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CHAPTER 13 Parks and Trees

ARTICLE I Parks

Sec. 13-101 Purpose

The City of Rockland seeks to enhance the health, welfare, and quality of life for its residents and visitors by providing public parks throughout the City. Public parks provide a natural, beautiful setting for leisure, recreation, and special events, and help to conserve the scenery and natural and historic objects for the enjoyment of the current and future generations. The City's stewardship of its considerable public park assets is made possible with the help and guidance of dedicated staff and volunteers, public and private partnerships and funding, and wise investments of limited resources with an eye toward preservation and future needs.

Sec. 13-102 Administration

A. Authority. Pursuant to the Rockland Charter, Art. III, Sec. 304(7), the City Manager is hereby charged with the maintenance and operation of the City's parks.

B. Capital Improvements. The City Manager, in consultation with the Parks Commission, shall establish capital improvement and maintenance and operation plans for City parks and public shade trees. The capital improvement plan shall identify the current and long-term capital improvements and investments needed in the City's parks to best fulfill their purpose and to enhance their use and enjoyment by the residents and visitors, and shall identify the estimated cost of and options for funding such improvements. The Capital Improvement Plan shall be reviewed by and is subject to the approval of the City Council. The City Council may establish *ad hoc* committees to assist, in consultation with the Parks Commission, in planning for specific capital improvement projects.

C. Maintenance and Operations. The City Manager, in consultation with the Parks Commission, the Public Works Director, and, as may be applicable, the Harbor Master and Harbor Management Commission, shall plan and provide for the beautification and maintenance of the City's parks, and gardens, paths, and other amenities therein.

D. Rules and Regulations. The City Manager is hereby empowered, subject to approval and adoption by the City Council, to make such rules and regulations pertaining to the conduct and use of parks as are necessary to administer the same or to protect public property or the safety, health, morals, or welfare of the public. Such rules and regulations shall be placed on file by the City Manager in the office of the City Clerk for public inspection. Violations of such rules and regulations shall subject the offender to such fines or other penalties as may be applicable under applicable law or established by the City Council.

E. Concessions. No person shall sell or rent, or attempt to sell or rent, any service, merchandise, or any object in any park without first entering into a contract with the City to operate a park concession.

F. Damage to Plantings And Trees Prohibited. No person shall willfully cut, dig up, break, injure, damage, destroy or interfere with any tree, shrub, flower, bush or other planting in any public park, street or other public place in the City. [*Former Sec. 13-206.*]

Sec. 13-103 Parks Commission

A Parks Commission is hereby established for the purpose of assisting the City with the acquisition, creation, improvement, care, and maintenance of City parks, gardens, forests, and public shade trees. The Parks Commission shall consist of five (5) members to be appointed by the City Council for staggered terms of three (3) years. The Commission shall elect a Chairman, a Secretary, and a Tree Warden from its membership annually, and adopt its own rules of procedure. The Commission may invite other Rockland residents to participate in meetings and to help with the Commission's work who shall not be members and may not vote. The Commission shall advise the City Council in matters of policy and planning for parks, gardens, forests, and public shade trees; advise the City Manager regarding the care, maintenance, and improvements of parks, gardens, forests, and public shade trees; and maintain close cooperation with the Planning Board, the Harbor Management Commission, the Oyster River Bog Association, and the Recreation, Public Works, and Harbor & Waterfront Departments.

State Law Ref.: 30-A M.R.S. § 3264.

Sec. 13-104 City Forest

A City Forest is hereby established to consist of a 70.5 acre parcel designated lot number 91 -A-1, Registry of Deed Book 232, Page 279 which shall serve as an educational and recreational resource to promote sound woodland management while providing protection for the wildlife habitat and the state designated Rare Plant Station, in keeping with the critical Area Act. The woodland management and conservation policies and plans shall be developed and coordinated by the Parks Commission, in consultation with the Oyster River Bog Association.

