

# Town of Essex

## Tree Care Policy

### I. Purpose

It is the purpose of this policy to promote, protect, and enhance public health, safety, and general welfare by providing a mechanism for the planting, maintenance, protection, and removal of trees on public streets, parks, and municipally-owned properties within the Town of Essex. This policy also places the responsibility within the purview of the Essex Town Conservation and Trails Committee to engage citizens in the stewardship, management, and recognition of the Town's tree resources.

### II. Definitions

**Certified Arborist:** A person certified by the International Society of Arboriculture as having specialized knowledge, experience, and training related to arboriculture.

**Diseased Tree:** Any tree with a combination of structural defects and/or a health condition which makes it subject to a high probability of failure.

**Hazardous Tree:** Any tree, public or private, with visibly defined structural defects likely to cause failure of all or part of the tree and be a danger to public safety.

**Private Tree:** Any tree or any substantial portion of a tree which is in a privately owned location along a public right-of-way.

**Public Place:** Shall mean the same as defined in 24 V.S.A. §2501a(1), which is "municipal property, including a municipal park, a recreation area, or a municipal building. 'Public place' shall not include any municipal forestland or property that is subject to any ownership interest held by the Agency of Transportation."

**Public Way or Right-of-Way:** Shall mean the same as defined in 24 V.S.A. §2501a(2), which is "a right-of-way held by a municipality, including a town highway." Right of way is measured from the center line of any road within the municipality. Distance out from centerline will vary depending on individual streets. This information is available from the Department of Public Works.

**Shade Tree:** as defined in 24 V.S.A. § 2501a(3), a shade or ornamental tree located in whole or in part within the limits of a public way or public place, including school district property provided that the tree: (A) was planted by the municipality; or (B) is designated as a shade tree pursuant to a municipal shade tree preservation plan pursuant to 24 V.S.A. § 2502.

**Tree:** Any self-supporting woody plant together with its root system, growing upon the earth with one trunk of at least three inches in diameter at a height of four and one-half feet above the ground, or a multi-stemmed trunk system with a definitely formed crown. Newly planted nursery stock shall be included in this definition when the trunk is less than three inches in diameter. The Tree Warden shall determine whether an individual multi-stemmed plant shall be managed as a shade tree.

### III. Jurisdiction/Authority

The Selectboard shall appoint a Tree Warden, under 24 V.S.A. § 871. The Tree Warden may appoint a Deputy Tree Warden under 24 V.S.A. § 2505. Through its Tree Warden, the Town shall have control of all Shade Trees and shall have the authority to plant, maintain, protect, and remove such trees, except that the Essex Westford School District shall manage and have authority over Shade Trees on its property.

Nothing in this policy shall be construed to limit the authority of the Town to manage roadside vegetation as allowed under 19 V.S.A. Chapter 9, Subchapter 1.

### IV. Administrative Responsibilities/Administration

The Selectboard shall appoint a committee to oversee this policy, which may be the Conservation and Trails Committee. Among other duties, the Conservation and Trails Committee shall be an advisory organization that works with the Tree Warden to promote the improvement and preservation of a healthy environment of the Town as it relates to shade trees.

The Conservation and Trails Committee shall be responsible for the following activities:

- a. Develop a shade tree preservation plan;
- b. Maintain a shade tree inventory;
- c. Assist municipal staff and the Planning Commission in reviewing landscape master plans;
- d. Assist municipal staff and the Planning Commission in updating land use regulations regarding tree planting and maintenance requirements;
- e. Educate citizens about benefits and care, and threats to trees; and
- f. Organize an annual Arbor Day celebration.

### V. Provisions for the Management of Community Trees

The Town is supportive of planting and maintaining trees along its streets, roads, and on other municipal and private property. The benefits of street trees are well-documented and this policy is consistent with and recognizes those benefits.

The Town shall have the right to plant, maintain, and remove shade trees as may be necessary to ensure public safety, or to preserve or enhance the symmetry and beauty of public right of ways and municipal property as set forth in the following guidelines.

