



CITY OF SACO, MAINE

CITY COUNCIL APPROVED CODE SUPPLEMENT

Approved on June 3, 2024, with an effective date of July 4, 2024

PROPOSED ORDINANCE AMENDMENTS TO CHAPTER 204 TREES AND SECTION 179-2.01 SITE PLAN REVIEW IN RESPONSE TO CITY COUNCIL'S REQUEST REGARDING APRIL 1ST EMERGENCY MORATORIUM ON CLEAR CUTTING OF TREES (SECOND/FINAL READING)

Councilor Hatch moved, Councilor Gunn seconded, be it ordered that the City Council hereby ordains revisions to Chapter 204 Trees and Section 179-2.02 Site Plan Review of the City Code of Ordinances as presented in the May 6, 2024 City Council Meeting packet materials. The motion passed with six (6) yeas.

Chapter 204 Trees

[HISTORY: Adopted by the City Council of the City of Saco 5-1-1995 as Ch. XIX of the 1994 Code. Amendments noted where applicable.]

GENERAL REFERENCES

City property — See Ch. 81.

Property maintenance — See Ch. 163.

Street excavations — See Ch. Ch. 186, Art. I.

§ 204-1 Title.

This chapter shall be known and may be cited as the "Municipal Tree Regulations of the City of Saco."

§ 204-2 Definitions.

For the purposes of this ~~chapter~~ Sections 204-1 through 204-11 of this Chapter, the following definitions shall apply, unless the context clearly indicates another meaning:

MUNICIPAL TREE WARDEN

The designated official of the City of Saco assigned to carry out the enforcement of this chapter.

PARKS AND RECREATION DEPARTMENT

The designated department of the City under whose jurisdiction park and/or street trees fall.

PERSON

Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY LINE

The outer edge of a street or highway right-of-way.

PROPERTY OWNER

The person owning such property as shown by the Tax Maps of the City of Saco, unless proof to the contrary is available.

PUBLIC PLACES

All grounds owned by the City of Saco.

PUBLIC TREES

All shade and ornamental trees now or hereafter growing on any street or any public areas or trees standing on the public and private property line, in which case 1/2 or more of the tree trunk is standing on public property.

STREET or HIGHWAY

Exhibit 1

The entire width of every public way or right-of-way when any part thereof is open to the use of the public as a matter of right.

TREE LAWN

That part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

TREES

- A. **LARGE TREES** Designated as those attaining a height of 45 feet or more.
- B. **MEDIUM TREES** Designated as those attaining a height of 30 feet to 45 feet or more.
- C. **SMALL TREES** Designated as those attaining a height of 20 feet to 30 feet.

§ 204-3 Duties of Parks and Recreation Department.

The duties of the Parks and Recreation Department shall be as follows:

- A. To assist the properly constituted officials and citizens of the City in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same shall be on private or public property, and to make such recommendations to the City Council as to desirable legislation concerning the tree program and activities for the municipality.
- B. To provide regular and special public meetings at which the subject of trees, insofar as it relates to the City, may be discussed.

§ 204-4 Tree Warden.

- A. Appointment and qualifications. The Municipal Tree Warden shall be a person skilled and trained in the arts and sciences of municipal arboriculture, landscape horticulture, park administration or a closely related field.
- B. Duties of the Tree Warden. The Municipal Tree Warden shall have the authority to promulgate the rules and regulations of the arboricultural specifications and standards of practice governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on streets or other public sites in the City and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the City of Saco. He/She shall cause the provisions of this chapter to be enforced. In his/her absence these duties shall be the responsibility of a qualified alternate designated by the City Administrator.
- C. Authority of the Tree Warden.
 - (1) General authority and jurisdiction. The Tree Warden shall have the authority and jurisdiction of regulating the planting, maintenance and removal of public trees on streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites.
 - (2) Supervision. The Tree Warden shall have the authority and it shall be his/her duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.
 - (3) Condition of permit. The Tree Warden shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.
 - (4) Master Street Tree Plan. The Tree Warden shall have the authority to formulate a Master Street Tree Plan with the advice and approval of the appropriate committee. The Master Street Tree Plan shall specify the species of trees to be planted on each of the streets or other public sites of the City. From and

after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto.

