

TOWN OF SOUTHBOROUGH



PUBLIC SHADE TREE POLICY

1. Public Shade Tree Policy

- a. This policy applies to all "~~P~~ublic ~~S~~hade ~~T~~rees", which are trees within or on the boundaries of a public right-of-way in the Town. The Tree Warden (~~the~~ Select Board ("SB")) and Tree Warden Designee, and, for Ppublic Sshade Ttrees on scenic roads in conjunction with the Planning Board ("~~P~~B"), shall have jurisdiction over all trees to which this policy applies as set forth in MGL. c. 87 and c. 40, §15C.
- b. Except as specified otherwise herein, a Ppublic Sshade Ttree may not be trimmed, pruned, or removed on the authority of ~~any person other than the Tree Warden Designee or assigned~~ until after a public hearing, if such a hearing is required.
- c. The following situations do not require a public hearing for ~~P~~ublic ~~S~~hade ~~T~~ree trimming, pruning, or removal:
 - i. any ~~P~~ublic ~~S~~hade ~~T~~ree that is determined to be an imminent hazard by emergency response officials, including utilities and their agents, or the Tree Warden Designee, in consultation with the Town Administrator and the Town Planner ~~to be an imminent hazard~~. Which An "imminent hazard" is defined as the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is likely to occur before a notice and hearing to abate the risk of harm can be completed.
 - ii. work described in a utility's approved Annual Maintenance Plan or Hazard Tree Removal Plan.

2. Steps for Handling of Public Shade Tree ~~Calls-Requests~~ from residents requesting tree removal or trimming*

- a. Information is taken from a resident and added to a spreadsheet containing the details of such requests.
 - i. Spreadsheet to include:
 1. Address or location of tree
 2. Tree species
 3. Diameter at breast height ("DBH") and estimated height
 4. Tree identification number ("TID #") from Tree Evaluation Report is applicable
 5. If there is no Tree Evaluation Report, Tree Warden Designee shall assign a TID #
 6. Nature of and rReason for eallthe request
 7. Tree Warden ~~D~~esignee's evaluation and recommendation
 8. Arborist's recommendation, if applicable
- b. Tree Warden ~~D~~esignee evaluates tree, completes Public Shade Tree Assessment form, takes pictures of the tree, and adds his/her notes to the spreadsheet within thirty (30) days of request.
- c. Trees that are not dead will require an arborist evaluation and recommendation
 - i. Tree Warden (SB), and the Planning Board (if the tree(-s) are located on a scenic road,) shall be notified as to the date and time the arborist evaluation will take place.
 - ii. Arborist to fill out Tree Risk Assessment form while evaluating trees

1. TID # from spreadsheet shall be utilized

d. Arborist's evaluation and recommendation will be added to spreadsheet

- e. Completed spreadsheet and arborist's completed Risk Assessment form sent to SB (and PB ~~for~~ trees ~~are on a~~ scenic Road) along with the tree hearing ~~**~~application form.

3. Public Shade Tree Removal Hearings

- a. A Tree Removal Hearing application shall be filed with the Select Board for trees on non-scenic roads, and with both the Select Board and Planning Board for trees on scenic roads, and the SB (and PB, as applicable) shall review such applications and file applications deemed to be complete with the Town Clerk.
 - i. The application shall include the spreadsheet information as described above.
 - ii. **NO CHANGES** shall be made to the applicable tree spreadsheet data or application after the application is filed with the Town Clerk.
- b. Hearing posting shall be in compliance with MGL c87 S3 and MLG c40 ~~S~~15C and shall include the following:
 - i. Hearing notice shall include the address or specific location, species, DBH, estimated height, and reason for the hearing for each individual tree
 - ii. If hearing is for multiple trees the notification in newspaper may ~~have been~~ be for the group of trees, but posted notices in Town shall include the legal notification from the newspaper and the information from the spreadsheet created per 21. aA. i. above, for each tree
- c. Hearing notices shall be posted in the following three places in Town:
 - i. Under Hearing Notices on the Town website
 - ii. Under Tree Hearings on the DPW webpage on Town website
 - iii. On the hearing board at the Town House
- d. Hearing notices shall be posted on the tree(s) subject to the hearing with the specific reason the tree is subject to a hearing
- e. Tree notices~~***~~ shall not be nailed or affixed to a tree in any manner that will cause significant damage to the tree, unless the tree is dead ~~****~~

4. ~~Trimming of Public Shade Trees~~ Trimming on Scenic Roads

- a. The trimming of Public Shade Trees on Scenic Roads requires a hearing before the Planning Board following the same protocol as laid out in Section 34. and 2. a Above.

5. Public Shade Tree Trimming and Removal Timing

- a. Unless a tree to be trimmed, cut or removed poses an imminent hazard, all such tree trimming, cutting and removal shall commence occur in late fall through winter, between October 1st ~~and to~~ April 1st.