#### a. Tree Planting

- i. All shade trees shall be planted in accordance with the *Town of Essex Standard Specifications for Construction* and the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations. Where conflicts exist between the Town's specifications and the ANSI A300 standard the Town's specifications will control.
- ii. Trees shall be selected from the "[Vermont Tree Selection Tool](#)," published and maintained by the Vermont Urban & Community Forestry Program.
- iii. No person shall plant any tree within a public right-of-way or on municipal property without written permission of the Public Works Director or their designee.
- iv. Trees should be sited based on above and below ground site condition. All shade trees will be planted at a minimum of 30 feet from intersections.

**b. Tree Maintenance**

- i. All shade tree care shall be in accordance with the *Town of Essex Standard Specifications for Construction* and the ANSI A300 Standards for Tree Care Operations. Where conflicts exist between the Town’s specifications and the ANSI A300 standard the Town’s specifications will control.
- ii. All contractors who work on Shade Trees shall have on staff a certified arborist.
- iii. It shall be the responsibility of any person owning property bordering on a public street, sidewalk, recreational path, or other public right-of-way to ensure that private trees or shrubs that are dead, diseased, or injured do not pose an unreasonable risk of property damage or bodily injury occurring within such public right-of-way.

**c. Tree Removal**

- i. In accordance with 24 V.S.A. § 2502, the Tree Warden may remove or cause to be removed any Shade Tree that is diseased, dying, or dead which create a hazard to public safety or threaten the effectiveness of disease or insect control programs.
- ii. If, in the opinion of the Tree Warden, a shade tree constitutes no hazard to public safety and is determined to be healthy but needs to be removed, then the Tree Warden shall post public notice and shall proceed in accordance with 24 V.S.A. § 2509.

**d. Tree Protection**

- i. No shade tree shall be pruned, removed, or harmed in any way without the written permission of the Tree Warden.
- ii. Any construction within the outer most drip line of shade trees requires consultation with the Tree Warden who may provide specific written requirements for additional protections.
- iii. Unless specifically authorized in writing by the Tree Warden, no person or agency shall do anything reasonably likely to harm a shade tree, including but not limited to the following acts which are prohibited as to any part of a shade tree: cutting, carving, transplant, removal, piercing, tying, girdling, topping, burning, charring, poisoning, painting, marking, contacting with a harmful substance, or attaching any foreign object (such as but not limited to rope, wire, nails, posters).

**VI. Control of Hazardous Trees & Trees Infested with a Pest or Pathogen**

The Town, in consultation with the Tree Warden, may remove or cause to be removed any Public or Private Tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to the Town’s infrastructure or other public improvements, or is affected with any injurious disease, insect, or other pest, in accordance with 24 V.S.A. § 2511.

If the Tree Warden shall determine with reasonable certainty upon inspection or examination that any hazardous tree herein defined exists in or upon any private premises within the municipality, and may damage or cause injury in the municipal right-of-way, he/she may notify the owner of such premises, or their agent, in writing, that said nuisance tree must be treated, trimmed, removed, or otherwise abated. Said written notice shall specify the nature and exact location of the hazardous tree, the manner in which the hazard shall be abated, and the time limit in which the hazard shall be abated. Said limit shall not be less than fifteen (15) days after issuance of said notice unless the Tree Warden shall determine that immediate action is necessary for public safety.

**VII. Appeals**

Decisions made by the Tree Warden for Shade Tree cutting or removal shall be adjudicated per 24 V.S.A. § 2509.

**VIII. Penalties**

Penalties for violation of this policy shall be in the amounts laid out under 24 V.S.A. § 2510 and enforced by the Tree Warden as the issuing municipal official.

Adopted this 18<sup>th</sup> day of April, 2022.

*Andrew J Watts*

Andrew J Watts (Jun 25, 2022 17:16 EDT)

Andrew Watts, Selectboard Chair

*Kendall Chamberlin*

Kendall Chamberlin (Jun 17, 2022 12:42 EDT)

Kendall Chamberlin

*Tracey A Delphia*

Tracey A Delphia (Jun 21, 2022 21:10 EDT)

Tracey Delphia, Vice Chair

*Dawn Hill-Fleury*

Dawn Hill-Fleury (Jun 16, 2022 17:30 EDT)

Dawn Hill-Fleury

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Ethan Lawrence, Clerk