- (a) The Tree Warden shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public sites of the City.
- (b) The Tree Warden, with the approval of the Tree Committee, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable.

§ 204-5 Permit procedure; emergencies; notice of completion.

- A. Permit required. No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground or otherwise disturb any tree on any street or City-owned property without first filing an application and procuring a permit from the Tree Warden or otherwise specified municipal authority. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Tree Warden. In emergency situations, such as storm damage to trees, requiring immediate pruning or removal, the work may be done. The Tree Warden must, however, be informed of such action within two days thereafter.
- B. Applications. Application for permits must be made at the office of the Parks and Recreation Department not less than 48 hours in advance of the time the work is to be done. Applications for planting shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Tree Warden shall find reasonably necessary to a fair determination of whether a permit should be issued.
- C. Standards of issuance. The Tree Warden shall issue the permit provided for herein if, in his/her judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.
- D. Notice of completion. Notice of completion shall be given within five days to the Tree Warden for his/her inspection.

§ 204-6 Replanting, removal and replacement; elm trees.

- A. Replanting by City. Whenever it is necessary to remove a tree or trees from a tree lawn in connection with the paving of a sidewalk or the paving or widening of the portion of a street or highway used for vehicular traffic, the municipality shall replant such trees or replace them. Provided that conditions prevent planting on tree lawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the arboricultural specifications are planted on the adjoining property.
- B. Removal; permits and replacement required. No person or property owner shall remove a tree from the tree lawn for the purpose of construction or for any other reason without first filing an application and procuring a permit from the Tree Warden and without replacing the removed tree or trees in accordance with the adopted arboricultural specifications. Such replacement shall meet the standards of size, species and placement as provided for in a permit issued by the Tree Warden. The person or property owner shall bear the cost of removal and replacement of all trees removed.
- C. Removal of elm trees. The City of Saco will prune and remove diseased elm trees up to and including tree trunks standing 30 feet on private property measured from the end of the public property line.

§ 204-7 Trees causing obstructions; minimum clearance.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees to prune such trees in such manner that they will not obstruct or shade the

streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be 10 feet over sidewalks and 12 feet over all streets, except truck thoroughfares, which shall have a clearance of 16 feet.

§ 204-8 Abuse or mutilation of public trees.

Unless specifically authorized by the Tree Warden, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

§ 204-9 Interference with Tree Warden.

No person shall hinder, prevent, delay or interfere with the Tree Warden or any of his/her assistants while engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.

§ 204-10 Protection of public trees.

- A. Guards. All trees on any street or other publicly owned property near any excavation or construction of any building or structure or street work shall be guarded with a good, substantial fence, frame or box not less than four feet high and eight feet square or at a distance, in feet, from the tree equal to the diameter of the trunk, in inches [diameter at breast height (DBH)], whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier.
- B. Construction permits required. No person shall excavate any ditches, tunnels or trenches or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permit from the Tree Warden.

§ 204-11 Placing materials on public property.

No person shall deposit, place, store or maintain upon any public place of the City any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any tree growing therein, except by written permit of the Tree Warden.

§ 204-12 Tree Removal Review Requirements.

- A. The purpose of this section is to regulate tree removal of two or more acres of land for those tree removal activities that specify a Change of Use for purposes of development on the notification form required by State of Maine Statutes Title 12 §8883-B as may be amended.
- B. Tree removal activities that require notification as a Change of Use for purposes of development as specified directly above in subsection A shall require a site plan review with the Planning Board following Chapter 179 of the City Code. (Cross reference: Chapter 179)
- C. Exemptions to Tree Removal Review Requirements:
 - i. Timber Harvesting regulations permitted and regulated by the State of Maine following the Maine Forest Practices Law, Title 12, Part 11, Chapter 805 (Cooperative Forestry Management) and Chapter 20 Forest Regeneration & Clearcutting Standards as may be amended.
 - ii. Tree removal that is necessary to, or becomes necessary in the course of providing emergency services in emergency situations.

