

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

AS PASSED BY THE

## One Hundred and Fourth Legislature

OF THE

# STATE OF MAINE

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THE KNOWLTON AND MCLEARY COMPANY  
FARMINGTON, MAINE  
1969

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PUBLIC LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
ONE HUNDRED AND FOURTH LEGISLATURE  
1969

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## Chapter 394

### AN ACT Relating to Municipal Park and Conservation Commissions.

*Be it enacted by the People of the State of Maine, as follows:*

**Sec. 1. R. S., T. 30, § 3802, amended.** Section 3802 of Title 30 of the Revised Statutes is amended to read as follows:

#### § 3802. Preservation of trees along public ways; parkways

For the purpose of preserving and increasing the growth of trees on land abutting any public way or located on uplands adjoining any navigable river or other body of water, ~~cities and towns municipalities~~ and the municipal officers thereof, acting pursuant to subchapter V, may set aside and define such land located as aforesaid, in width not exceeding 5 rods. All trees and shrubs growing on said land shall be held as for park purposes under the exclusive care and control of ~~park conservation~~ commissioners chosen as provided in section 3851. It shall be unlawful for the owner in fee of said land or any other person to injure, remove or destroy such trees or shrubs, except as provided. All proceedings relating to estimating and awarding damages provided in subchapter V are made applicable to proceedings hereunder. Such proceedings may be commenced upon petition in writing signed by at least 30 taxpayers owning taxable real estate in said ~~town or city~~ municipality.

**Sec. 2. R. S., T. 30, § 3803, amended.** Section 3803 of Title 30 of the Revised Statutes is amended to read as follows:

#### § 3803. Land cleared for public ways; licenses to owners to make improvements

Section 3802 shall not prevent the taking and clearing of so much of said land as may be necessary for public ways, nor abridge the right of the owner or his tenant to lay out a private way across the same or to clear and improve so much thereof as may be necessary for actual building purposes, provided the written consent of the municipal officers to open such way or construct buildings thereon be first obtained; nor except as provided in section 3802 shall the provisions thereof and of this section restrict the use and enjoyment of such land by the owner thereof or authorize any person to enter thereon, excepting municipal officers and ~~park conservation~~ commissioners and their agents for the purposes of section 3802. Whenever municipal officers refuse to give consent for laying out a private way or for cutting and clearing so much of said land as is necessary for immediate building purposes, when in writing requested to do so, such refusal shall be ground for a further award of damages to the owner as provided in section 3802. ~~Park Conservation~~ commissioners may grant written license to the owner to do such cutting and clearing on said land as is consistent with the preservation and general improvement of the growth thereon.

**Sec. 3. R. S., T. 30, §3804, amended.** Section 3804 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3804. Violations**

Whoever violates any provisions of sections 3802 and 3803 shall be punished by a fine of not more than \$100, to be recovered on complaint, and shall be liable to a civil action, brought by the ~~park conservation~~ commissioners or by a taxpayer, in the name and for the benefit of the ~~town or city~~ municipality wherein said offense is committed, for all damages sustained.

**Sec. 3-A. R. S., T. 30, § 3851, amended.** The first sentence of section 3851 of Title 30 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

Municipalities may establish conservation commissions. The municipal officers may appoint 5 conservation commissioners, to hold office 1, 2, 3, 4 and 5 years, respectively, and after the first year choose annually a commissioner for 5 years in place of the one whose term expires. Such commission shall have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all moneys appropriated for the improvement of the same.

**Sec. 4. R. S., T. 30, § 3851, amended.** The 5th and 6th sentences of the first paragraph of section 3851 of Title 30 of the Revised Statutes, as enacted by section 2 of chapter 203 of the public laws of 1965, are amended to read as follows:

Any body politic or public agency of the State of Maine conducting planning operations with respect to open areas within a municipality having a ~~park and~~ conservation commission shall notify such ~~park and~~ conservation commission of all plans and planning operations at least 30 days prior to the implementation of any action thereunder. A ~~Park and~~ Conservation Commission may acquire land in the name of the municipality for any of the purposes set forth in this section.

**Sec. 5. R. S., T. 30, § 3851, amended.** The last paragraph of section 3851 of Title 30 of the Revised Statutes, as enacted by section 2 of chapter 203 of the public laws of 1965, is amended to read as follows:

Nothing in this law shall be construed to require a municipality which has heretofore constituted a park commission under prior law to establish a ~~park and~~ conservation commission, and any such park commission heretofore established may continue to operate as originally established, until such time as the municipality may choose to establish a ~~park and~~ conservation commission.

**Sec. 6. R. S., T. 30, § 3852, amended.** Section 3852 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3852. Failure to elect; function of municipal officers**

If any ~~city or town~~ municipality, having taken lands as provided, fails to

~~elect~~ through its municipal officers to appoint a board of ~~park~~ park conservation commissioners, the municipal officers shall have and exercise all the powers and duties of such commissioners, except as provided in sections 3853 and 3854 and subchapters III and IV. Every ~~city and town~~ municipality, although containing less than 1,000 inhabitants, may appropriate money for the purposes of sections 3802 and 3803.

