

# Town of Kennebunk Tree Ordinance

## **Article 1 - Preamble**

This Tree Ordinance has been created by the Kennebunk Tree Committee. The Tree Committee views our trees as an important resource to be protected, preserved, maintained and replaced. The purpose of this Committee shall be to recommend policy and plans to the Town with regards to the planting, care and removal of municipal trees while encouraging sound environmental and cultural practices.

The goals of the Tree Committee include:

- Maintain an inventory of Town trees along streets, walkways and public parks (a special tag will be used to identify trees that are monitored for health and safety)
- Publicize and educate in school and the community on tree quality, diversity and care
- Recommend replacement trees, respecting species variety, location and compatibility
- Interact with Tree Warden concerning public and private issues

## **Article 2 - Authorization**

This Tree Ordinance has been created by the Tree Committee and is subject to change.

## **Article 3 - Tree Planting**

The Town of Kennebunk is committed to planting new trees in areas deemed to be in the best interest of the Town. The Tree Committee and Tree Warden are authorized to determine the location, size and species of trees to be planted and may depend on the advice and input from private property owners and the Town's consulting arborist.

Tree planting within any Town right-of-way or on Town-owned property shall require the approval of the Town Manager and input from the Public Works Director and the Tree Committee.

Tree planting on private property with public funding shall require a Tree Easement Deed which is attached as Appendix A.

## **Article 4 - Tree Maintenance**

The Town of Kennebunk is committed to maintaining public shade trees listed on the Town's inventory of shade trees. Thorough consideration will be given to the request for service/maintenance of any tree. All evaluations will include the tree species, condition, location, value, life expectancy and other considerations. Tree maintenance will be performed in the following manner:

- A. The following steps will be taken when a tree maintenance request is received from the Tree Committee, Tree Warden, Town Manager or other municipal official:
1. The Tree Committee and the Tree Warden shall evaluate the request and decide the course of action needed.
  2. When on Town-owned property or within a Town right-of-way, such work shall require the approval of the Town Manager and input from the Public Works Director.
  3. When on private property with a tree maintenance easement granted to the Town, such work shall require the approval of the Town Manager and input from the Tree Committee and Public Works Director.
  4. When on private property without a tree maintenance easement, the Town will only maintain that portion of the tree that poses a public threat meaning potential damage to any person or property while on Town owned property or in a Town right-of-way. A twelve foot minimum clearance shall be maintained by the Town over all sidewalk and/or rights-of-way. Maintenance will require permission from the private property owner. If the private property owner refuses to grant such permission, the Town will notify the property owner that the maintenance must be performed at the private property owner's expense. With regards to public safety, if maintenance is not performed in a reasonable length of time after such notice, the Town will take action so as to force action or liability upon the private property owner to the extent provided by law.
  5. The Tree Committee or their designee may ask the private property owner to contribute to the cost of work to be performed.
- B. The following steps will be taken when a tree maintenance request is received from a private property owner:
1. The Tree Committee and the Tree Warden shall evaluate the request and decide the course of action, in addition to the evaluation of the tree condition. The evaluation shall include a determination of whether the tree is located on public or private property and whether there is a tree easement deed.
  2. When on private property with a tree maintenance easement granted to the Town, such work shall require the approval of the Town Manager and input from the property owner, Public Works Director, and Tree Committee.
  3. When on private property, the Town will only require maintenance of that portion of the tree that poses a public threat, meaning potential damage to any person or property while on Town owned property or in a Town right-of-way. The Town will notify the property owner that the maintenance must be performed at the private property owner's expense. If maintenance is not performed in a reasonable length of time after such notice, the Town will take action so as to force action or liability upon the private property owner to the extent provided by law.
  4. The private property owner may request the Town of Kennebunk to share in the cost of said maintenance work under special circumstances as deemed worthy by the Town Manager.
- C. Intentionally left blank for future amendments.

