

*Town of Brookfield, CT
Tuesday, January 17, 2012*

Chapter 201. TREES

[HISTORY: Adopted by the Board of Selectmen of the Town of Brookfield 3-6-2006. Amendments noted where applicable.]

§ 201-1. Title.

This chapter shall be known and may be cited as the "Brookfield Tree Ordinance."

§ 201-2. Purpose.

It is the purpose of this chapter to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the Town.

§ 201-3. Definitions.

The following words, terms or phrases, as used in this chapter, shall have their given meanings:

IMMEDIATE PUBLIC HAZARD

A public nuisance, the maintenance of which is of so serious a nature as to constitute an immediate hazard to the health of persons other than the persons maintaining such nuisance or filth.

PERSON

An individual, corporation, including a public utility company, partnership and association.

PUBLIC AREA

Includes all public highways, parks and other lands owned by or leased to or under the control of the Town.

PUBLIC NUISANCE

Any tree or shrub or part thereof growing upon private or Town property which is interfering with the use of any Town property, infected with infectious plant disease, or endangering the life, health or safety of persons or property.

TREES AND SHRUBS

Include all woody vegetation presently or hereafter planted in any public or private premises.

§ 201-4. Authority.

This chapter is enacted pursuant to the provisions of C.G.S. §§ 7-148(b), 7-148(c)(6)(A)(v), 7-148(c)(7)(B), 7-148(c)(7)(E), 7-148(c)(7)(H)(x), and 7-148(c)(7)(H)(xi) and 19a-206.

§ 201-5. Tree Warden and Tree Committee.

A. Tree Warden.

- (1) The Tree Warden shall be appointed in accordance with § C6-1A of the Town Charter and shall have all the powers, duties and authorities ascribed to him/her as set out in the Connecticut Public Shade Tree Statute, particularly Connecticut General Statutes Sections 23-58, 23-59, 23-60 and 23-65, as the same may be amended, and in this chapter.
- (2) The Tree Warden shall have full power and authority over all trees and shrubs located within public areas and, to the extent provided herein, on private property.

B. Tree Committee.

- (1) The Town Director of Public Works, Tree Warden and Deputy Tree Wardens shall function as the Tree Committee.
- (2) The duty of the Tree Committee is to ensure that the intent and provisions of this chapter are carried out to the fullest extent possible. The Committee may give notice and consultation on:
 - (a) The amendment of this chapter; and
 - (b) Establishment of educational and informational programs such as Arbor Day, Earth Day, or any other events that promote the protection of trees within the community

§ 201-6. Permits.

No person other than the Tree Warden may perform any of the following acts without first obtaining from the Warden a permit for which no fee shall be charged, and nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law:

- A. Plant, spray, fertilize, preserve, prune, remove, cut above ground or otherwise disturb any tree on any public area.
- B. Place on any public area, either above or below ground level, a container for trees or shrubs.
- C. Damage, cut, tap, carve or transplant any tree or shrub located on any public area.
- D. Attach any rope, wire, nail, sign, poster or any other man-made object to any tree or shrub located on any public area.
- E. Cause damage to the root zone of any tree or shrub located on any public area by digging a tunnel or trench, moving or storage of construction vehicles, materials, or equipment, or changing of the grade within the drip line.

§ 201-7. Abatement of nuisance.

- A. Any tree or shrub or part thereof growing upon private or public property, (1) which is interfering with the use of any public area, (2) which is infected with an infectious plant disease, (3) or which endangers the life, health or safety of persons or property outside of the host private property is declared a public nuisance.

- B. The Tree Warden, or his/her designee, shall have the authority to enter onto private property (prior notice required) whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.
- C. If the Tree Warden shall determine with reasonable certainty, upon inspection or examination, any nuisance tree or shrub as herein defined exists in or upon any public area in the Town, he/she shall immediately cause it to be treated, trimmed, removed or otherwise abated in such a manner as to destroy or prevent the spread of the nuisance. The manner in which the nuisance shall be abated shall be determined by the Tree Warden.
- D. If the Tree Warden shall determine with reasonable certainty upon inspection or examination that any nuisance shrub or tree as herein defined exists in or upon any private premises, he/she, in writing, shall notify the owner or tenant having charge of such premises. Unless the condition constitutes an immediate public hazard, the responsible person shall, within 30 days after issuance of such notice, cause the treatment, trimming or removal and destruction of such nuisance tree or shrub as directed by written notice. No damage shall be awarded the owner for the destruction of the trees or shrubs destroyed pursuant to this chapter. In case the owner or tenant having charge of such premises shall refuse or neglect to comply with the terms of the written notice within 30 days after receiving it, the Tree Warden shall cause the removal, treatment or trimming of such nuisance tree or shrub. The expense thereof shall be charged to the owner of such premises on which such tree or shrub is located and, with respect to the cost for removing, treatment or trimming, that portion interfering with the public area or public way shall become a lien on the property upon recordation of notice thereof on the Town land records.
- E. The Tree Warden is empowered to determine what constitutes an immediate public hazard.
- F. The Tree Warden is empowered to cause the immediate abatement of an immediate public hazard by seeking from any court of competent jurisdiction an order directing such immediate abatement. If a court of competent jurisdiction so orders the immediate abatement, the Tree Warden shall carry out the order.

§ 201-8. Appeals.

Any person or entity aggrieved by any order issued by the Tree Warden may appeal, in writing, to the Board of Selectman, within 10 days of receipt of written notice from the Tree Warden of said order. The Board of Selectman shall hear said appeal within 30 days of receipt of said written notice of appeal and shall render a decision on the appeal within 30 days following the date of the hearing. The Board of Selectman may sustain the appeal, in whole or in part, may dismiss the appeal and may take such further action concerning said appeal as the Board of Selectmen deems appropriate. The decision of the Board of Selectman shall be final and no further appeal shall be permitted.

§ 201-9. Enforcement; penalties for offenses.

- A. No person shall unreasonably hinder, prevent, delay or interfere with the Town Tree Warden or his/her agents while engaged in the execution or enforcement of this chapter.
- B. Violation of any provisions of this chapter shall result in a fine and penalty of \$100 in addition to any cost of curing or abating said violation. If the violation is of a continuing nature, each day shall constitute a separate offense.