**Sec. 7. R. S., T. 30, § 3853, amended.** Section 3853 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3853. Special commissioners**

Notwithstanding the law relating to ~~park~~ park conservation commissioners, ~~cities, towns~~ municipalities and village corporations are authorized, empowered and directed on petition of a society organized for the purpose of beautifying and improving landscapes, parks and similar matters to appoint from a list of persons submitted to them by the said society a ~~park~~ park conservation commissioner, who shall be charged with the duties and have the powers of ~~park~~ park conservation commissioners or other officers whose duty it is to care for such public parks or to perform any acts relating to the beautification of the landscape and town rights-of-way. Such ~~park~~ park conservation commissioner shall serve without pay until his successor shall have been appointed and qualified and shall expend such money for the purposes specified as the ~~city, town~~ municipality or village corporation may appropriate and such other sums as may be received from other sources, and is authorized to receive such sums as may be donated for such purposes. Whoever violates any of the provisions of this section shall be punished by the penalty provided in section 3804. All fines received under this section shall be paid over to the ~~park~~ park conservation commissioner of the ~~city, town~~ municipality or village corporation within the city or town where the offense occurred, to be used for the purposes mentioned. The said ~~park~~ park conservation commissioner shall annually report to the ~~city, town~~ municipality or village corporation at such time as other town officers report a statement of the moneys received and expended by him and such other matters as he deems appropriate.

**Sec. 8. R. S., T. 30, § 3854, amended.** Section 3854 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3854. Supervision of shade trees**

All public shade trees shall be under the care and control of ~~park~~ park conservation commissioners in ~~cities and towns~~ municipalities which now or hereafter may appoint such commissioners in accordance with subchapters I, II and V. As to all such trees said ~~park~~ park conservation commissioners shall have the powers and duties conferred upon tree wardens.

**Sec. 9. R. S., T. 30, § 3901, amended.** Section 3901 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3901. Appointment and duties**

The municipal officers of ~~cities and towns~~ municipalities not having ~~elected~~ ~~park~~ appointed conservation commissioners as provided by subchapters I, II and V, may annually appoint one or more tree wardens who shall have

the care and control of all public shade trees upon and along such highways and in the parks thereof and all streets within any village limits and shall enforce all laws relative to the preservation of the same.

**Sec. 10. R. S., T. 30, § 3902, amended.** Section 3902 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3902. Compensation**

~~Cities and towns~~ Municipalities may appropriate at any annual or special town meeting money not exceeding 50¢ for each taxable poll in each year to be used in making compensation to tree wardens and in acquiring, planting, pruning and protecting shade trees.

**Sec. 11. R. S., T. 30, § 3951, amended.** Section 3951 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3951. Free trees for roadside planting**

The Forest Commissioner may provide and distribute free of charge at the state nursery, to the several ~~cities and towns~~ municipalities, trees for roadside planting.

**Sec. 12. R. S., T. 30, § 3952, amended.** Section 3952 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3952. Injury or destruction to trees or markers; penalty**

Whoever trims, cuts or otherwise defaces or destroys a public shade tree or injures, defaces or destroys any tree marker attached in accordance with section 3953 shall be punished by a fine of not less than \$5 nor more than \$25, to be paid to the ~~city or town~~ municipality in which the offense is committed and expended by said ~~city or town~~ municipality for the purposes specified in this subchapter, subchapter III and section 3854.

**Sec. 13. R. S., T. 30, § 3953, amended.** Section 3953 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3953. Care of roadside shade trees**

All trees within or upon the limits of any highway marked as provided in this subchapter, subchapter III and section 3854 are declared to be public shade trees. The tree wardens in the several ~~cities and towns~~ municipalities, as soon as may be after they are appointed as provided, shall carefully examine the trees along the highways under their jurisdiction and plainly mark such trees as they consider should be controlled by the municipality. The Forest Commissioner shall furnish to the municipal officers of the several ~~cities and towns~~ municipalities, at cost, galvanized iron disks not more than one inch in diameter, which disks shall have stamped on them the letter "M" Said disk shall be inserted in each tree selected, at a point not less than 3 feet nor more than 6 feet from the ground on the side toward the highway. It shall be the duty of the tree warden, if any tree marker shall be destroyed or defaced, to renew or replace the same.

**Sec. 14. R. S., T. 30, § 3954, amended.** The first sentence of section 3954 of Title 30 of the Revised Statutes is amended to read as follows:

Public shade trees may be trimmed, cut down or removed by the owner of the soil only with the consent of a tree warden or ~~park~~ **conservation** commissioner, but such trees shall not be trimmed, cut down or removed in any case by a tree warden or ~~park~~ **conservation** commissioner except with the consent of such owner.

**Sec. 15. R. S., T. 30, § 3955, amended.** Section 3955 of Title 30 of the Revised Statutes is amended to read as follows:

**§ 3955. Disposition of worthless trees**

The municipal officers of ~~cities and towns~~ **municipalities** shall, before the first day of June of each year, cut, burn and destroy all dead or worthless apple trees, and all wild cherry trees within the limits of the public ways, streets and parks of their respective ~~towns and cities~~ **municipalities**. For neglect or failure to perform such duties each of such officers shall be punished by a fine of not less than \$50.

**Sec. 16. R. S., T. 30, § 4002, amended.** The first and last sentences of section 4002 of Title 30 of the Revised Statutes are amended to read as follows:

Whenever the municipal officers of such ~~city or town~~ **municipality** are directed to take land as provided in section 4001, they shall, within 10 days, give written notice of their intention to take such land, describing the same and the time and place of hearing, by posting the same in 2 public places in the ~~town~~ **municipality** where the land lies and in the vicinity thereof, and by publishing the same in a newspaper printed in such ~~city or town~~ **municipality**, 7 days before the day of such hearing, if any, otherwise in a newspaper printed in the county where the land lies, 3 weeks successively, the last publication to be 7 days before such hearing.

The return shall be filed and recorded in the clerk's office of such ~~city or town~~ **municipality** and a copy thereof, certified by such clerk, shall be recorded in the registry of deeds for said county.

**Sec. 17. R. S., T. 30, § 4003, amended.** The last sentence of section 4003 of Title 30 of the Revised Statutes is amended to read as follows:

When such damages are finally determined, they shall be certified to the clerk of such ~~city or town~~ **municipality** and paid by the treasurer thereof.