

**Town of Portsmouth, Rhode Island
Tree Preservation and Protection Ordinance**

2006-1-11

I ESTABLISHMENT

A. There is hereby established in the town of Portsmouth, Rhode Island, an ordinance regulating the planting, maintaining, maintenance and removal of trees in the public-rights-of-way, parks and all public property within the town.

B. The Portsmouth Tree Commission is hereby established. The Commission shall, together with the Tree Warden, recommend for Town Council approval the establishment of regulations relating to the planting, maintenance, protection and removal of trees on all public property. The provisions of this ordinance shall apply to all public property within the town and to any person, firm, corporation or public or private utility.

II PURPOSE

The purpose of this ordinance is to establish town policy and protective regulations regarding the planting, maintenance, protection, preservation and removal of public trees to protect the health, safety and welfare of the citizens of Portsmouth.

III DEFINITIONS

Definitions of related terms used in this ordinance and in educational materials created by the Tree Commission can be found in Appendix A to this ordinance.

IV TREE WARDEN: APPOINTMENT, QUALIFICATIONS, DUTIES AND AUTHORITY

The Tree Warden shall be appointed by the Town Council. The Tree Warden shall be an experienced arborist, certified by the state of Rhode Island. The appointment and duties of the Tree Warden shall be in accordance with R.I. General Laws, Chapter 2-14 and as defined in Section 5, R.I. General Laws Chapter 2-19 which governs the licensing of arborists.

V PORTSMOUTH TREE COMMISSION

A. Composition and Appointment. The Portsmouth Tree Commission shall be composed of interested town residents, up to a maximum of 20 persons. A majority of the members shall be a quorum for the transaction of business. The Tree Warden and a Public Works representative shall serve as non-voting members, *ex officio*. The Tree Commission shall annually elect a chairperson and such other officers as it deems appropriate. Members of the Tree Commission shall be appointed by the Town Council.

As vacancies arise, the Town Clerk shall publicly advertise for new members. All members of the Commission shall serve without pay or compensation.

B. Duties

The Portsmouth Tree Commission shall:

1. act in an advisory role to the Town Council and the Tree Warden.
2. in that capacity, do all acts necessary and proper to fulfill the town's tree programs including the planting, care of, and removal of trees on public property in conjunction with the town's Department of Public Works and other related town departments.
3. issue implementing guidelines based on recommendations of the Tree Warden, subject to Town Council approval.
4. coordinate efforts by individual citizens, businesses, neighborhood or charitable organizations and other groups wishing to donate funds, volunteer work, provide information, or to contribute in any other manner in order to protect, preserve and enhance the town's trees.
5. make recommendations to the Town Council on matters of tree programs, educational programs or other related activities.
6. prepare a report annually for the Town Council summarizing the activities on the Commission for the preceding year.

VI PUBLIC TREE PROTECTION

1. As a general rule the Town will ensure that public trees are properly cared for. This will include spraying, pruning and fertilizing, when necessary.
2. An individual citizen, however, may recommend a public tree that needs care to the Tree Warden or to the Tree Commission. If it is determined that the tree needs treatment, action will be taken by the Town.
3. No signs, symbols, wires or reflectors may be attached to public trees, nor may public trees be carved, nailed or defaced. Trees on public space shall not be chemically sprayed, pruned, cut, damaged, removed or otherwise disturbed without the approval of the Tree Warden.
4. All public trees within 30 feet of any excavation, construction site or street work shall be protected to the drip line throughout the length of the project with a substantial frame or box not less than four feet high. The developer/builder shall be responsible for compliance with this requirement. The Tree Warden shall ensure compliance with this provision.

5. No person shall deposit, store or maintain any soil, brick, sand, concrete or any other materials that may impede the free passage of water, air and fertilizer to the roots of any public tree growing therein except by written permission from the Tree Warden.

6. No person shall move any building or other large object that may injure public trees or parts thereof without first obtaining written permission from the Tree Warden.

7. Whenever it becomes necessary to remove a tree or group of trees in connection with the paving of a sidewalk, or for the widening of a portion of a street or highway, the Town shall replace the tree(s) removed. Replacement trees shall meet the standards of size (as near as possible), species and placement as the removed trees.

8. When a public tree is pruned or removed, all wood and branches shall be removed expeditiously by the person(s) performing the work. Stumps should be removed or ground down as a safety factor. When this type of work is done, the Tree Warden shall be consulted by those doing the work.

9. In accordance with state law (Title 2, Section 2-14-5) the Tree Warden "may enter upon private property when necessary to exercise care and control." This affects trees or branches that overhang public roads or grounds or trees that otherwise may threaten public safety... Other powers of the Tree Warden will be as spelled out in Title 2, Chapter 2-14 of RI state law.

