

MAINE STATE LEGISLATURE

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CHAPTER 229

PARKS, TREES AND PLAYGROUNDS

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SUBCHAPTER I

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Sec.

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§ 3801. Devises and gifts for public parks and playgrounds

Any town, as such, may receive, hold and manage devises, bequests or gifts for the establishment, increase or maintenance of public parks and playgrounds in such town, and may accept by vote of the legal voters thereof any land in such town to be used as a public park or playground or both combined. When any plantation is incorporated into a town, such gifts and the proceeds thereof fully vest in such town.

R.S.1954, c. 96, § 3.

§ 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 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 grow-

ing on said land shall be held as for park purposes under the exclusive care and control of park 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.

R.S.1954, c. 96, § 8.

§ 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 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 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.

R.S.1954, c. 96, § 9.

§ 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 commissioners or by a taxpayer, in the name and for the benefit of the town or city wherein said offense is committed, for all damages sustained.

R.S.1954, c. 96, § 12; 1961, c. 317, § 264.

SUBCHAPTER II

PARK COMMISSIONERS

Sec.

3851. Election.

3852. Failure to elect; function of municipal officers.

3853. Special commissioners.

3854. Supervision of shade trees.

§ 3851. Election

Cities and towns may choose by ballot 3 park commissioners, to hold office 1, 2 and 3 years, respectively, and after the first year choose annually a commissioner for 3 years in place of the one whose term expires. They shall have the care and superintendence of the public parks and direct the expenditure of all moneys appropriated for the improvement of the same.

R.S.1954, c. 96, § 2.

§ 3852. Failure to elect; function of municipal officers

If any city or town, having taken lands as provided, fails to elect a board of park 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, although containing less than 1,000 inhabitants, may appropriate money for the purposes of sections 3802 and 3803.

R.S.1954, c. 96, § 10.

§ 3853. Special commissioners

Notwithstanding the law relating to park commissioners, cities, towns 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 commissioner, who shall be charged with the duties and have the powers of park 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 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 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 commissioner of the city, town or village corporation within the city or town where the offense occurred, to be used for the purposes mentioned. The said park commissioner shall annually report to the city, town 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.

R.S.1954, c. 96, § 11.

§ 3854. Supervision of shade trees

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

R.S.1954, c. 96, § 14.

SUBCHAPTER III

TREE WARDENS

Sec.

3901. Appointment and duties.

3902. Compensation.

3903. Failure to appoint; effect.

§ 3901. Appointment and duties

The municipal officers of cities and towns not having elected park 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.

R.S.1954, c. 96, § 15; 1959, c. 378, § 66.

§ 3902. Compensation

Cities and towns 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.

R.S.1954, c. 96, § 17.

§ 3903. Failure to appoint; effect

When the municipal officers in any year fail to appoint tree wardens in accordance with section 3901, section 3952 shall not apply to trees previously marked in accordance with section 3953.

R.S.1954, c. 96, § 20.

SUBCHAPTER IV

CARE AND REMOVAL OF TREES

Sec.

3951. Free trees for roadside planting.

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

3953. Care of roadside shade trees.

3954. Removal of trees.

3955. Disposition of worthless trees.

§ 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, trees for roadside planting.

R.S.1954, c. 96, § 19.

§ 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 in which the offense is committed and expended by said city or town for the purposes specified in this subchapter, subchapter III and section 3854.

R.S.1954, c. 96, § 18.

§ 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, 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 Commissioners shall furnish to the municipal officers of the several cities and towns, 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.

R.S.1954, c. 96, § 13.

§ 3954. Removal of trees

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 commissioner, but such trees shall not be trimmed, cut down or removed in any case by a tree warden or park commissioner except with the consent of such owner. Nothing in this section shall be construed to prevent the trimming, cutting or removal of trees where such trimming, cutting or removal is ordered by proper authority to lay out, alter or widen the location of highways, to lessen the danger of travel on highways or to suppress tree pests or insects.

R.S.1954, c. 96, § 16.

