

ARTICLE IV.

TREE PRESERVATION AND PROTECTION

DIVISION 1.

GENERALLY

Sec. 22-86. Short title.

This article shall be known and may be cited as the tree preservation ordinance.
(Ord. of 3-13-2000, § .01)

Sec. 22-87. Purpose of article.

(a) The purpose of this article is to promote the public health, safety and welfare of the citizens of the town, and to enhance the aesthetic qualities of the environment by regulating the protection, maintenance, removal and planting of trees in the public rights-of-way, parks and all public property within the town, and by providing for the maintenance or removal of trees on private property when the public safety is endangered.

(b) Maintenance and perpetuation of a canopy effect, where possible, is a major goal of public shade tree planting.

(c) All utility easements should be written to support the goals of this article.

(d) The protection of these valuable material resources will serve to enhance the community in the following ways:

(1) Aid in the prevention of air, noise and visual pollution.

(2) Aid in the stabilization of soil.

(3) Enhance property values.

(4) Provide glare and heat protection.

(5) Reduce stormwater runoff and costs associated therewith and replenish groundwater supplies.

(6) Enhance the aesthetics and general quality of life on the island and maintain the island's rural character.

(Ord. of 3-13-2000, § .02)

Cross References: Location of utilities and recording of easements, § 74-1.

Sec. 22-88. 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:

Administrative guidelines means a companion document to the tree preservation ordinance as designated in section 22-86 that contains written specifications and standards of practices to be followed in carrying out any requirements under the tree preservation ordinance.

Applicant means a person who is applying for a permit required by this article.

Approval means written assent from the tree warden and/or tree committee pursuant to a duly executed application for approval made on a form promulgated by the town.

Hazard tree means any tree growing on public and/or private property within the town which has been inspected by the tree warden and found to be unsafe or threatens the health of the community's trees and/or its citizenry.

Historic tree means a public tree which has been designated by the tree warden upon application of the tree committee or any other interested party to be of notable historic value, historic association, interest, type, age, or size.

Master tree management plan means the comprehensive community forestry plan which includes the inventory of existing trees and specifies the species of trees to be protected, maintained, removed, and/or planted on each of the streets, parks, and other public places of the town.

Parks shall include any public places designated under the jurisdiction of the town for recreation and/or conservation open space.

Property line means the boundary between privately owned and town-owned regulated land.

Property owner means the person who holds title to such land shown in the tax assessors, plat and lot records for the town.

Pruning means removal of branches greater than two inches in diameter.

Public trees includes all trees now or hereafter growing on any public place.

Significant tree means any public tree which has been determined by the tree warden and/or tree committee to be of high value because of its type, size, age or other professional criteria.

Street, highway and right-of-way mean the entire width of every public way that is open to the use of the public, as a matter of right, for purposes of vehicular and/or pedestrian traffic.

Tree means any self-supporting woody perennial plant which has a trunk diameter of two inches or more measured at a point six inches above the ground level and which normally obtains a height of at least ten feet at maturity, usually with one main stem or trunk and many branches.

Tree committee means the committee established pursuant to section 22-116.

Tree warden means the agent of the town appointed by the town council, having primary enforcement responsibilities under this article, and charged with the responsibility for the management of all town forest areas, including all trees within public rights-of-way.

Zoning Ordinances means the zoning regulations, as amended, or such other regulations subsequently adopted by the town council.
(Ord. of 3-13-2000, § .03)

Sec. 22-89. Applicability.

For purposes of this article public trees shall include all trees now or hereafter growing in any public right-of-way, park or public property within the town.
(Ord. of 3-13-2000, § .04)

Sec. 22-90. Waivers.

The requirements of this article may be waived by the town administrator in the case of emergencies such as windstorms, ice storms, or other disasters. The work shall follow the maintenance standards as outlined by the tree committee.
(Ord. of 3-15-2002, § .07(H))

Sec. 22-91. Appeals and adjustments.

Any adjustment of the standards required by this article or an appeal of a decision of the tree warden shall be heard by the Tree Preservation and Protection Committee. All appeals shall be in writing to the Tree Preservation and Protection Committee. The Tree Preservation and Protection Committee shall hold a public hearing at some suitable time and place after giving notice to all persons known to be interested therein and posting the hearing in the town hall and also at the location the hearing is to be held seven days (including the day of the hearing) prior to the hearing. Within three days after the hearing, the Tree Preservation and Protection Committee shall render the decision granting or denying the appeal. Any appeal of a decision of the Tree Preservation and Protection Committee shall be heard by the Town Council
(Ord. of 3-15-2002, § .08; amended 12/10/2007)

Sec. 22-92. Gifts of trees.

Gifts of trees are welcomed. Arrangements for planting of gift trees may be made with the tree committee. If, as a result of road construction, some large trees are displaced, the tree warden may request replacement trees be located on private property with the owner's consent. The trees will then be planted by the town and ownership transferred to the private property owner. In residential areas canopy trees shall be given preference over other species.