CITY PARKS

CITY SQUARES	LOCATION	MAP/LOT	ACRES
Ralph Ulmer Square	Corner of North Main and Main Streets	12-B-1	.17
Walter Butler Square	Corner of Broadway, North Main and Cedar Streets	40-A-1	.25
General Berry Square	Corner of Main and Water Streets	5-F-1	.05
Veterans Memorial Square	Corner of Park and Main Streets	1-H-7	.07
Winslow-Holbrook Square	Intersection of Park and Main Streets	1-H-7	.07
RECREATIONAL/MEMORIAL PARKS			
Johnson Memorial Park	Chickawaukie Lake	87-A-15-1	3.87
Jaycee Park	Old County Road	69-A-5	15.98
Kenniston Field	Old County Road	69-A-5	15.98
Kiwanis Park (Eff: 6/11/97)	Warren Street	25-E-6A	.40
Merritt Park	Northeast Corner of Limerock and White Streets (part of parcel 21-C-2) Named 12/13/85	21-C-2	1.57
Purchase Street Playground	Purchase Street	19-F-19	.61
Chapman Park	Southwesterly Corner of Park & Main (Named 07/14/99)	5-A-4	.17
Winslow-Holbrook Memorial Park	Northeast corner of Park & Main (Named 07/08/09)	1-H-7	.07
WATERFRONT PARKS			
Rockland Public Landing	Public Landing (aka "Harbor Park")	5-B-5 & 5-B-3	3.57 & 2.61
Mildred B. Merrill Park	265 Main Street (Eff: 6/11/97)	5-B-6	.37
Harbor Park	Park Drive (Named 8/9/85 alc)	1-L-1	2.61
Marie H. Reed Breakwater Park	End of Samoset Road (Named 08/07/91) Right-of-way through Parcel	31-A-1	
Sandy Beach Park	Scott Street	6-A-11	1.12
Snow Marine Park	Mechanic Street (Named 7/21/95)	9-A-11	13.66

ARTICLE II Public Shade Trees

Sec. 13-201 Purpose

This Article shall constitute the City of Rockland’s Tree Care Ordinance. The purpose of the Tree Care Ordinance is to establish and implement a public tree shade management plan for planting, pruning, preserving, and removing public shade trees in and on the various public ways, parks, and properties in the City of Rockland. Public shade trees beautify the City of Rockland, increase private property values, provide an important, natural form of storm water mitigation, and enhance and encourage the use of City streets and sidewalks by pedestrians for pleasure, exercise, shopping, and accessing services and places of employment in developed areas of the City.

Sec. 13-202 Public Shade Trees

All trees within or upon the limits of any public street or highway, all City parks, and on other City property, are public shade trees.

State Law Ref.: 30-A M.R.S. § 3281.

Sec. 13-203 Administration

The City Manager, in consultation with the Parks Commission, shall have the care and control of all public shade trees, and shall seek compliance with all laws, regulations, ordinances, and industry standards relative to the preservation of the same. The Parks Commission shall prepare, for City Council adoption, and the City shall implement, a public shade tree management plan and budget, including procedures for inventorying, selecting, planting, pruning, removal, and replacement of public shade trees in the City of Rockland. The Tree Warden shall carefully examine and inventory, or cause to be examined and inventoried, all public shade trees controlled by the City.

Sec. 13-204 Comparative Powers Of Owners Of Soil And Tree Wardens As To Removal Of Trees

Public shade trees may be trimmed, cut down or removed by the owner of the soil only with the prior consent of the Tree Warden. Public shade trees shall not be trimmed, cut down, or removed by the City without the prior consent of such owner, except in the event of an emergency or for the protection of the health, welfare, or safety of the public. No tree may be removed by either the owner or the City unless the tree constitutes a hazard, is diseased or is otherwise compromised; or has been ordered to be removed 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. All requests by or on behalf of an owner to trim or remove any public shade tree shall be in writing, on an application form provided therefor by the City, and shall state specifically the location, species, approximate age, and condition of the tree, and whether, how, and when it is proposed that the tree be trimmed or removed and the reason(s) therefor. The Tree Warden, after conferring with the Parks Commission, when feasible, shall issue a written decision approving, disapproving, or conditionally approving the application within ten business days.

State Law Ref.: 30-A M.R.S. § 3283.

Sec. 13-205 Penalty

Whoever trims, cuts, or otherwise defaces or destroys a public shade tree, or injures, defaces, or destroys any City tree, shall be punished by a fine of \$100 or other penalty established under 30-A M.R.S. § 3252(5)(A), forfeiture and restitution pursuant to 17 M.R.S. § 2510; and/or shall be liable, in a civil action for all damages sustained.

State Law Reference: 30-A M.R.S. § 3252; 30-A M.R.S. §§ 3202-3203; 17 M.R.S. § 2510.

ARTICLE III Lindsey Brook

Sec. 13-301 Lindsey Brook

Protection of Flow. No person shall throw into or deposit any obstruction in the form of offal, dead animals, refuse, rubbish, or other matter of material, in any part of Lindsey Brook or its tributaries, under a penalty of not less than \$10 or more than \$100 for each offense, to be recovered by complaint before the Maine District Court.

Sec. 13-302 Private Work

1. Authority. Reaming and clearing sewer and drainage stoppage deemed private in nature, by the City Manager, or designated agent, and to be performed by the Public Works Department shall be authorized by the City Manager.

