



REMOVAL OF NON-HAZARDOUS PUBLIC SHADE TREES BY INDIVIDUALS OR AGENCIES POLICY

General

Trees are recognized as an asset to the community, providing a healthier and more beautiful environment in which to live. Trees and other vegetation provide oxygen, shade, carbon sequestration, storm water mitigation, protection from wind, glare, and noise, view barriers, wildlife habitat, aesthetics, and priceless psychological counterpoint to the man-made urban setting. Landscaping is economically beneficial in attracting new residents, visitors, and industry. When grown in the right place and proper varieties, landscaping enhances the value and marketability of property and promotes the stability of desirable neighborhoods and commercial areas.

Purpose

This policy is to be used for the removal of any non-hazardous public shade tree by any individual, utility, organization, corporation, or agency other than the town of Fairhaven. Actual removals shall only be performed by qualified tree removal contractors.

Definitions

Certified Arborist refers to a professional arborist experienced by training and education, and possessing a current certification issued by the **International Society of Arboriculture (ISA)** or the **Massachusetts Arborist Association (MAA)**.

Caliper refers to the diameter of a tree trunk in inches, measured six inches above grade for trees up to four inches in diameter, or measured twelve inches above grade for larger trees.

Critical Root Zone (CRZ) refers to the minimum area required to be left undisturbed to provide a reasonable chance for survival. The CRZ is calculated by the DBH of the tree in inches by eighteen (inches).

Diameter at Breast Height the standard measurement of a tree trunk measured 4.5 feet above existing grade. If the tree splits into multiple trunks below 4.5 feet the measurement would be the narrowest point of the trunk immediately below the split.

Scope

This policy is to be followed for all public shade trees as defined by **Massachusetts General Law, Chapter 87** (Tree growing in the right of way, at least 1.5 inches in diameter, measured one foot above ground), other than:

- Trees that are determined by the acting Tree Warden to be dead, diseased, or dangerous. A dangerous tree is one most likely to fail, or significant portions are likely to fail, under mild environmental or man-made stress;
- Trees that are less than five inches in diameter that are, in the opinion of the Tree Warden, of no significant value.

Policy

Public shade trees shall not be removed for private purpose without suitable compensation to the town for replacements. The value of existing shade trees is to be calculated on a two inch for one-inch replacement basis. Replacements shall be at least three-inch diameter, nursery grown stock. The Tree Warden may, at their option, require larger replacements. For example, if an eighteen-inch 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 twelve, three-inch diameter replacements. Cost of replacement trees are to be derived by taking current retail price of a suitable replacement from a nursery used by the Town of Fairhaven.

In those unique situations where a particular public shade tree is unique to exceptional size, species, and historical value, or contribution to the surrounding site, the Tree Warden may require that a full tree value appraisal be performed by a Certified Arborist, using standards established by the **Council of Tree and Landscape Appraisers**, and that value will be used to determine proper compensation. *“Unique” trees under this policy would include trees that are more than thirty inches DBH, trees located in the town common or other high profile public grounds, trees that do not commonly grow in Fairhaven, or other factors as determined by Tree Warden.*

For the purposes of this policy, the Critical Root Zone of a tree is determined by multiplying the diameter of the tree in inches at the DBH by eighteen, and applying that calculated distance as a radius around the tree. For example, a four-inch DBH tree shall be deemed to have a seventy-two-inch radius CRZ. If it is determined than more than one third of the CRZ is disturbed during construction, the Tree Warden may determine that the proposed work may will have such an impact upon the tree that it is effectively killed. For the purposes of this policy only, previously paved surfaces such as sidewalks and roadways will not be considered Critical Root Zones, and will not be included in this calculation. Disturbance of the CRZ will include excavation, storage of materials, or operation of vehicles in the CRZ. In exceptional circumstances, the Tree Warden may allow a disturbance in the CRZ using special techniques, such as Air Spade work, installation of structural soil, or flexible, permeable pavement, or supervised trenching or boring. Such work will be observed by Tree Warden or Certified Arborist.

Public Notice

- An applicant who wishes to remove a non-hazardous public shade tree is responsible for the following expenses:
 - Legal advertising, pursuant to the requirements of **Massachusetts General Law, Chapter 87.**
 - A non-refundable application fee for the removal permit, payable to the town of Fairhaven, to be deposited into the Memorial Tree Fund. The permit fee shall be \$100 per parcel, not per tree. This fee covers the cost of the initial inspection and evaluation process conducted by the Tree Warden or their designated Certified Arborist.
 - The cost of the removal of the tree and stump, including the hauling away of the debris, and proper filling of the stump hole;
 - Planting of sufficient replacement trees as described elsewhere in this policy;

- Cost of Police traffic details, repair to street surface and road shoulder, protection and restoration of utility structures;
- All other cost related to the removal and replanting;

Additional Requirements and Information

At the discretion of the Tree Warden, the applicant shall either:

- Arrange to plant suitable replacements using their own contractor, Working to the Town’s specifications, OR
- Make a contribution to the town equal to the value of what is removed to be used exclusively for the purchase of planting replacements, and related expenses as described under “Policy”

If the plantings are to be undertaken by the town using money from the Tree Fund, the Tree Warden can either use town staff, or hire contractors for the actual planting.

If the applicant proposes to trim or prune a public shade tree, and if, in the opinion of the Tree Warden, the proposed work will drastically affect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of a tree. In these cases, the Tree Warden may either order the removal of a tree, or allow the tree to remain, providing it does not pose an immediate hazard. In either case, appropriate replacement plantings must be provided by the applicant, in accordance with the “Public Notice” section and outlined expense responsibility.

The tree removal contractor, to be paid by the applicant, must be approved by Tree Warden, as to equipment, qualifications, and experience. Contractors shall submit Certificates of Insurances to the town to prove they have minimum coverages.

The applicant shall submit a bond, in form and amount approved by Tree Warden, prior to commencement of work. The bond will be released after successful completion of all items of work after inspection and approval by the Tree Warden or designated Certified Arborist.

All tree work shall be performed in compliance with **A.N.S.I. Z-133** standards. Applicant must guarantee the health of the replacements for two full growing seasons from the time of planting.

Replacement trees shall be such size and species as specified by Tree Warden, and will be planted on public property, along rights of way and on setback easements allowed by **MGL Chapter 87, section 7**. Planting location will be determined by the Tree Warden.

Nothing in this policy shall prohibit the Tree Warden from refusing to permit the removal of non-hazardous trees. The Tree Warden may refuse to grant the permit for the removal of non-hazardous tree if, in his or her own opinion, the tree is historic or of scenic value, is of a size or species not commonly found along the road ways of Fairhaven, has significant wildlife value, or is a healthy or significant specimen.

All decisions made by Tree Warden are appealable to the Town Administrator.

Approved on February 21, 2023