(Ord. of 3-15-2000, § .07(I))

Secs. 22-93--22-115. Reserved.

DIVISION 2.

ADMINISTRATION AND ENFORCEMENT

Sec. 22-116. Tree committee.

- (1) There shall be created by this article a tree committee. The tree committee shall be responsible for assisting the tree warden in management of the tree preservation ordinance. The committee shall be composed of at least ten members, six of whom shall be appointed by the town council for three-year staggered terms, commencing in January of each year.
- (2) The tree committee shall adopt rules of procedure for the conduct of meetings, hearings, votes required and attendance requirements for members.
- (3) The committee shall, to the extent practicable, include:
 - a. Seven voting members as follows:
 1. Planning board representative, or a citizen with training in the environmental fields such as botany, landscape architecture, horticulture or arboriculture.
 2. Conservation commission representative, or a citizen with training in the environmental fields such as botany, landscape architecture, horticulture or arboriculture.
 3. Business community representative.
 4. Four citizens, residents of the town, giving consideration to geographic diversity.

- b. Ex officio members as follows:
 - 1. Town planner.
 - 2. Public works representative.
 - 3. Zoning enforcement official.
 - 4. Town tree warden.

- (4) All members of the tree committee shall serve without pay or compensation. Within two months of the annual appointment of new full-term members, the committee shall select from its members a chair, a vice-chair and secretary who shall serve annual terms.

- (5) The tree committee shall:
 - a. Meet monthly.
 - b. Promote the conservation, planting, health and growth of trees on the island.
 - c. Assist the tree warden in making proposals to the town council for any legislation, plans, policies and programs complementary to the intent and purpose of this article.
 - d. Help the tree warden coordinate efforts with town departments, the planning and zoning boards, state agencies and private individuals and organizations to promote the planting of new trees and to protect and preserve the existing trees.
 - e. Coordinate efforts by individual citizens, businesses, neighborhood or charitable organizations and other groups wishing to donate moneys, volunteer work or information to protect, preserve and enhance town trees.
 - f. Assist the tree warden in the adoption of such administrative guidelines, including rules, fees, regulations and permitting procedures as are deemed necessary to carry out the intent and enforcement of this article. Such rules, regulations and permits shall include, but not be limited to, the planting, maintenance, removal, fertilization, pruning, application of chemicals (e.g. herbicides, pesticides, fungicides), or any act which will, in any other way, affect public or protected trees and shall be adhered to by any and all persons. The tree committee shall maintain its own records.

- g. Support the tree warden in the standards set forth by the American Association of Nurserymen, unless otherwise stated in this article.
- h. Advise the tree warden in developing a five-year planting and maintenance program, which shall be revised annually and submitted to the town administrator for incorporation into the annual town budget for funding. Fees will be reviewed at this time.
- i. Establish an ongoing education program regarding the aesthetic, social, and environmental values of trees, as well as care of trees, including the island's master tree management plan.
- j. Help the tree warden to establish and maintain records of historic and significant trees of Conanicut Island, which shall be made a part of the inventory of existing trees in the master tree management plan.
- k. Assist the tree warden in issuing permits and shall hear appeals of decisions of the tree warden.

(Ord. of 3-13-2000, § .05(A); Ord. of 3-8-2004, amended 12/10/2007)

Sec. 22-117. Tree warden.

- (a) *Authority.*
- (1) *Jurisdiction.* The tree warden, with the assistance of the tree committee, shall have the authority and jurisdiction to regulate, protect, maintain, remove and plant trees on streets, in parks and in public places in the town.
- (2) *Enforcement.* The tree warden shall be vested with police power for the purpose of enforcing this article and to ensure that the provisions of this article are not violated including, but not limited to, the issuance of citations for the violation of any provision of this article.
- (3) *Supervision.* The tree warden shall have the authority and duty to supervise all work done under a permit issued in accordance with the terms of this article.
- (4) *Conditions 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 article.
- (5) *Expenditures.* The tree warden shall expend all sums, which shall be appropriated for inventoring, maintenance, planting, pruning and

managing trees within public rights-of-way and public places.

(6) *Hazard control.* The tree warden shall have the authority to enter onto private property to exercise the care and control of trees, where there is located a tree that is suspected to be a public hazard. Where circumstances permit, the property owner shall be given written notification of the intended entry a reasonable period in advance thereof.

(b) *Qualifications and appointment.*

(1) The tree warden shall be a person who has training and experience in arboriculture and meets other requirements of G.L. 1956, § 2-14-2.

(2) The tree warden shall be appointed by the town council at its regular meeting in January of each year. The town council's appointment shall be based on the candidate's qualifications and a review of all advisory selection recommendations made by the town tree committee.

(c) *Duties.*

(1) The tree warden shall plan, direct, regulate and control the protection, maintenance, removal and planting covered by this article and shall issue public tree work permits in accordance with sections 22-166--22-171.

(2) The tree warden shall enforce the rules and regulations of the Tree Ordinance Administrative Guidelines governing all trees covered by this ordinance.

