

# TOWN OF SOUTHBOROUGH



## PUBLIC SHADE TREE POLICY

### 1. Public Shade Tree Policy

- a. This policy applies to "Public Shade Trees" (as defined in MGL c. 87), which are all 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 Public Shade Trees on scenic roads, in conjunction with the Planning Board ("PB"), 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 Public Shade Tree may not be trimmed, pruned, or removed on the authority of any person other than the Tree Warden Designee unless such activity is approved pursuant to a public hearing, if such a hearing is required.
- c. The following situations do not require a public hearing for Public Shade Tree trimming, pruning, or removal:
  - i. any Public Shade Tree 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. 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; or
  - ii. work described in a utility's approved Annual Maintenance Plan or Hazard Tree Removal Plan.

### 2. Steps for Handling Requests for Public Shade Tree Removal or Trimming\*

- a. Information shall be taken from the requestor and added to a spreadsheet containing the details of such requests, including the following information:
  - i. Address or location of tree
  - ii. Tree species
  - iii. Diameter at breast height ("DBH") and estimated height
  - iv. Tree identification number ("TID #") from Tree Evaluation Report as applicable  
(If there is no Tree Evaluation Report, Tree Warden Designee shall assign a TID #)
  - v. Nature of and reason for the request
  - vi. Tree Warden Designee's evaluation and recommendation
  - vii. Arborist's recommendation, if applicable
- b. Tree Warden Designee shall evaluate the tree, complete the Public Shade Tree Assessment form, take pictures of the tree, and add their notes to the spreadsheet—all within thirty (30) days of the request.
- c. Trees that are not dead\*\* require an arborist evaluation and recommendation, including the following:
  - i. Notification of the Tree Warden (SB) (and notification of the Planning Board for tree(s) located on a scenic road), which notification shall include the date and time the arborist evaluation will take place; and
  - ii. Completion, by the Arborist, of the Tree Risk Assessment form while evaluating trees (and utilization of the TID # from the spreadsheet for this process).
- d. Arborist's evaluation and recommendation will be added to spreadsheet.
- e. Completed spreadsheet and arborist's completed Risk Assessment form shall be sent to SB (and PB for trees 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 or Town Planner, 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 S15C 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 a hearing is for multiple trees, the notification in the newspaper may 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 2. a. 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 the 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. After a hearing for a tree, any such tree not slated for removal shall have the notice removed from it.
- e. Tree notices shall not be nailed or affixed to a tree in any manner that will cause damage to the tree, unless the tree is dead.

### **4. Trimming of Public Shade Trees 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 3 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 occur in late fall through winter, between October 1<sup>st</sup> and April 1<sup>st</sup>.

### **6. Tree Replacement**

- a. At least one tree of at least three-inch caliper shall be planted (at the applicant's expense for trees removed as a result of a resident's request) for each living Public Shade Tree that is removed in accordance with the public hearing process laid out in this policy.
- b. Public Shade 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 replaced (at the applicant's expense) with trees that have the same or equivalent size as measured in DBH inches as that of the tree(s) that were 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 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.

- c. All replacement tree(s) shall be a species recommended in the Town's June 30, 2019 "Southborough Street Tree Guidelines" (with a preference for native species) and deemed advisable by the Tree Warden Designee.
- d. For any tree replacement decision specified by this process where an applicant, the Tree Warden Designee, or another interested party disagrees with the tree replacement decision specified by this process, the Tree Warden Designee and the Town Planner shall confer and determine if, and/or how, such tree replacement decision may be modified.
- e. Tree replacements shall be in accordance with the Town's tree planting plan.

## 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 31<sup>st</sup> 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 with the Planning Board, to review the Annual Plan(s).
- f. Annual Plan(s) may be approved by determination at the consolidated public meeting that such Annual 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 an approved Annual 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 Annual Plan has been approved or approved with changes made as a result of a public review during a scheduled consolidated public meeting.
- h. Approved Annual Plan(s) shall be posted on the Town website, the 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 that is not part of an approved Annual Plan shall be done by the utility company 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).

## 8. PROHIBITED ACTIVITIES

It shall be unlawful for any person, firm, or town department to engage in any of the following activities relating to public shade trees:

- a. topping; -
- b. excessive pruning;
- c. girdling tree trunks;
- d. poisoning tree roots;
- e. causing any other kind of injury;
- f. pollarding the top and branches of a tree;
- g. tree stapling, cutting, painting, marking, hanging any public messages on trees or tree trunks without approval of the Tree Warden Designee; or
- h. tree removal without approval of the Tree Warden Designee or without following the process defined by this 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.

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

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