- iii. Tree removal that is conducted pursuant to 35-A M.R.S. Section 2522, as may be amended, for maintenance of utility facilities.
 - iv. Tree removal conducted by a State or federal agency on State or federally controlled property, or tree removal conducted pursuant to a State or federal law that preempts section 204-12.
 - v. Tree removal for ecological restoration, ecological rehabilitation, parks and open space management, or other natural area management practices, including invasive species management projects.
 - vi. Tree removal involving any of the following projects:
 - a. Creation or maintenance of public streets by the city;
 - b. Creation or maintenance of water, sewer, stormwater, or other utility work conducted by or on behalf of the city;
 - c. Creation or maintenance of water, sewer, stormwater, telecommunication, gas, electric power or other similar service conducted by or on behalf of a public utility as that term is defined by in 35-A M.R.S. Section 102(A), as may be amended;
 - d. Creation of ADA accessible improvements.
 - e. Tree removal on properties, or portions of properties, containing cemeteries, when the tree removal is required to maintain existing grounds for interment, create additional grounds for interment, construction structures and associated improvements to support administrative or client services associated with managing and operating a cemetery.
 - vii. Enforcement Provisions. The Code Enforcement Department, in coordination with the Planning Department, shall be responsible for enforcing section 204-12. Enforcement and civil penalties shall follow Section 1-18, Enforcement actions and civil penalties of City Code. (Cross reference: Chapter 1 Article II Provisions Applicable to Entire Code)
 - viii. Terms Defined. Terms and definitions of Section 204-12 shall follow Chapter 230 Article 21, Definitions. (Cross reference: Chapter 230 Article 21).
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Article I Purpose

§ 179-1.01 Purpose.

This chapter, Chapter 179, is enacted pursuant to Art. VIII, Part Second, Section 1 of the Maine Constitution and 30-A M.R.S.A. § 3001 et seq. The purpose of this chapter is to protect the health, safety, and welfare of the citizens of Saco, and to provide for the review of development proposals that may affect the environment, the provision of public services, and the value of nearby properties.

Article II Authority and Applicability

§ 179-2.01 Site plan review; Planning Board jurisdiction.

The Planning Board and the City Planner are authorized as provided in this chapter to review and act on site plans. Site plan review is required for the following:

- A. Construction of:
 - (1) Nonresidential structures, including accessory uses or structures, having a total floor area of more than 1,000 square feet.
 - (2) Multifamily dwellings; provided, however, that multifamily dwellings of 15 units or more shall be subject to both site plan review and subdivision review.
- B. Expansion of:
 - (1) Nonresidential structures, including accessory structures, by more than 1,000 square feet of ground floor area within any five-year period.
 - (2) Multifamily dwellings, by the addition of one or more units within an existing structure or expansion of the structure to accommodate new units.
- C. Conversion of single-family or two-family dwellings to multifamily use.
- D. Changing the siding or roofing materials of the street-facing facade of a nonresidential or multifamily structure or accessory structure by more than 25% of the surface area of the siding or roof.
- E. Proposals to pave, strip, or grade more than 10,000 square feet within any five-year period.
- F. Proposals for earth removal of more than 10,000 square feet or 100 cubic yards within any five-year period.
- G. Construction or expansion of boat building and repair facilities, marinas, piers, docks, boat houses, and port facilities.
- H. The addition of a drive-up window.
- I. Proposals to construct buildings taller than 35 feet high.
- J. Site location of development. Site developments needing approval under 38 M.R.S.A. §§ 481 through 488, as permitted under 38 M.R.S.A. § 489-A, shall be reviewed under this chapter. ^{Exhibit 2}
- K. Site developments requiring stormwater permits pursuant to 38 M.R.S.A. § 420-D shall, to the extent permitted under 38 M.R.S.A. § 489-A, be reviewed under the procedures of this chapter; and they shall meet and comply with those rules promulgated by the Maine Department of Environmental Protection pursuant to 38 M.R.S.A. § 420-D, specifically Chapters 500, 501, and 502 Rules.
- L. Proposals for tree removal activities that require notification to the Maine Forest Service as a Change of Use pursuant to State of Maine Statutes Title 12 §8883-B as may be amended, for purposes of land development. (Cross reference Chapter 204, Trees).