

Chapter 133

TREES

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[HISTORY: Adopted by the Town Board of the Town of Hartland 3-8-1979 by L.L. No. 1-1979. Amendments noted where applicable.]

§ 133-1. Purpose.

The purpose of this chapter is to provide for the safety of persons and property in the Town of Hartland, outside the Village of Middleport, by requiring the trimming or removal of certain trees posing a hazard to the public (hereinafter referred to as a "tree") within the Town of Hartland, which have been determined to be a hazard within the scope of this chapter.

§ 133-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING INSPECTOR — Includes the Zoning Enforcement Officer.

TOWN — The Town of Hartland.

TREE — Any tree or any part thereof, situated on private property, which is either dead, diseased, decayed or, due to other causes, is in such a state that there exists a clear and present danger of said tree or any part thereof falling on any public highway or other public place, and thereby impairing or endangering the lawful use thereof, or on a structure, building or other facility located on lands adjoining the premises on which said "tree" is located, and causing damage thereto or injury to any person lawfully in the vicinity thereof.

§ 133-3. Inspections.

Upon receipt of a written complaint, signed by a complainant, that a tree as defined herein exists within the town, or upon his own initiative, the Building Inspector of the town shall make an on-site inspection of the alleged tree. To assist him in determining the condition of such tree, the Building Inspector may request the expert services of the county extension service, the New York State Department of Environmental Conservation, the New York State College of Forestry or any person having expertise in arboriculture or forestry. With the approval of the Town Board, the Building Inspector may retain the services of any person having the necessary expertise to furnish the services in connection with inspection of such tree. Following the inspection, the Building Inspector shall make a written report to the Town Board at its next regularly scheduled meeting, setting forth the conclusions and findings. If he concludes that the tree is one as defined herein, he shall specify the respects in which it poses a danger to the public.

§ 133-4. Action by Town Board; service of notice.

After considering the written report of the Building Inspector and such other information or evidence as it may have, the Town Board shall determine whether such tree presents a danger to the public. If it determines that it is not such a tree, no further action shall be taken by the Town Board or by the Building Inspector in relation to such tree. If the Town Board determines that the tree is a danger to the public, it shall so

notify the owner of the land upon which such tree is located. The notice shall be in writing, describing the tree and shall direct such owner to remove it or a portion thereof within 10 days after service of such notice. The notice shall also state that if the owner fails to remove such tree or portion thereof within the specified time, the Town Board will cause its removal and charge the expenses thereof against the property owner on whose property it is located. The estimated maximum amount of expense of removal shall be specified in such notice. Service of notice may be made by personal service, upon such owner or his representative, or by certified mail, return receipt requested, mailed to the address of the owner as shown in the latest completed assessment roll of the town. Service shall be completed and the ten-day period shall commence to run upon the filing of the affidavit of personal service or the filing of the return receipt in the office of the Town Clerk of the town.

§ 133-5. Removal; costs and expenses.

In the event that the owner of the land on which such tree is located fails to act within the ten-day period set forth in the notice, the Town Board shall have the right to cause the removal or trimming of such tree. All costs and expenses in connection with such removal or trimming, not exceeding the amount specified in the notice, shall be a charge against the land upon which such tree was located and shall be levied and collected in the same manner and at the same time as town taxes.

