

**Part 12.** Chapter 43 of the City Code (Tree Ordinance) is proposed to be amended by adding the words shown in underline and by striking the words shown in strikethrough, as follows.

Code of Ordinances, City of Ellsworth

**CHAPTER 43**  
**CITY TREES**

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A true copy, attest:

Heidi Noël Grindle  
City Clerk

HISTORICAL NOTE: ADOPTED JULY 8, 1991; REPLACED APRIL 21, 2024; AMENDED  
\*\*\* 2026.



## CHAPTER 43

### CITY TREES ORDINANCE

#### ARTICLE 1 PURPOSE AND APPLICABILITY:

- 1.1 ~~In addition to the general purposes of the City Code set forth in Chapter 1, Article 2, the purpose of this Chapter 43 is to~~ advance and safeguard public health, safety, and general welfare through the regulation of trees and shrubs on City ~~of Ellsworth~~ property, including those in rights-of-way, and other public plantings.

#### ARTICLE 2 DEFINITIONS:

- 2.1 **Person:** Any individual, firm, corporation, association, partnership, or organization.
- 2.2 **Property Owner:** The person owning the property as shown by the City ~~of Ellsworth's~~ tax assessor's records.
- 2.3 **Public Hazard:** A condition of any tree or shrub that constitutes a hazard to persons or property.
- 2.4 **Public Property:** ~~All~~ property owned, leased, or occupied by the City ~~of Ellsworth~~.
- 2.5 **Public Trees:** ~~All~~ trees and shrubs on public property, including City rights-of-way.
- 2.6 **Tree Warden:** An official of the City ~~of Ellsworth~~ appointed by the City Council who shall have the care and control of all public shade trees upon and along City roads and public rights-of-way and in the parks and public lands of the City ~~of Ellsworth~~. ~~That official shall enforce all laws relating to the preservation and maintenance of public shade trees and public trees.~~
- 2.7 **ANSI:** American National Standards Institute A300 Tree Care Standards (2023), ~~tree planting and care standards used by tree experts nationally.~~

#### ARTICLE 3 TREE WARDEN:

- 3.1 The City Council shall annually appoint a Tree Warden ~~, if possible~~ with forestry ~~and/or~~ arborist credentials if practical. The Tree Warden oversees all work on public trees, including assessment and removal of public hazards, and works with the Arbor Commission to enforce and administer the provisions of this ~~ordinance~~ Chapter 43.
- 3.2 The Tree Warden shall make regular reports to the Arbor Commission.
- ~~3.3 — Any person or organization, including the Arbor Commission, may appeal, in writing, any ruling or order issued by the Tree Warden by filing a notice of appeal with the Board of Appeals within in seven (7) days of the date of the ruling or order.~~

#### ARTICLE 4 ~~ELLSWORTH~~ ARBOR COMMISSION:

- 4.1 The Arbor Commission shall ~~be~~ consist of eight (8) full-time members and one alternate ~~five~~ member appointed by City Council, the majority of which must be Ellsworth residents or property owners. Each full-time member will be appointed for a staggered number of years. Their appointment and term of office will expire on June 30 of each year.
- 4.2 All members of the Arbor Commission serve without compensation.

- 4.3 The Arbor Commission, ~~along-in consultation~~ with the Tree Warden, shall formulate arboriculture and forest management policy and oversee the implementation of this ~~ordinance-Chapter 43~~ and the City's Comprehensive Forestry Management Plan.
- 4.4 The Arbor Commission shall maintain a list of the City's Heritage and Ecologically Significant Trees and undertake to have them appropriately cared for and preserved.
- 4.5 The Arbor Commission shall administer the Ellsworth Tree Trust according to provisions laid out in the City's Comprehensive Forestry Management Plan.
- 4.6 The Arbor Commission shall ~~assist~~ advise the CEO, upon the CEO's request, with respect to the with-code enforcement of the Unified Development Ordinance (Chapter 56) as it relates to the preservation, planting, and care of trees.
- 4.7 The Arbor Commission shall ~~assist~~ advise the Planning Board, upon the Planning Board's request, with developing appropriate standards for arboriculture and assist the Technical Review Team in advising on and reviewing applications to the Planning Board.

