12-9-96, § 38-45)

Sec. 38-41. 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 Tree Warden prior to the removal of any public tree for the purpose of considering reasonable alternatives to the removal of the tree.

(Ord. of 12-9-96, § 38-46)

Sec. 38-42. Enforcement.

This article shall be enforced and administered by the Tree Warden. When any violation of any provision of this article is found to exist, the Tree Warden is hereby authorized and directed to

institute any and all actions and proceedings, either legal or equitable, that the Tree Warden may deem appropriate or necessary to enforce the provisions of this article.

(Ord. of 12-9-96, § 38-47)

Sec. 38-43. Penalties.

(a) The violation of any provision of this article shall be punished by a fine of not less than \$100.00 nor more than \$500.00. 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.

(b) Should any public tree be destroyed, the person causing the destruction shall make restitution to the Town in an amount equal to the replacement value of the destroyed tree.

(Ord. of 12-9-96, § 38-48)

Secs. 38-44—38-60. Reserved.

ARTICLE III. PREVENTION OF VEGETATION DISEASE & PEST INFESTATION

Sec. 38-61. Statement of policy.

It is the intent of this article to promote public forest health by taking steps to manage and mitigate the risks associated with all types of pests, diseases, and invasive plant species that affect the overall health of public vegetation. The Tree Board shall include these considerations when developing any Tree Management Plan.

It is hereby declared to be against the public interest for any person, firm, or corporation owning or occupying land within the municipal boundaries:

- (1) To grow, plant, transplant, or maintain on such land any tree with any pest infestation or infected with a disease; or
- (2) To maintain cut wood or uninfected trees on such land in a condition which will contribute to the spread of a disease or infestation. Specifically this refers to weakened or dead wood which serves as a breeding place for insects which transmit disease or continued pest infestation.

(Code 1981, § 3.2.1)

Sec. 38-62. Detection.

The Tree Warden shall gain permission from the property owner or issue appropriate notice as defined in Section 38-64 - Notice before entering private property for the purpose of detection. The Tree Warden or duly authorized agents are hereby authorized to enter upon any land within the town for the purpose of detecting disease and pest infestation within dead wood or from uninfected trees. They may take samples from any trees for submission to a competent state agency for diagnosis.

(Code 1981, § 3.2.2)

Sec. 38-63. Control.

If any tree within the town is found by such agency to be infected with disease or pest infestation, or if, in the opinion of municipal officers or their agents, piles of dead wood in areas of uninfected trees, create a hazard of spread of the disease or pest infestation to other trees, it is the right and responsibility of the municipal officers to take action. Such action may consist of one or more of the following:

- (1) Removal and destruction of diseased trees.
- (2) Removal and destruction of dead and dying portions of uninfected trees.
- (3) Removal and destruction of piles or other sources of cut wood.

(Code 1981, § 3.2.3)

Sec. 38-64. Notice.

Where any tree found to be infected with disease or piles of dead wood in areas of uninfected trees create a hazard of spread of a disease or pest infestation to other trees and said tree, or piles of dead wood are on private property, the health officer before acting under this section, shall cause written notice of their proposed action to be given to the land owner by registered mail, 30 days prior to the action taken by the Public Health Officer.

(Code 1981, § 3.2.4)

Sec. 38-65. Dutch Elm Disease Control.

If any elm tree within the municipal boundaries is found by such agency to be infected with Dutch Elm disease, or if, in the opinion of municipal officers or their agents, piles of elm wood or dead wood in areas of uninfected elm trees, create a hazard of spread of the disease to other trees, it is the right and responsibility of the municipal officers to take action. Such action may consist of one or more of the following:

- (1) Removal and destruction of diseased elm trees.
- (2) Removal and destruction of dead and dying portions of uninfected elm trees.
- (3) Removal and destruction of piles or other sources of cut elm wood.

(Code 1981, § 3.2.3)

Sec. 38-66. Dutch Elm Disease Notice.

Where any elm tree found to be infected with Dutch Elm Disease or piles of elm wood or dead wood in areas of uninfected elm trees create a hazard of spread of the disease to other trees and said tree, piles of elm wood or dead wood are on private property, the health officer before acting under this section, shall cause written notice of their proposed action to be given to the land owner by registered mail, 30 days prior to the action taken by the Public Health Officer.

(Code 1981, § 3.2.4)

Secs. 38-67—38-80. Reserved.