

Town of Bedford Tree Policy

Purpose

The purpose of this policy and appendices is to promote a diverse, healthy and sustainable urban forest to provide for the general welfare of Bedford's citizens. A healthy urban forest improves the quality of air and water, controls erosion, moderates air temperature, absorbs carbon, reduces noise, enhances appearance and increases property values. Trees define public spaces and create civic identity. See Appendix I.

This policy sets out measures to protect Town Trees from construction and other preventable damage and to facilitate implementation of regulation of Mass. General Laws Chapter 87-defined Public Shade Trees. This policy establishes conditions for long-term preservation and expansion of the urban forest.

Definitions

When used in this policy, the following definitions apply:

AREA WITH TREES – a wooded lot; a lot containing 10 trees or more per acre, pro rated for smaller or larger areas – see Mitigation #4

APPLICANT — Any person, firm, partnership, association, corporation, company or organization of any kind including public or private utility and municipal department.

BEDFORD ARBOR RESOURCES COMMITTEE (BARC)—An advisory board under the aegis of the Selectmen whose Charter is to enhance the quality of life in Bedford by protecting and preserving, developing and managing the arbor resources on publicly-owned lands and by encouraging preservation and development of resources on private lands. See Charter.

CALIPER — Diameter of a tree trunk (in inches) measured six inches above the ground for trees up to and including four-inch diameter, and 12 inches above the ground for larger trees.

DBH (“Diameter at Breast Height”) — The diameter (in inches) of the trunk of a tree (or, for multiple trunk trees, the aggregate diameters of the multiple trunks) measured 4 1/2 feet from the existing grade at the base of the tree.

DONATION – a financial contribution to the Town Tree Fund for the sole use of maintenance or purchase of Town or Public Shade Trees

EXCLUSIONS TO TOWN TREE – see Town Tree

JENKS NATURE TRAIL – An historic arboretum in the center of town that has its roots in the early 1900's, with specimen trees planted by Bedford's first Tree Warden, Charles W Jenks. It is governed according to the authority delineated in the Memorandum of Agreement Between Bedford Selectmen, School Committee, and Library Trustees on April 19, 2005.

PUBLIC SHADE TREE — Any tree within the public right-of-way except for state highways, as determined by the Tree Warden; that is, it has any portion of the stem between six inches and 4 1/2 feet above grade actively growing into the public right-of-way. All Public Shade Trees are Protected Trees under the aegis of MGL Ch. 87¹.

See also Town Tree

RISK TREE - A Town Tree or a Public Shade Tree that is dead or dying, has dead parts, or is unstable due to structural defects or other factors and is within striking distance of people or property. Risk Trees have the potential to cause property damage, personal injury or fatality in the event of a failure.

A Risk Tree on Private Property – If there is a Risk Tree on private property that may have an impact on the public way, the Tree Warden may require the homeowner to have the tree removed at the homeowner's expense.

SIGNIFICANT TREE – A Significant tree is any Town Tree or Public Shade Tree that is non-invasive and has been individually designated by the Selectmen with advice by the Tree Warden, the Conservation Commission, the Historic District Commission &/or Bedford Arbor Resource Committee by virtue of being considered an important community resource because of its unique or noteworthy characteristic or value; typically a large, individual tree with unique value (for example, by virtue of its outstanding size and quality for its particular species or historic value) which is considered irreplaceable.

Significant Trees include trees that are Donated, Heritage and Memorial. Any tree in the Jenks Nature Trail arboretum is a Heritage Tree.

Significant Trees are listed in Appendix II of this policy.

DONATED TREE – A Town Tree or a Public Shade Tree is considered to be donated when an applicant provides the Town with a completed application and contributes funds to the Town Tree Fund to cover purchase, planting and maintenance for three years. The applicant may choose the species of tree from a list of Town-approved trees or a species approved by the Tree Warden.

HERITAGE TREE --Any Town or Public Shade Tree that has been individually designated by the Selectmen in consultation with the Tree Warden, HDC &/or BARC, as having unique value and is considered irreplaceable; or is part of the historic Jenks Nature Trail. The major criteria for Heritage Tree designation include age, rarity, and size, as well as aesthetic, botanical, ecological, and historical value.

MEMORIAL TREE-- A Tree that has been donated to the Town to honor or memorialize an event or person(s); or a Tree dedicated by the Town as Memorial. The Memorial Tree can be a Town or Public Shade Tree.