(3) The tree warden shall formulate a master tree management plan with the assistance of the tree committee. The master tree management plan should include the inventory of existing trees and shall specify the species of the tree to be protected, maintained, removed and/or planted on each of the streets, parks, and other public places.

(4) The tree warden shall have the responsibility to maintain and file with the town clerk a complete list of the location, species, and condition of historic and significant trees.

(5) The tree warden shall work in conjunction with civic groups, businesses, educational communities and citizens concerned with tree care, planting and preservation.

(6) The tree warden is charged with enforcement of this chapter and state laws protecting public shade trees and will seek complaints in court for violations of this chapter and such laws.

(d) *Term of tree warden.* The town council shall appoint the tree warden in January of each year.
(Ord. of 3-13-2000, § .05(B))

Secs. 22-118--22-140. Reserved.

DIVISION 3.

STANDARDS FOR PLANTING, MAINTENANCE AND REMOVAL

Sec. 22-141. Planting voids on major streets and in commercial areas.

Planting voids on major streets and in commercial areas shall be identified and proposed for planting by the tree warden with the advice of the tree committee.
(Ord. of 3-13-2000, § .06(A))

Sec. 22-142. Factors for selecting tree species.

The following factors shall be given thorough consideration in selecting tree species for planting:

- (1) Initiation or perpetuation of a canopy effect.
 - (2) Pest resistance.
 - (3) Diversification of species to provide disease resistance within the tree population.
 - (4) Low maintenance (spraying, pruning, sweeping).
 - (5) Tolerance of urban and/or coastal conditions (salt, compaction, root space, fumes).
 - (6) Seasonal color criteria.
 - (7) Size of the species for its location must not interfere with the visual right-of-way or vehicular roadway.
 - (8) All trees should be cold hardy to this region and of appropriate size for recommended planting areas.
 - (9) Branching shall begin at the trunk at a minimum of six feet above the grade.
 - (10) Dominant branching characteristics shall be ascending or vertical.
- (Ord. of 3-13-2000, § .06(B))

Sec. 22-143. Clearance of public rights-of-way.

(a) Every person who is the owner of land abutting a public walkway shall keep such walkway free of all vegetation from ground level up to a height of at least eight feet above the walkway. This shall include any tree under public or private control, which overhangs a public walkway. A public walkway shall mean any walkway that is improved by gravel, asphalt or concrete. A public walkway shall also include established dirt paths in public rights-of-way.

(b) Planting of trees along highways, rights-of-way, and on town land will take into consideration General Tree Planting Rules and Guidelines and Rules and Regulations for Subdivisions of Land, Town of Jamestown, R.I. A notice to any abutter to a planting of a new tree or trees, but no replacement of trees, that potentially would obstruct a property owner's view of Narragansett Bay shall be sent not less than thirty (30) days in advance of the planting to the address on record in the Tax Assessor's office and shall advise the abutter of the appeal process outlined in 22-143. (Ord. of 3-13-2000, § .06(C), amended 12/10/2007)

Sec. 22-144. Stump removal.

Any stump removal will be at the discretion of the tree warden. (Ord. of 3-13-2000, § .06(D))

Secs. 22-145--22-165. Reserved.

DIVISION 4.

PERMITS

Sec. 22-166. Limited to work outlined; tree warden to issue.

A permit shall be a written document that authorizes the bearer to perform the proposed work as outlined on such permit. Only the tree warden shall issue the permit. (Ord. of 3-13-2000, § .07(A))

Sec. 22-167. Application.

A permit application shall be obtained from and submitted to the town clerk's office. (Ord. of 3-13-2000, § .07(B))

Sec. 22-168. Notification upon approval or rejection.

Upon approval or rejection of the application, the tree warden shall issue the permit or notify the applicant of rejection of the application within 15 days of the

application date.
(Ord. of 3-13-2000, § .07(C))

Sec. 22-169. When required; exception.

A permit is required for planting, spraying, pruning, cutting above the ground, removing or otherwise disturbing any tree on any street, park or public place. A permit shall not be required for work when complying with section 22-143, Clearance of public rights-of-way.

(Ord. of 3-13-2000, § .07(D))

Sec. 22-170. Utilities to obtain approval for work; exception.

Any public or private utility companies maintaining any overhead wires or underground pipes shall comply with this article. Utility companies shall not cut down, injure, deface or prune any tree unless and until their plans and procedures have been approved by the tree warden and necessary permits obtained. In cases of service interruption, utilities may perform the minimum work necessary to restore service without a permit.

(Ord. of 3-13-2000, § .07(E))

Sec. 22-171. Basis for approval.

The tree warden shall issue the permit provided for in this division if, in his judgment, the proposed work is desirable and the proposed method and workmanship to be used is in compliance with the administrative guidelines. 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.

(Ord. of 3-13-2000, § .07(F))

Sec. 22-172. Notice of completion of work.

The tree warden shall be notified by the bearer of a permit issued under this division upon satisfactory completion of designated work.

(Ord. Of 3-13-2000, § .07(G))