2. Expense. All expense incurred for such private services shall be defrayed by the applicant and paid to the City Treasurer. A minimum of five dollars (\$5.00) shall be charged. No work shall commence prior to securing a written payment agreement from the applicant.

3. Records. The City Treasurer shall keep a written record of all agreements along with a reasonable description of work performed by the City employees.

4. Appeals. Appeals from the decision of the City Manager, or his designated agent, shall be reviewed by the City Council. Final disposition of appeals shall be recorded by resolution indicating the reasons of the Council thereof, all of which shall be public record. Eff: 1/8/87

ARTICLE IV Pesticide / Herbicide Usage on City-Owned Lands

Sec. 13-401 Purpose

The purpose of this chapter is to safeguard the health and welfare of the residents of the City of Rockland and to conserve and protect the City's ground water, estuarine, marine and other natural resources, while ensuring preservation and enhancement of City-owned lands.

Sec. 13-402 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Natural, organic land care: An extension of the principles and practices of organic agriculture to the care of turf and landscape.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency (“USEPA”). Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Sludge: As defined in 38 M.R.S. § 1303-C (28-A), as amended from time to time.

City-Owned Land: All land owned or leased by the City of Rockland and/or managed by or on behalf of the City, including outdoor grounds such as municipal facilities and lawns, parks, playing fields, cemeteries, the City Forest, and conservation and open space.

Pest: Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

Sec. 13-403 Permitted and Prohibited Uses of Pesticides / Herbicides.

The following provisions shall be applicable to all turf and landscape for outdoor pest management activities on City-owned land.

A. Permitted Uses:

- (1) Use or application of natural, organic land care protocols;
- (2) All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program; and
- (3) Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act (38 M.R.S. §§ 1301, *et seq.*), the Protection of Natural Resources Act (38 M.R.S. §§ 480-A, *et seq.*), or the Site Location of Development Act (38 M.R.S. §§ 481, *et seq.*), and any rules related thereto, as amended from time to time.

B. Prohibited Uses:

- (1) Use or application of chemical pesticides, other than pesticides classified by the USEPA as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute; and
- (2) Use or application of sludge or sludge-derived products not listed as permitted above.

Sec. 13-404 Exemptions

The following processes are exempt:

1. Drinking water and wastewater treatment;
2. Indoor pesticide use;
3. Contained baits or traps for rodent control;
4. Use of pesticides classified by USEPA as exempt materials under 40 C.F.R. 152.25;
5. Pesticides permitted by the Organic Materials Review Institute;
6. Management of City-owned land not used or used infrequently by the public (roadway medians, for example);
7. Pesticide applications by owners or tenants of residential properties on landscaped areas within municipal rights-of-way;

8. Pesticide applications on City-owned land to control vermin or other infestations, which applications are, in the discretion of the City Manager, reasonably necessary to prevent the spread of such infestations or to protect the public health;
9. Control of poisonous or rapidly invasive plant species injurious to human health or the environment, using the least toxic product in accordance with USEPA protocols under 40 C.F.R. 152.5, the Maine Code of Regulations, Titles 7 and 22: "Use of Pesticides," and the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control.

Sec. 13-405 Emergency waiver

If the City Manager, applying the criteria set forth below, finds that there exists an emergency situation, the Code Enforcement Officer may, upon written request, grant a thirty (30) day temporary waiver authorizing of non-exempt pesticide(s). The waiver may be extended, but in no event shall the total waiver period exceed six (6) months. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency. The presence of weeds or common fungal diseases in the usual course of turf maintenance shall not constitute an emergency.

The waiver determination shall be based on the following criteria:

A. The pest situation presents:

- (1) An immediate threat to human health or environmental quality; or
- (2) An immediate threat of substantial property damage or loss; and

B. Viable alternatives consistent with this article do not exist.

Sec. 13-406 Enforcement and permits

Except with respect to the conduct of City of Rockland employees, this Article shall be enforced by the Code Enforcement Officer, in accordance with the provisions governing the enforcement of the property maintenance code set forth in Chapter 4. The City Manager shall be responsible for assuring compliance by City of Rockland employees with the provisions of this Article.

Sec. 13-407 Conflict and invalidity

If a conflict or inconsistency is found between this Article and other sections of the City Charter or Code of Ordinances, the terms of the stricter provision(s) shall prevail. The invalidity of a provision of this Article shall not invalidate any other provision of this article.

State Law Ref.: 30-A M.R.S. § 3001; 22 M.R.S. § 1471-U; 38 M.R.S. § 1310-U.