

Town of Waterbury Tree Care Ordinance

I. Definitions

American National Standards Institute: ANSI A300 standards present performance criteria and direction for the care and management of trees, shrubs, and other woody plants.

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 or shrub 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 or shrub, 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.

Public Place: Any property, including a municipal park, a recreation area, or a municipal building.

Public way: Any 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 Town. Distance out from centerline will vary depending on individual streets. This information is available from the Department of Public Works.

Shade tree: a shade or ornamental tree planted by the municipality located in whole or in part within the limits of a public way or place. In rural areas, a shade tree within rights of way shall be defined as a tree that is greater than or equal to 6 inches in diameter at chest height.

Any designated shade tree outlined in the municipal **Shade Tree Preservation Plan** pursuant to section 24 V.S.A § 2502 of this title is included.

II. Purpose

The purpose of the ordinance is to promote, protect, and enhance public health, safety, and general welfare by providing an ordinance governing the planting, maintenance, protection, and removal of shade trees within public ways and public places within the Town of Waterbury. In addition, this ordinance shall serve as the **Shade Tree Preservation Plan**.

III. Authority

In accordance with 24 V.S.A § 871, the Select Board shall appoint a Tree Warden who need not be a resident of the municipality. Through its Tree Warden, the Town shall have control of shade trees and shall have the authority to plant, maintain, protect, and remove such trees. The Tree Warden shall serve on the Waterbury Tree Board.

The Select Board may appoint a Deputy Tree Warden under 24 V.S.A § 2505 who shall serve under the direction of the Tree Warden and shall have the same duties and authority as the Tree Warden.

Waterbury Tree Board

The Select Board shall appoint a Tree Board for specific purposes outlined in the Tree Care Ordinance. The Waterbury Tree Board is an advisory group that works in conjunction with the tree warden to promote the improvement and preservation of a healthy environment of the town as it relates to shade trees. The Tree Board shall consist of seven Waterbury residents and may include a municipal staff person, all whom shall be elected by the Select Board. Members will serve staggered terms of three years and will serve without compensation.

The Waterbury Tree Board shall be responsible for the following activities:

- Develop an annual plan for tree planting, maintenance, protection and removal of shade trees;
- Maintain an accurate shade tree inventory;
- Assess and implement the planting, maintenance, protection and removal of shade trees;
- Seek grant funds to support the Tree Inventory and Shade Tree Preservation Plan, and for the planting, maintenance, protection and removal of shade trees;
- Educate the Waterbury Community about the benefits, care, and risks to the health of trees;
- Organize an annual Waterbury Arbor Day Tree celebration.

IV. Public Tree Planting, Maintenance, Protection, and Removal

The Town is supportive of planting and maintaining shade trees in public ways and places pursuant to 24 V.S.A. § 2501a. as well as on other Town and private property. The benefits of trees are well documented, and this ordinance is consistent with and recognizes those benefits.

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

1) Planting Specifications

- a. Shade trees to be planted within public ways and places should be appropriate for the site, meet the intended planting functions and increase the overall tree species diversity of the town. To help assure that appropriate trees are selected, trees shall be chosen by a licensed landscape architect, Certified Arborist, or other appropriate professional staff with concurrence of the Tree Committee and the Tree Warden.

- b. The quality of shade trees to be planted must conform to the most current version of the American Standard for Nursery Stock for landscape trees.
- c. All shade trees shall be planted in accordance with the most current version of ANSI A300 Standards for Tree Care Operations.
- d. Shade trees should be sited based on above and below ground site conditions.

Minimum offsets from the tree trunk for intrusion elements should be as follows:

Light standard: 18 feet

Utility pole: 10 – 18 feet depending on cross arm size

Hydrant: 15 feet

Driveway: 10 feet

Cross walk: 5 feet

Transformer/connection box: 6 feet

Underground utility connection: 15 feet

Street sign: 6 feet

Exceptions may be granted only by approval of the Tree Warden. DigSafe shall be called prior to digging to identify potential conflicting underground utilities.

2) Maintenance

- a. The care of all shade trees shall be in accordance with the current version of ANSI A300 Standards for Tree Care Operations.
- b. All contractors who work on shade trees shall have a Certified Arborist on staff.

3) Protection:

In accordance with 24 V.S.A § 2508 & 2509, cutting of shade trees is prohibited. No shade tree shall be pruned, removed, or harmed in any way without the permission of the Tree Warden or Deputy Tree Warden. Furthermore, no person shall plant any tree within public ways and places without permission from the Tree Warden or Deputy Tree Warden.

Penalties for such actions may apply. In accordance with 24 V.S.A. § 2510, whoever shall willfully mar or deface a shade tree without permission from the Tree Warden or Select Board of the municipality be fined.

Any person who willfully and critically injures or cuts down a shade tree without written permission of the tree warden or Select Board shall be fined pursuant to 13 V.S.A. § 3602 for each tree so injured or cut, payable to the municipality.

4) Removal: Cutting shade trees; notice and hearing.

In accordance with 24 V.S.A. § 2509 the Tree Warden or Deputy Tree Warden shall post public notice of the intent to cut or remove a shade tree. The notice shall be posted a minimum of 15 days prior to cutting or removing the tree. If the cutting or removal is appealed the Select Board of the municipality shall hold a public hearing. This does not apply to the cutting or removal of a shade tree or trees that:

- Are infested with or infected by, or at risk to become infested with or infected by, a tree pest and are located in an infestation are designated by the Agency of Agriculture, Food and Markets and Department of Forests, Parks, and Recreation.
- Are a hazard to public safety, or;
- Must be removed for the municipality to comply with State or Federal law permitting requirements.
- Removal of infected ash trees shall be in accordance with the Town Emerald Ash Borer preparedness plan.

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 shade tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to the town infrastructure or other public improvements, or is affected with any injurious disease, insect, or other pest, in accordance with 24 V.S.A. § 2511:

Obstruction of Streets and Sidewalks

It shall be the responsibility of each property owner of any tree overhanging any public way or place to ensure the trees and shrubs on that property are maintained in a manner that will not obstruct: street lights from illuminating street level; the passage or visibility of vehicles or pedestrians; vision of traffic signs and signals; or the view of any intersection. If said owners fail to comply, the Town shall have the right to prune any tree or shrub on private property.

July 10, 2023