6. Tree Replacement

- a. At least one ~~native species~~ tree shall be planted, at the applicant's expense, for each Public Shade Tree that is removed in accordance with the public hearing process laid out in this policy.
- b. Public ~~S~~shade ~~T~~trees so removed that either do not serve a public purpose or were removed without complying with the public hearing process laid out in this policy shall be required to plant, replacement, at the applicant's expense, with trees shall that have the same or equivalent size as measured in DBH inches as that of the tree(s) that were as removed. If a tree of equivalent size cannot reasonably be obtained or is not appropriate, the Tree Warden (Select Board) shall determine, and for trees on scenic roads, with the Planning Board shall determine, a suitable alternative which may include:
 - i. an inch-by-inch replacement basis. Replacements shall be at least three-inch diameter. For example, if an 18" diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the Town to provide for the purchase and planting of six, three-inch diameter replacements.

- ii. Payment by the applicant to the Town of Southborough for the value of the tree that was removed, as determined by a certified arborist based on standards in the industry, in accordance with the Tree Warden Designee's regulations or other applicable regulations or bylaws and Section M (Enforcement) of this bylaw.

~~e.~~ All replacement tree(s) shall be a species ~~straight native species~~ deemed advisable by the Tree Warden Designee; provided that for such replacement trees the Tree Warden Designee shall keep in mind the Town's bylaw language in §153-4 (Public Shade Trees) and §174-13 (Landscaping) specifying (in the former case) a "goal" of having native trees and (in the latter case) "encouraging" the use of native species—but recognizing that neither of these bylaw sections specifically requires the use of native species and thereby provides reasonable discretion for the Tree Warden Designee relative to the replacement species decision.

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7. Utility Company Tree and Vegetation Management Plan(s)

- a. The Tree Warden (Select Board) shall request and the utility shall submit, per MGL c. 87 §14, an annual “Hazard Tree Removal Plan” and a “Vegetation Management Plan”, as applicable (separately, and together, an “Annual Plan”).
- b. Such Annual Plan(s) shall include: a map of the circuits where maintenance will occur; and a listing and location of any Public Shade Tree(s) expected to be removed.
- c. The Annual Plan(s) shall be submitted to the Tree Warden (Select Board) prior to December 31st each year for activities to be conducted during the following year.
- d. Any Public Shade Tree expected to be removed will be appropriately marked by the utility company, so that the public may be made aware of the proposed work. The Tree Warden Designee and the utility representative(s) will visit the proposed work site(s) to inspect the proposed work.
- e. The Tree Warden (Select Board) shall hold a ~~consolidated~~ public meeting, and for trees on scenic roads shall hold a consolidated public meeting with the Planning Board, to review the annual plan(s).
- f. Annual Plan(s) may be approved upon the determination at the ~~consolidated~~ public meeting, or consolidated public meeting, as applicable, that the plan follows the requirements of MGL C87. The utility shall be exempt from the requirements of the hearing process laid out in this policy and MGL C87 §3 & §5 for work described in the approved plan.
- g. The Tree Warden Designee shall then notify the utility in writing within 60 days of receipt of an Annual Plan(s) whether the plan has been approved or approved with changes made as a result of a public review during a scheduled ~~consolidated~~ public meeting or consolidated public meeting, as applicable.
- h. Approved Annual Plan(s) shall be posted on the Town website, DPW’s webpage and sent to the Town Planner and the Town Administrator for distribution to their respective Boards and to the public.
- i. No tree removal, trimming or vegetation management affecting a public shade tree shall be done by the utility company that is not part of an approved Annual Plan without a public hearing.
- j. Notwithstanding the Town’s approval of the Annual Plan(s), a utility shall provide at least 30 days advance written notice to the Tree Warden Designee before beginning tree trimming or tree removal work pursuant to the Annual Plan(s).

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8. PROHIBITED ACTIVITIES

- a. It shall be unlawful for any person, firm, or town department to engage in any of the following activities relating to public shade trees:
 - b. topping;
 - c. excessive pruning;
 - d. girdling tree trunks;
 - e. poisoning tree roots,
 - f. causing any other kind of substantial injury,
 - g. pollarding the top and branches of a tree;
 - h. tree stapling, cutting, painting, marking, hanging any public messages on trees or tree trunks without approval of the Tree Warden Designee
 - i. tree removal without approval of the Tree Warden [or without following the process defined by this

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policy]

*All trees subject to a hearing shall follow same protocol, whether such hearing is based on a call from a resident, recommendation of the Tree Warden Designee or a recommendation in an Arborist's Evaluation Report.

**SB to use same application form as for scenic roads removing the scenic road reference.

***After hearing, trees not slated for removal shall have the posting removed from them.

****Dead = non-living, no leaves, no sign of life.