#### **ARTICLE 5 PERMITS:**

- 5.1 ~~Except as provided in Section 5.2, a~~ permit issued by the Tree Warden is required for any activity related to public trees and landscaping plans on public property.
- 5.2 Exceptions: Any tree work done on public trees by volunteers or City employees under the supervision of the Tree Warden shall not require a permit under this Chapter 43. Utility companies that subcontract tree trimming to teams that include Maine State licensed arborists shall not require a ~~City~~ permit under this Chapter 43.

#### **ARTICLE 6 SPECIFICATIONS AND STANDARDS:**

- 6.1 ANSI A300 Tree Care Standards ~~Contract Specifications and Pruning Standards for Shade Trees~~, the Tree Removal Standards in Appendix 43-A, and the Tree Pruning Standards in Appendix 43-B shall be followed.

#### **ARTICLE 7 TREE PLANTING, MAINTENANCE, AND REMOVAL:**

- 7.1 Authority to Plant or Remove Trees on Public Property: Trees must be selected and located in accordance with this ~~ordinance-Chapter 43~~ and the City's Comprehensive Forestry Management Plan.

#### **ARTICLE 8 PROTECTION OF TREES ON PUBLIC PROPERTY:**

- 8.1 During Excavation or Construction, trees must be guarded with a substantial barrier at a minimum 4 feet<sup>2</sup> high.
- 8.2 No person shall deposit anything on the ground which may impede the free passage of water, air or fertilizer to the roots of any public tree.
- 8.3 Under no circumstance shall any person cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree; allow any substance harmful to trees to come in contact with any public tree; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.
- 8.4 It shall be unlawful for any person to interfere with any ~~Ellsworth~~ employee, volunteer, or contractor hired or retained by the City ~~of Ellsworth~~, while engaging in tree care and maintenance authorized in accordance with this ~~ordinance~~ Chapter 43.

**ARTICLE 9 ~~VIOLETIONS AND PENALTIES ENFORCEMENT:~~**

- 9.1 ~~The Tree Warden and CEO are responsible for enforcing the provisions of this Chapter 43 by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, and participating in legal prosecution of violations as needed, in accordance with Chapter 1, Section 510 of the City Code. Violations of this ordinance may result in fines and penalties, pursuant to 30 A.M.R.S., section 4452.~~
- 9.2 ~~In addition to the fines and penalties set forth in Chapter 1, Section 510, if, as a result of the violation of any provision of this ordinance Chapter 43, the injury, mutilation, or death of a public tree occurs, the penalty shall include, but not be limited to, the replacement value of the tree, calculated as specified in the City's Forestry Management Plan.~~

**ARTICLE 10 ~~SEVERABILITY APPEALS:~~**

- 10.1 ~~Invalidity of any section, clause, or provision shall not affect the validity of the ordinance as a whole. A person aggrieved by a decision of the Tree Warden to approve or deny a permit pursuant to this Chapter 43 may appeal the decision to the City Council in accordance with Chapter 1, Section 210.2.~~

## APPENDIX ~~143-A~~

### TREE REMOVAL APPROVAL STANDARDS

#### 1. REMOVAL JUSTIFICATION & OBJECTIVES

Removal must serve at least one of the following approved purposes:

##### A. **Public Safety & Risk Assessment:**

- Tree poses a **hazard to pedestrians, vehicles, or structures**, as determined by a risk assessment.
- Tree is interfering with **utility lines** and cannot be managed through proper pruning.
- Tree has **compromised root stability** due to soil erosion, construction impact, or other environmental changes.
- Tree is blocking sightlines or traffic visibility in a way that cannot be mitigated through pruning.