¹ <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter87>

TOWN TREE — Any tree greater than 6” DBH on town-owned property or on leased land being used as a public facility, including but not limited to trees adjacent to public buildings, such as public schools and libraries; within commons, public parks, open space, cemeteries, fields or wooded lots; which are under the jurisdiction of the selectmen acting as park commissioners, or their appointed designee.

Exclusions to Town Tree:

1. Trees on property under the authority of Conservation Commission, Historic District Commission and the Planning Board are Bedford's Public-owned Trees but are not, for the purposes of this policy, Town Trees.
2. Trees under the jurisdiction of other Town policies, bylaws, memoranda or contract, trees under the jurisdiction of the Sudbury Valley Trustees (SVT), the Jenks Nature Trail Memorandum of Agreement, the Scenic Road Bylaw, trees on federal lands, such as Hanscom Air Base, Veterans Administration, and Great Meadows National Wildlife Refuge.
3. Public Shade Trees covered by Ch.87 are not Town Trees.

See also Public Shade Tree

TREE MAINTENANCE – Any action that promotes the health of the tree. A violation includes any action that damages the tree.

TREE REMOVAL — Any act that will cause a tree to die within a three-year period.

TREE TAG— A placard that identifies a tree or trees that will be removed without a hearing (i.e., a Risk Tree) or is slated for a Tree Hearing; e.g., Public Shade Tree; Town Tree or Scenic Road Hearing.

A Tree Tag will have the following characteristics:

1. A Tree Tag will be affixed to a tree for an individual or small number of trees. Large groupings of trees, defined at the discretion of the Tree Warden, may be enclosed by colored tape rather than individual tags and tags can be affixed to a prominent tree or trees.
2. Tags should be reasonably visible to most passersby, including pedestrians and motorists, as applicable
3. Tags will include contact information for the DPW. In the case of a tree scheduled for a Tree Hearing, the date of the Hearing will be included, as well as species and DBH.
4. Tags that denote a Risk Tree or a tree scheduled for a Tree Hearing will be of distinct colors.

Jurisdiction

This policy and appendices applies to the care and preservation of Public Shade Trees pursuant to Mass. General Laws Chapter 87 and facilitates additional notification, mitigation, and enforcement requirements related to the maintenance and removal of such trees. It separately also applies to the maintenance and removal of Town Trees on Town-owned property subject to the control of the Bedford Selectmen, with certain exclusions. In all cases the Bedford Tree Warden and his/her designees shall administer and enforce the policy and the Bedford Arbor Resources Committee (BARC) shall advise the Tree Warden and the Selectmen. The Tree Warden is authorized to promulgate reasonable rules and regulations to implement administration of this policy.

The table below summarizes the process, mitigation, and enforcement under this policy.

Proposed Pruning or Cutting of Trees	Review Process	Mitigation	Enforcement
Private request for tree cutting per MGL c. 87 (e.g., roadside trees)	1. Optional Tree Warden /BARC Meeting 2. Review by other applicable Town boards 3. Shade Tree Hearing per MGL c. 87	Choice of +Tree mitigation per Appendix I schedule +Donation to tree replacement/ maintenance fund per Appendix I	+ MGL c. 87 + MGL c. 40 §21D + MGL c. 263 §4 +Bedford Town Bylaw Article 36
Public request for tree cutting per MGL c. 87 (e.g., public roadside trees: sidewalk installation, trimming program, etc.)	1. Optional Tree Warden /BARC meeting 2. Review by other applicable Town boards 3. Shade tree hearing per MGL c. 87	Choice of +Donation to tree replacement/ maintenance fund per Appendix I + Request made to abutters for space for Town-provided tree replacement and/ or +Tree replanting at other locations recommended by BARC &/or Tree Warden	+ MGL c. 87 + MGL c. 263 §4
Public request for Town Tree cutting on Town land (e.g., athletic field, school construction, etc.)	1. Optional Tree Warden /BARC Meeting 2. Review by other applicable Town boards 3. Town Tree Meeting	Contribution to the Tree Replacement/ Maintenance Fund and/or tree planting, primarily for use other than at the project per Appendix I	+ MGL c. 263 §4

Process

A Tree Maintenance or Removal Permit Application (the Application) shall be accompanied by an administrative fee of \$25.00. Such fee shall be waived if the applicant is a Town Department, Agency, Commission or other public instrumentality of the Town or if the Tree Warden determines in writing that the proposed activity will benefit the health of the tree or the wellbeing of the public. The Tree Warden shall notify BARC on receipt of the Application. No permit for the maintenance or removal of a Town Tree(s) shall be granted until the Tree Warden concludes that the following conditions are met. No Town Tree or Public Shade Tree shall be pruned or removed prior to receiving the permit.

