

# Town of Middlebury Tree Policy

## **I. Purpose**

It is the purpose of this policy to promote, protect, and enhance public health, safety, and general welfare by providing a policy governing the planting, maintenance, protection, and removal of trees, shrubs, and other woody plant material within public rights-of-way and public places within the Town of Middlebury.

It is the intent of the Middlebury Tree Committee that the terms of this policy shall be construed so as to promote: a) the planting, maintenance, protection, and survival of desirable trees, shrubs, and other woody plant materials within the Town and in accordance with standards and practices recognized by the International Society of Arboriculture (ISA), and the Vermont Urban & Community Forestry Program, and, b) the protection of community residents and property from damage caused or threatened by storm damaged, diseased and/or insect infested trees, and/or the improper planting, maintenance, or removal of trees, shrubs, and other woody plant material within the Town.

## **II. Definitions**

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

***Drip Line:*** is defined as the outermost circumference of the tree's canopy, from which water drips onto the ground. The 'dripline area' is taken to include the soil and roots that lie within that circumference.

***Diseased Tree:*** Any tree or shrub with a combination of structural defects and/or a health condition and/or infestation, 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 Tree:** All trees and shrubs on any Town park or other property owned or controlled by the Town on any public street, alley, median, sidewalk, or highway within the public right-of-way, as well as school district trees.

**Public Right-of-Way:** Right-of-way is measured from the centerline 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.

**Private Tree:** Any tree or shrub or any substantial portion of a tree, shrub, or plant which is on private property along a public right-of-way.

**Street Tree:** Any tree or shrub located on either side of all streets, avenues, bike paths, and located within the bound of all Town right-of-ways.

**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.

### **III. Authority and Administration**

The Tree Warden shall have the authority to apply the policy by use of Town employees, members of the ad-hoc Middlebury Tree Committee, or private contractors. The Tree Warden shall have administrative responsibilities that include but are not limited to the following:

- Prepare an annual program for tree planting and care of public trees in the Town under the guidelines of the Tree Policy;
- Inspect the planting, maintenance, and removal of all public trees;

- Determine the necessity of street and park tree removal;
- Maintain a tree inventory;
- Work in an advisory capacity with the appropriate board/ committee/commission in reviewing proposed project applications regarding public trees;
- Ensure assessment process is conducted before private contractors work on public trees;
- Initiate a stop-work order for violations of any part of the Town tree policy.

#### **IV. Provisions for the Management of Community Trees**

The Town of Middlebury is supportive of planting and maintaining trees along its streets, roads, and on other Town 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 public trees as may be necessary to ensure public safety, or to preserve or enhance the symmetry and beauty of public right-of-ways and Town property as set forth in the following guidelines.

##### ***Tree Planting***

- All Public Trees shall be planted in accordance with American National Standards Institute (ANSI) A300 Standards for Tree Care Operations.
- Trees shall be selected from the booklet, “Recommended Trees for Vermont Communities”, published by Vermont’s Urban & Community Forestry Program, a copy of which shall be

maintained by the Tree Advisory Committee and available for public viewing at the Town Office. This document is also available online at [www.vtcommunityforestry.org](http://www.vtcommunityforestry.org)

- All newly planted public trees will carry a one year maintenance and replacement guarantee.
- No person shall plant any tree within Town right-of-ways or on Town property without written permission of the Tree Warden.
- Trees should be sited based on above and below ground site condition. All Public Trees will be planted at a minimum of 30 feet from intersections.

### ***Tree Maintenance***

- All Public Tree care shall be in accordance with the ANSI A300 Standards for Tree Care Operations.
- All contractors who work on Public Trees shall have on staff a Certified Arborist.
- 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 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.

### ***Tree Removal***

- In accordance with 24 V.S.A. § 2502, the Tree Warden may remove any Public Tree that is diseased, dying, or dead which creates a hazard to public safety or threatens the effectiveness of

disease or insect control programs.

- If, in the opinion of the Tree Warden, a Public Tree constitutes no hazard to public safety and is determined to be healthy but needs to be removed, then the Tree Warden will warn a public hearing and shall be in accordance with 24 V.S.A. § 2509: “A Public Shade Tree within the residential part of a municipality shall not be felled without a public hearing by the tree warden, except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, no hearing shall be required. In all cases the decision of the Tree Warden shall be final except that when the Tree Warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality.”
- Two weeks before the scheduled removal of the tree the public will be notified via a Selectboard meeting and/or paper of record and a sign will be posted on the Public Tree of the proposed action to be taken and the Public Hearing time, date, and place.
- Anyone contesting the removal of a Public Tree must do so to the Tree Warden between the time of posting the tree removal notice and the hearing, at the hearing or within 24 hours of the decision having been made. After informing the Tree Warden, a written appeal must be submitted within two weeks to the Tree Warden and the Selectboard. The Tree Warden will notify the appellant by certified mail of the hearing with the Trustees; the decision of the Selectboard will be final.

### ***Tree Protection***

- No Public Tree shall be pruned, removed, or harmed in any way without the written permission of the Tree Warden.
- Any construction within the outermost drip line of Public Trees requires consultation with the Tree Warden who may provide specific written requirements for additional protections.

## **V. 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 infrastructure or other public improvements, or is affected with any injurious disease, insect, or other pest, in accordance with 24 V.S.A. § 2511: “When an insect or disease pest infestation upon or in public or private shade trees threatens other public or private trees, is considered detrimental to a community shade tree preservation program or threatens the public safety, the tree warden may request surveys and recommendations for control action from the commissioner of agriculture, food and markets. On recommendation of the commissioner of agriculture, food and markets, the tree warden may designate areas threatened or affected in which control measures are to be applied and shall publish notice of the proposal in one or more newspapers having a general circulation in the area in which control measures are to be undertaken. On recommendation of the commissioner, the tree warden may apply measures of infestation control on public and private land to any trees, shrubs or plants thereon harboring or which may harbor the threatening insect or disease pest. He/She may enter into agreements with owners of such lands covering the control work on their lands, but the failure of the tree warden to negotiate with any owner shall not impair his right to enter on the lands of said owner to conduct

recommended control measures, the cost of which shall be paid by the municipality or the property owner.”

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 Town, and may damage or cause injury in the Town ROW, 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 limited in which the hazard shall be abated which 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.

#### **VI. Tree Replacement**

The removal of a public tree shall require replacement as deemed suitable by the Tree Warden.

## REFERENCES

[www.vtcommunityforestry.org](http://www.vtcommunityforestry.org)

<https://legislature.vermont.gov/statutes/section/24/067/02502>

[https://www.tcia.org/TCIA/BUSINESS/ANSI\\_A300\\_Standards\\_/TCIA/BUSINESS/A300\\_Standards/A300\\_Standards.aspx?hkey=202ff566-4364-4686-b7c1-2a365af59669](https://www.tcia.org/TCIA/BUSINESS/ANSI_A300_Standards_/TCIA/BUSINESS/A300_Standards/A300_Standards.aspx?hkey=202ff566-4364-4686-b7c1-2a365af59669)

[https://www.essexjunction.org/fileadmin/files/Tree\\_Committee/trees.pdf](https://www.essexjunction.org/fileadmin/files/Tree_Committee/trees.pdf)

[https://vtcommunityforestry.org/sites/default/files/pictures/town\\_of\\_grand\\_isle.pdf](https://vtcommunityforestry.org/sites/default/files/pictures/town_of_grand_isle.pdf)

<http://www.shelburnevt.org/DocumentCenter/View/110/Tree-Policy?bidId=>