

## Trees and Roads in Maine

As the Pine Tree state, Maine is largely covered by trees and most of our 22,800+ miles of public roads have trees along them. Knowing that many motor vehicle fatalities and injuries occur when a vehicle leaves the road and hits a tree, the MaineDOT and municipalities have the authority to control their rights-of-way and provide safer roadsides. That translates into the laws related to trees within a road's right-of-way (which is typically wider than the actual paved or gravel travelway).



### **Who "owns" the trees in a right-of-way?**

- Determining ownership is the first step in the process when trees are in a public right of way.
- The owner of a tree is the landowner on whose land the tree is rooted.
- A very large percent of state and town maintained roads are not owned by the state or town (they are easements). Ownership belongs to the adjacent property.
- Along those few "fee highways" in Maine, the state or town actually owns that land through an acquisition process and it includes the air above and the earth below.
- If a trunk is split by a property boundary, the tree is owned by both parties. Decisions should be made by mutual consent of both parties.
- Whoever OWNS the right-of-way, OWNS the trees.

### **Who is responsible for these trees?**

- Owners are responsible for preventing hazards that their trees may present, including to the travelling public. They may be held accountable if the tree causes property damage, bodily harm, or death.
- MaineDOT and municipalities may remove hazardous trees that pose a serious threat to the travelling public without landowner permission.
- The owner has "first right of refusal" for the wood.

### **What should a municipality be concerned about?**

- A municipality's obligation to keep town ways "safe and convenient" includes the duty to remove roadside brush, trees and grass that could pose a road safety problem. Uncontrolled brush can limit sight distances and in some cases may intrude onto the travel way itself.

- The municipality may at its expense remove healthy or dead trees located within the right of way if they pose a safety hazard to the traveling public or impede the municipality's ability to maintain the road.
- On a local road, if a tree is located in the right-of-way but is not (in the determination of the municipal officers or road commissioner) a safety hazard, then the municipality is under no duty to remove it, even if the abutter requests removal.
- If the reason for removing the tree is to protect an abutter's house or property, rather than the traveling public, then the abutter should pay the costs of removal.
- Trees located outside the road right of way should not be removed by the municipality without the landowner's permission.
- The municipality may cut any limbs in the air or roots on the ground that intrude into the right of way, even if the trunk of the tree is outside the right of way.
- Consider appointing a tree warden, budgeting, and planning for removals. Write an action plan.
- Always work with the landowner.
- If in doubt on State roads, contact MaineDOT's Bob Moosmann at 207-441-4521 or [gustave.nothstein@maine.gov](mailto:gustave.nothstein@maine.gov). He can assess hazards and assist in understanding how to proceed.

## **Maine Law**

Maine law governs trees in [Title 30-A, Chapter 157](#) in Subchapter 4. Some of the highlights are:

- All trees within or upon the limits of any highway are public shade trees. (Section 3281)
- All public shade trees may be under the care and control of conservation commissioners in municipalities which appoint those commissioners under this subchapter. The conservation commissioners may have the powers and duties of tree wardens in regard to those trees. (Section 3263)
- The municipal officers of municipalities which have not appointed conservation commissioners under subchapter II may annually appoint one or more tree wardens who have the care and control of all public shade trees upon and along the highways and in the parks of the municipality and all streets within any village limits. They shall enforce all laws relating to the preservation of those trees. (Section 3282)

- Public shade trees may be trimmed, cut down or removed by the owner of the land only with the consent of a tree warden or the conservation commission. Public shade trees may be trimmed, cut down or removed by a tree warden or conservation commissioner only with the consent of the landowner. (Section 3283). However, this section does not prevent the trimming, cutting or removal of trees when the trimming, cutting or removal is ordered by proper authority to:
  - Lay out, alter or widen the location of highways;
  - Lessen the danger of travel on highways; or
  - Suppress tree pests or insects.

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