1. Notification for all meetings
 - a. All meetings will be posted to conform to open meeting laws.
 - b. Meetings shall also be posted on an online news medium of local circulation.
 - c. Trees shall display a Tree Tag.

2. Meetings
 - a. Optional Tree Warden/BARC Meetings - will take place at a scheduled meeting of BARC to promote wider community input early in any private-entity or Town project that requires the pruning or removal of Town Trees and Public Shade Trees and, in order to increase the opportunity for all parties to participate fully in a discussion of the project.
 - b. Town Tree Meetings – are for public requests for cutting trees on Town property and will take place at a BARC meeting. They are the final attempt to attain consensus. If consensus cannot be attained, appeal to Selectmen is available to all parties.

3. Mitigation

a. Replacement Trees

A person who has removed a protected tree and is required to replace such as a condition of being granted a Tree Permit, shall replace such tree within eighteen (18) months from the date the tree permit is issued, or prior to transfer of property ownership, whichever comes first, and in accordance with the standards listed in the appendix. The replacement tree(s) shall be required to survive for a minimum of thirty-six (36) months from the date it is planted. The person planting the tree shall provide documentation as to the date of planting and file the same with the Tree Warden within fifteen (15) days of the planting of said replacement tree(s). A replacement tree shall be planted either on the same lot from which the tree was removed or on other town property per condition of granting the permit.

b. Tree Replacement/ Maintenance Fund

1. Established: There is hereby established a Tree Replacement / Maintenance Fund which shall be held in a separate identifiable account and administered in accordance with applicable provisions of the Mass. General Laws. Any payments required by this policy shall be deposited in the Tree Replacement /Maintenance fund.
2. Payment in lieu of planting replacement tree(s): In lieu of planting a replacement tree(s) as provided under Mitigation in the Appendix, a person or entity who has been granted Tree Maintenance or Removal Permit may make a contribution to the Tree Replacement/ Maintenance fund in an amount based on the schedule.
3. Administration of Tree Replacement / Maintenance fund: The fund shall be maintained in a separate account in accordance with state law. All sums deposited into such fund shall be used solely for the purpose of buying, planting and maintaining trees in the Town.
4. Payment computation: Compensation includes the cost of purchasing the tree as well as the labor of planting and maintaining the tree for three years. The Tree Warden may recalculate the fee as necessary to compensate for changes in costs.
5. Use of Tree Replacement / Maintenance Fund: The Tree Replacement/ Maintenance Fund shall be used primarily at sites other than that from which the trees were removed. Use at the site from which trees were removed will be, at most, occasional and supplemental.

c. Fee Schedule

See Appendix I, Section IV: Mitigation.

4. Decision and Appeal

- a. For Public Shade Trees, the Mass. General Laws Chapter 87, Public Shade Tree Hearing, provides a process for approval as well as appeal of no approval to the Selectmen. The determination shall be filed with the Town Clerk.
- b. For Town Trees proposed to be pruned or removed, approval or lack of approval shall be noted in the minutes of the Town Tree Meeting and initialed by the Tree Warden and representative of BARC. The minutes shall be filed with the Town Clerk. The decision may be appealed to the Selectmen by any party.

Enforcement

Any person violating this Policy is subject to the penalties under MGL c. 87 (Shade Trees), MGL c. 40 §21D (Noncriminal Disposition), MGL c. 263 §4 (Criminal Complaint), and Town Bylaws Article 36.1 (Denial, Revocation, or Suspension of Licenses and Permits). The Tree Warden and his/her designees are authorized to enforce the provisions of this policy. Each tree cut that is subject to this policy shall constitute a separate offense.

Emergencies and exemptions

Emergency projects are necessary for public safety, health and welfare as determined by the director of public works, the town manager, or the selectmen/park commissioners. See Risk Tree definition in Appendix I.

Conflict of Laws

Nothing herein is intended to conflict with the General Laws, Chapter 87 and to the extent that any provision hereof conflicts with said Chapter 87, nothing herein is intended to conflict with any state law regulating public utilities and to the extent that any provision hereof conflicts with state law, such provision shall not be valid.