

TOWN OF ACTON

POLICY ON THE REMOVAL OF NON-HAZARDOUS PUBLIC SHADE TREES

BY INDIVIDUALS OR AGENCIES OTHER THAN THE TOWN OF ACTON

ADOPTED BY THE TREE WARDEN AND THE SELECT BOARD ON APRIL 26, 2021

- I. Trees are recognized as an asset to the community, providing a more healthful and 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 on the right place and of proper varieties, landscaping enhances the value and marketability of property and promotes the stability of desirable neighborhoods and commercial areas.
- II. 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 Acton. Actual removals shall only be performed by qualified tree removal contractors.

III. Definitions:

- A. 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)
 - B. 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 12 inches above grade for larger trees.
 - C. Critical Root Zone (CRZ) refers to the minimum area required to be left undisturbed to provide a reasonable chance of survival. The CRZ is calculated by multiplying the DBH of the tree in inches by 18 (inches).
 - D. Diameter at Breast Height (DBH) 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 portion of the trunk immediately below the split.
- IV. This policy is to be followed for all public shade trees as defined by Massachusetts General Law, Chapter 87 (Tree growing within the right of way, at least 1.5 inches in diameter measured one foot above ground), other than:
- A. Trees that are determined by the Tree Warden to be dead, diseased, or dangerous. A dangerous tree is one that is likely to fail, or significant portions are likely to fail, under mild environmental or man-made stress;
 - B. Trees that are less than five inches in diameter that are, in the opinion of the Tree Warden, of no significant value.

V. An applicant who wishes to remove a non-hazardous public shade tree is responsible for the following expenses:

- A. Legal advertising, pursuant to the requirements of Massachusetts General Law Chapter 87.
- B. A non-refundable application fee for the removal permit, payable to the Town of Acton, to be deposited in the Tree Planting Fund. The permit fee shall be \$350.00 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.
- C. Cost of the removal of the tree and stump, including hauling away of all debris, and proper filling of stump hole;
- D. Planting of sufficient replacement trees as described elsewhere in this policy;
- E. Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility structures;
- F. All other costs related to the removal and replanting.

VI. Public shade trees shall not be removed for a 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 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 twelve three inch diameter replacements. Cost of the replacement trees are to be derived by taking the current retail price of a suitable replacement from a nursery used by the Town of Acton, and increasing the cost by a 200% markup for installation cost. For example, if the retail cost of a three-inch replacement tree is \$500.00, the installation cost would be \$1000.00, for a total cost of the replacement tree being \$1500.00.

VII. In those unique situations where a particular public shade tree is unique as to exceptional size, species, historic value, or contribution to the surrounding site the Tree Warden may require that a full tree value appraisal be performed by an experienced 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 more than 30 inches DBH, trees located on the Town Common or other high profile public grounds, trees that do not commonly grow in Acton, or other factors as determined by the Tree Warden

VIII. At the discretion of the Tree Warden, in accordance with the valuation under Section VI or VII noted above, the applicant shall either:

- A. Arrange to plant suitable replacements using their own contractor, working to the Town's specifications, or

- B. Make a cash contribution to the Town to be used exclusively for the purchase and planting of replacements, and related expenses
 - C. 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 actually planting.
- IX. 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 the tree. In these cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, providing it does not present an immediate hazard. In either case, appropriate replacement plantings must be provided by the applicant, in accordance with Section V.
- X. For the purposes of this Policy, the Critical Root Zone of a tree is an area determined by multiplying the diameter of a tree in inches at DBH by 18, and applying that calculated distance as a radius around the tree. For example, a four-inch DBH tree shall be deemed to have a 72 inch radius Critical Root Zone (CRZ). If it is determined that more than one third of the CRZ is to be disturbed during construction, the Tree Warden may determine that the proposed work will have such 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 to be Critical Root Zones, and will not be included in the 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 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 to be observed by the Tree Warden or their designated Certified Arborist.
- XI. The tree removal contractor, to be paid by the applicant, must be approved by the Tree Warden as to equipment, qualifications, and experience.
- XII. The contractor(s) shall submit Certificates of Insurances to the Town to prove they have the following minimum coverages:
1. General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit. The Town should be named as an "Additional Insured". Products and Completed Operations should be maintained for up to 3 years after the completion of the project.
 2. Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident. The Town should be named as an "Additional Insured".
 3. Workers' Compensation Insurance as required by law.

4. Property Coverage for materials and supplies being transported by the contractor, as the Town's Property Contract provides coverage for personal property within 1000 feet of the premises.
5. Umbrella Liability of at least \$5,000,000/ occurrence, \$5,000,000/aggregate. The Town should be named as an Additional Insured.

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

XIV. 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.

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

XVI. Nothing contained 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 a non-hazardous tree if, in his or her opinion, the tree is of historic or scenic value, is of a size or species not commonly found along the roadways of Acton, has significant wildlife value, or is an unusually healthy or significant specimen.

XVII. All decisions made by the Tree Warden are appealable to the Select Board