§ 3955. Disposition of worthless trees

The municipal officers of cities and towns 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. For neglect or failure to perform such duties each of such officers shall be punished by a fine of not less than \$50.

R.S.1954, c. 32, § 159.

SUBCHAPTER V

ACQUISITION OF LAND

Sec.

- 4001. Parks, playgrounds and libraries.
- 4002. Proceedings by municipal officers.
- 4003. Estimate of damages; appeal.

§ 4001. Parks, playgrounds and libraries

Any city or town upon petition in writing signed by at least 30 of its taxpaying citizens, directed to the municipal officers, describing the land to be taken, and the names of the owners thereof so far as they are known, may, at a meeting of such town or the city government, direct such municipal officers to take suitable lands for public parks, squares, playgrounds, buildings for municipal purposes or a public library building. Thereupon such officers may take such land for such purposes, but not without consent of the owner, if at the time of filing such petition with such officers or in the office of the clerk of such town or city such land is occupied by a dwelling house wherein the owner or his family reside. When land is taken under this section for a public park, the fee of such land may be taken and compensation assessed and paid accordingly. Land in any town so taken for a public park may by authority of a majority vote at a town meeting be transferred and conveyed to the Federal Government so as to become a part of a national park. Nothing herein shall be held to deprive the former landowners from proceeding to restrain the use of such land for other than public park purposes.

R.S.1954, c. 96, § 5; 1955, c. 216.

§ 4002. Proceedings by municipal officers

Whenever the municipal officers of such city or town 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 where the land lies and in the vicinity thereof, and by publishing the same in a newspaper printed in such city or town, 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 municipal officers shall meet at the time and place specified in the notice, view the

land to be taken, hear all parties interested and if they decide that the land is suitable for the purpose, they shall take the same and estimate the damages to be paid to each owner, so far as known, and make return of their doings in writing, signed by a majority of them, which return shall describe by metes and bounds the land so taken and state the purpose for which it is taken, the names of the owners so far as known, and the amount of damages awarded to each. The return shall be filed and recorded in the clerk's office of such city or town and a copy thereof, certified by such clerk, shall be recorded in the registry of deeds for said county.

R.S.1954, c. 96, § 6.

§ 4003. Estimate of damages; appeal

Any person aggrieved by the estimate of damages may have them determined by written complaint to the Superior Court in the manner provided respecting damages for the establishment of town ways. When such damages are finally determined, they shall be certified to the clerk of such city or town and paid by the treasurer thereof.

R.S.1954, c. 96, § 7.

SUBCHAPTER VI

FUNDS

Sec.

4051. Planting.

4052. Appropriations for roadside planting.

§ 4051. Planting

A sum not exceeding 5% of the amount raised for repair of ways and bridges may be expended by a road commissioner, under the direction of the municipal officers, in planting trees about public burying grounds, squares and ways, if the town by vote authorizes it.

R.S.1954, c. 96, § 21.

§ 4052. Appropriations for roadside planting

Each municipality shall each year set aside 5% of the money raised and appropriated for ways and bridges, to be used in cutting and removing all trees, shrubs and useless fruit trees, bush-

es and weeds, except shade trees, timber trees, cared-for fruit trees and ornamental shrubs growing between the road limit and the wrought part of any highway or town way, until all the trees, shrubs and worthless fruit trees, bushes and weeds have been once removed from the limits of such highway or town way, after which the owner of the land adjoining such highway or town way shall each year, before the first day of October, remove all bushes, weeds, worthless trees and grass from the roadside adjoining his cultivated or mowing fields. The municipality shall care for all land not included in the above, except wild land.

If any owner of such land fails to cut and remove said bushes, weeds, worthless trees and grass on or before the first day of October of each year, the mayor of any city, the selectmen of any town or the assessors of any plantation wherein said land may be located shall cause said bushes, weeds, worthless trees and grass to be cut and removed. The actual expense of such cutting and removal shall be a lien upon said land so adjoining said highway or town way and shall be assessed and collected as a tax thereon.

R.S.1954, c. 96, § 22