##### B. **Tree Health:**

- Tree is **dead** or in irreversible decline.
- Tree has **significant structural defects** (e.g., large cavities, severe decay, extensive root damage) that pose a safety risk.
- Tree is **infested with pests or diseases** that cannot be effectively treated (e.g., Emerald Ash Borer, Dutch Elm Disease).
- Tree has sustained **storm damage** making it structurally unstable.

##### C. **Urban Forest & Environmental Considerations:**

- Removal aligns with the **City's Urban Forestry Plan** and tree canopy goals.
- Tree removal will not result in significant **environmental degradation**, such as increased erosion or habitat loss.
- Removal is part of a **city-approved development plan** where preservation alternatives have been explored.
- Tree species is **non-native, invasive, or otherwise unsuitable** for the location.

#### 2. APPROVAL PROCESS:

Requests must specify the reason for removal.

#### 3. REPLANTING & MITIGATION REQUIREMENTS

- Applicant must submit a **replanting plan** if removal is approved.
- If replanting is not feasible, the applicant must **contribute to the city's tree fund** to support new tree plantings elsewhere.
- Replacement trees should align with city-approved species lists and site suitability.

4.        **PUBLIC NOTIFICATION & ~~APPEALS~~**

- Public notification is required for the removal of **significant, historic, or highly visible trees**.
- ~~Citizens may appeal tree removal decisions to the **Board of Appeals**.~~

## APPENDIX **43-B2**

### TREE PRUNING APPROVAL STANDARDS

#### 1. PRUNING JUSTIFICATION & OBJECTIVES

Pruning must serve at least one of the following approved purposes:

- **Public Safety:** Remove dead, broken, or hazardous branches that pose a risk to pedestrians, vehicles, buildings, or utilities.
- **Tree Health:** Address structural defects, diseased limbs, or pest-infested branches that threaten the tree's long-term viability.
- **Clearance & Visibility:** Maintain appropriate clearance for sidewalks, roads, traffic signs, streetlights, or buildings while preserving tree structure.
- **Structural Integrity:** Improve branch attachment, eliminate weak crotches, or reduce wind resistance to minimize storm damage.
- **Restoration Pruning:** Correct previous improper pruning practices, such as topping or lion-tailing.

#### 2. PRUNING STANDARDS & BEST PRACTICES

All pruning must follow **ANSI A300 (Part 1) – Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices (Pruning)** and adhere to **ISA Best Management Practices**:

- **No Topping:** The practice of cutting back large branches or the main trunk to stubs is strictly prohibited.
- **No Excessive Pruning:** Removal of live foliage should not exceed 25% of the tree's canopy within a single season unless necessary for health or safety.
- **Proper Cuts:** All cuts must be made just outside the branch collar, avoiding flush cuts or leaving stubs.
- **Seasonal Considerations:** Pruning should be done during the appropriate season for the species to minimize stress and prevent disease spread (e.g., avoid oak pruning during high-risk periods for oak wilt).

#### 3. APPROVAL PROCESS

- Requests must specify the **reason for pruning, target branches, and pruning methods**.
- Pruning must be performed by a **qualified arborist** or tree care professional with experience in structural and corrective pruning.
- For mature trees, excessive canopy reduction or limb removal requires additional review by the **Tree Warden**.

#### 4. SPECIAL CONSIDERATIONS

- **Historic & Landmark Trees:** Pruning requests for significant trees require additional evaluation and public notification.
- **Utility Line Clearance:** Pruning for utility lines must be coordinated with the appropriate utility company and comply with industry standards.

- **Public Trees on Private Property:** If a city-owned tree extends over private property, property owners may apply for pruning but must follow city guidelines and obtain approval.

## **5. POST-PRUNING COMPLIANCE & INSPECTIONS**

- The **Tree Warden** may inspect work before, during, and after pruning to ensure compliance.
- Improper pruning may result in fines or requirements for corrective pruning at the permit holder's expense.
- Severe or unauthorized pruning that compromises a tree's health may require the permit holder to pay for mitigation or replanting.