## **Article 5 - Tree Removal**

The Town of Kennebunk is committed to maintaining public shade trees listed on the Town's inventory of shade trees. Thorough consideration will be given to the request for removal of any tree. All evaluations will include the tree species, condition, location, value, life expectancy and other considerations. Tree maintenance will be performed in the following manner:

- A. The following steps will be taken when a tree removal request is received from the Tree Committee, Tree Warden, Town Manager or other municipal official:
1. The Tree Committee and the Tree Warden shall evaluate the request and decide the course of action. In addition to the evaluation of the tree condition, the evaluation shall include a determination of whether the tree is located on public or private property and whether there is a tree easement deed.
  2. When on Town-owned property or within a Town right-of-way, such work shall require the approval of the Town Manager and input from the Public Works Director, and Tree Committee.
  3. When on private property with a tree maintenance easement granted to the Town, such work shall require the approval of the Town Manager and input from the property owner, Public Works Director, and Tree Committee.
  4. When on private property without a tree maintenance easement, the Town will only maintain that portion of the tree that poses a public threat meaning potential damage to any person or property while on Town owned property or in a Town right-of-way. Maintenance will require permission from the private property owner. If the private property owner refuses to grant such permission, the Town will notify the property owner that the maintenance must be performed at the private property owner's expense. With regards to public safety, if maintenance is not performed in a reasonable length of time after such notice, the Town will take action so as to force action or liability upon the private property owner to the extent provided by law.
  5. The Tree Committee or their designee may ask the private property owner to contribute to the cost of work to be performed.
  6. Cutting of trees, limbs, etc. in a Town right-of-way or on any Town-owned land by residents or non-residents whether living, non-living, diseased, standing or fallen without consent (verbal or written) by the Town Manager, Public Works Director, or Tree Warden is strictly forbidden.
- B. The following steps will be taken when a tree removal request is received from a private property owner:
1. The Tree Committee and the Tree Warden shall evaluate the request and decide the course of action, in addition to the evaluation of the tree condition, the evaluation shall include a determination of whether the tree is located on public or private property and whether there is a tree easement deed.
  2. When on private property with a tree maintenance easement granted to the Town, such work shall require the approval of the Town Manager and input from the property owner, Public Works Director, and Tree Committee.

3. When on private property without a tree maintenance easement, the Town will only maintain that portion of the tree that poses a public threat meaning potential damage to any person or property while on Town-owned property or in a Town right-of-way. Maintenance will require permission from the private property owner. If the private property owner refuses to grant such permission, the Town will notify the property owner that the maintenance must be performed at the private property owner's expense. With regard to public safety, if maintenance is not performed in a reasonable length of time after such notice, the Town will take action so as to force action or liability upon the private property owner to the extent provided by law.
4. The Tree Committee or their designee may ask the private property owner to contribute to the cost of work to be performed.

C. Intentionally left blank for future amendments.

### **Article 6 – Legacy Trees**

1. The Tree Committee and the Tree Warden recognize the importance to the Town of Legacy Trees and other trees of historic importance. Legacy Trees shall be defined as trees of significant historical value, dimension and/or species. When said trees are located on private property, the Tree Committee will work to the best of its ability with the private property owner to recognize and maintain said trees in the best interest of both the private property owner and the town. The final determination of whether a tree meets the definition of a Legacy Tree shall be solely determined by the Tree Committee and/or Tree Warden.
2. The Tree Committee encourages private property owners to respect and protect recognized Legacy Trees. To the end, the Tree Committee encourages the property owner to grant a tree easement to the Town for said Legacy Tree so that it may be preserved for future generations.

### **Article 7 - Record Keeping**

All requests for service and activity shall be recorded and include the following information:

- tree identification number if available
- street address location
- tax map and lot
- current property owner
- requested service
- evaluation by Tree Warden
- action taken

Proposed by Tree Committee: March, 2009

Adopted at June 10, 2009 Town Meeting. However, this is not the official ordinance. Please check with the Town Clerk's office or view the Town Ordinances (non-zoning) in the Ordinance section of our website.