



Important Information for Developers Regarding Public Shade Trees

Are you planning a development project which may require the removal of trees within a public Right of Way? There are certain STATE LAWS you need to be aware of.

Massachusetts General Laws Chapter 87 (Public Shade Tree Law) protects the unauthorized cutting, trimming, or removal of public shade trees without approval of the Town's Tree Warden.

Public Shade Trees are defined as any tree (regardless of species) within a public Right of Way*. Although the law refers to 1.5 inches as the minimum size for a tree requiring a hearing, the Mass Tree Wardens' and Foresters' Association is actively working to propose a change to the legislation which would increase the minimum size to 4 inches.

Generally speaking, the 4 inch rule has been adopted in the industry, with exceptions being made for smaller trees which were obviously and purposely planted as street trees. The Town's Tree Warden has the authority to make this determination.

The procedure for securing a permit to cut, trim, or remove a healthy public shade tree is as follows:

1. A written request is made to the Tree Warden to remove a public shade tree by sending a letter to the Department of Public Works, 121 Glen Road, Wilmington, MA 01887.
2. The Tree Warden will inspect the tree and consider the reasons for the removal request.
3. The Tree Warden will schedule a public hearing. In circumstances where the public shade tree is located within a scenic road, the hearing is held with the Planning Board. If the tree is considered unhealthy, unsafe, or is considered a hindrance or partial hindrance which affects public safety, the Tree Warden may decide the tree be removed without a tree hearing.
4. Notice of the public hearing is given by the Tree Warden, identifying size, type and location of the shade tree or trees to be cut down or removed. The notice shall be posted in two or more public places in the town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than seven days before the hearing. **The applicant is responsible for bearing the cost of the newspaper ads.**
5. Upon completion of the public hearing, the Tree Warden issues a written permit for the removal of the tree or trees. If written objection is made by one or more persons to the Tree Warden at or before the public hearing, a permit to cut or remove cannot be issued unless approved by the Board of Selectmen.

**MGL Chapter 87 Section 7 also allows for certain purposely planted street trees within 20-feet of the front property line to be considered Public Shade Trees. Proof that these trees were planted with intent to conform to this law must be provided in order for protection to take effect.*

Do your homework early on in your development process to determine if you will need to remove Public Shade Trees for your project. Early engagement will help minimize impact to your construction timeline. Please contact the Wilmington Tree Warden for more information:

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THIS IS A STATE LAW!