VII PLANTING TREES ON ANY PUBLIC STREET OR PUBLIC PLACE

Any person desiring to plant a tree on a public street or in a public place must follow all planting guidelines, including location and species, as provided by the Tree Commission's public education literature.

VIII PROTECTION OF NOTABLE TREES

A. A "Notable Tree" is a public tree that possesses distinctive characteristics such as great age or size, unique form or is of historical significance.

B. Designation of public Notable Trees:

1. The Tree Commission, upon the suggestion of the Tree Warden, a member of the Commission or the recommendation of an individual citizen may designate a tree as a "Notable Tree."

2. The criteria for this designation shall include, but not be limited to, the following:

a. It is an outstanding specimen of a desirable species.

b. It is one of the oldest or largest trees in the town of Portsmouth.

c. It possesses distinctive form, size, age, location and/or historical significance.

3. After Tree Commission approval of a Notable Tree designation, the Tree Commission shall maintain a list of these trees with their specific locations and photographs. Copies shall be provided to the Town Clerk and the Planning Board.

4. Once a tree is designated a Notable Tree, it will be protected by the provisions of this ordinance.

IX EMERGENCIES

The provisions of this ordinance may be waived by the Director of Public Works, in consultation with the Tree Warden, in the case of emergencies, such as winter storms, tropical storms, hurricanes or other natural or man-made disasters so that they in no way shall hinder private or public works efforts to restore order to the town of Portsmouth. All emergency procedures shall, to the degree practical, follow the standards of this ordinance.

APPENDIX A

DEFINITIONS

(Common terms associated with tree culture)

Arborist-a person engaged in the professional practice of tree care licensed by the state of RI as a "Certified Arborist."

Caliper-the diameter of any tree trunk and breast height (4 1/2') above the ground.

Destroy-any intentional or negligent act which may reasonably be expected to cause a tree to die within a period of 3 years, including, but not limited to damage inflicted upon the root system by machinery, storage of materials to cause compaction, substantially changing the natural grade at the root system or around the trunk, excessive pruning or paving with concrete, asphalt or other impervious materials.

Diseased tree-a tree or part thereof which has been blighted or defaced causing it to decline.

Drip line-means a vertical line extended from the outermost portion of a tree canopy or crown to the ground.

Planting Plan-a document detailing the proposed park or public place, site, street widths, curbs, parking strips, driveways, sidewalks and adjacent structures accurately defined to scale, the proposed location of each tree, together with the location of each existing tree within the proposed site in scaled relation to the other features of the plan, the species of each and every tree proposed to be planted and those already existing within the proposed site, either indicated on the plans or referenced with a number with a key list.

Protected tree-any public tree which is of such interest to the town because of its type, age, size or historical association that it shall be protected pursuant to this ordinance.

Pruning-the removal of any branches greater than two (2) inches in diameter.

Pruning standards-those standards set forth by the International Society of Arboriculture, Western Chapter, dated May 9, 1988, as amended.

Public nuisance-a tree or part of a tree that constitutes a hazard to life or property, or harbors insects or disease that constitutes a potential threat to other trees within the town, or a health hazard to the citizens of the town.

Public tree-all trees now or hereinafter growing in any public right-of-way, park or public property within the town, except those under the jurisdiction or control of the State of Rhode Island or any department or agency thereof.

Removal-the uprooting or severing of the main trunk of the tree, or any act that causes or reasonably be expected to cause the tree to die.

Replacement tree-any tree that is planted to replace an existing tree that must be or has been removed. Replacement trees must have a minimum Diameter Breast Height (DBH) of 2 ½ to 3 inches or twelve to fourteen feet in height. The Tree Warden may require a larger size or multiples of trees based on the size and value of the tree(s) to be replaced.

Tree pit-the hole dug in which the tree is to be placed for planting.

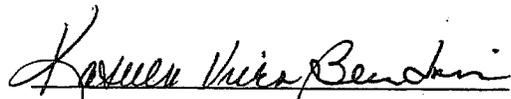
Tree topping-the cutting back of limbs and stubs larger than 3" in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

Tree Warden-the arborist appointed as the designated, qualified official of the town assigned to carry out the enforcement of this ordinance as well as additional duties under state law.

Trimming-the removal of nonessential branches less than 2" in diameter.

This ordinance shall take effect upon passage.

APPROVED BY TOWN COUNCIL
ACTION ON JANUARY 11, 2006.


Kathleen Viera Beaudoin
Town Clerk