

Public Hearing Notice and Participation Protocols
Electronic Meeting

**TOWN OF HAMDEN, CONNECTICUT
LEGISLATIVE COUNCIL**

NOTICE OF PUBLIC HEARING

Notice is hereby given of a Public Hearing to be held by the Public Works & Parks Committee on Wednesday, September 8, 2021, via Zoom, <https://zoom.us/j/96032210583> (Password: Dragons) at 7:00 P.M., for the following purpose:

Hamden tree ordinance

Dated: September 2, 2021


Kim Renta, Clerk

This meeting will be a 100% electronic meeting. The Legislative Council Chambers at Memorial Town Hall will be closed. Additional information necessary to join this meeting, and the ordinance, are available on the website of the Town of Hamden on the Legislative Council's page and/or the meeting agenda.

**TOWN OF HAMDEN
LEGISLATIVE COUNCIL**

HAMDEN TREE ORDINANCE

Whereas, pursuant to section 7-148 of the Connecticut General Statutes, the Town of Hamden may, by ordinance, provide for the planting, rearing and preserving of shade and ornamental trees on the streets and public grounds; and

Whereas, the Town wishes to establish a framework for tree policies, regulations and standards in order to protect, preserve and enhance trees on the streets and public grounds within the Town of Hamden.

Now Therefore Be It Ordained, that Chapter 53 is added to Title V: Public Works of the Code of Ordinances and Sections 53.01 to 53.10 are hereby adopted as set forth below.

§53.01. **PURPOSE**

The purpose of this ordinance is to protect, preserve and enhance the town trees that constitute the Town of Hamden's community forest by establishing a framework for tree policies, regulations and standards. The Town shall be proactive in conserving the values associated with these trees by encouraging maintenance, minimizing unnecessary removals and encouraging new tree planting. A healthy community forest benefits the public interest in many ways including the following: improved air quality, reduced storm water runoff and erosion, traffic calming, quieter neighborhoods, energy savings, wildlife habitat, increased property values, and a generally improved quality of life.

§53.02 **INTENT**

The intent of the ordinance is to:

- (a) Establish regulations for the care of Hamden's community forest with the consent and advice of the Mayor;
- (b) Institute policies regarding Hamden's town trees and community forest:
- (c) Document jurisdiction, enforcement responsibilities and penalties for violations; and
- (d) Promote best practices in the management of town tree resources.

§53.03. **JURISDICTION**

The Town of Hamden shall have control of all street trees, shrubs and other plantings in any public street, park, public right-of-way, or other public place within the Town limits and shall have the power to plant, protect, care for, remove or replace such trees, shrubs, or other plantings. Control shall not include any limbs, roots, or parts of trees and shrubs that extend or overhang any non- Town-owned property.

§53.04. RESPONSIBILITIES OF TREE WARDEN AND TREE COMMISSION

(a) Tree Warden- The position, powers and duties of the Tree Warden are defined in Sections 23-58 through 23-60 of the Connecticut General Statutes. Per statute, this person is appointed by the Mayor. The Tree Warden shall control and care for all trees and shrubs in whole or in part on town-owned land. It is the responsibility of the Tree Warden and/or the Director of Public Works or their designee to enforce the regulations of the Tree Commission.

If the Tree Warden does not possess a current Connecticut arborist license, the Town shall be required to contract the services of a licensed arborist to work in a consulting role with the Tree Warden.

(b) Tree Commission- The Tree Commission's duties, responsibilities and rights are defined by Sections 33.140 to 33-143 of the Hamden Code of Ordinances.

§53.05. DEFINITIONS

For the purpose of this ordinance, the following terms are defined as follows:

- (a) Abutting Property Owner: The owner of a parcel of land, adjacent to a public tree.
- (b) ANSI A300 Standards: Written specifications to manage trees, shrubs and other woody plants developed by the Tree Care Industry Association and the American National Standards Institute (ANSI).
- (c) Canopy Cover: The land area covered by tree crowns, as viewed from the air.
- (d) Community Forest: Those trees and tall shrubs located on public property as defined by this ordinance.
- (e) Hazardous Tree: Any tree determined to be a risk to public safety or property that meets the criteria defined in Section 53.06 (b)(1) below of this ordinance.
ISA: International Society of Arboriculture.
- (f) Property Owner: The owner of record of any parcel of land.
- (g) Prune: The selective removal of parts of a tree such as branches, usually for the purpose of maintaining a tree's health, reducing risk and providing clearance.
- (h) Right-of-way: Any land in the public ownership adjacent to any accepted Town road or easement.
- (i) Shrub: A woody plant usually branched from the based, less than 15 feet when mature.
- (j) Street Tree: Any tree located within the town right-of-way of a town road.
- (k) Town Property: Any land owned by the Town of Hamden or under its jurisdiction or management, including property within lawfully established rights-of-way.

(l) Town Trees: All trees on the Town's public property, including Town street trees.

(m) Tree: A perennial woody plant having a main trunk and usually a distinct crown, reaching a height of at least 15 feet when mature.

(n) Tree Lawn: The green planting space between the edge of the street and the edge of the sidewalk, or between the edge of the street and the edge of the Town's right-of-way as measured from the centerline of the street

§53.06. GENERAL REGULATIONS AND OPERATIONS

The Town of Hamden shall have the discretion to plant, prune, maintain and remove trees, plants and shrubs on public property and rights-of-way, as may be necessary, to ensure public safety or to preserve or enhance the health and function of the community forest.

(a) Protection- As valued assets of the Town, canopy cover and healthy trees may be protected in the following ways:

(1) Establishing clearance limits over roadways and sidewalks to allow for vehicular, bicycle and pedestrian traffic.

(2) Taking necessary precautions to protect trees and their root zone during maintenance procedures, such as lawn mowing and weed trimming, and during construction activities, including sidewalk and street work, soil grading and trenching, and compaction of soil caused by repeated vehicular traffic within tree root zones.

(3) When funding is available, maintaining canopy cover by replacing any tree removed by the Town of Hamden or permitted contractors on a one-to-one basis.

(4) When funding is available, monitoring the health of the community forest through an accurate and updated inventory of town trees.

(b) Criteria for Tree Removal and Pruning

(1) Hazardous Trees- Any tree on town property that has been determined to be a hazard may be pruned or removed by the Town of Hamden. Such pruning or removal shall be undertaken at the discretion of the Tree Warden and in a manner consistent with the Connecticut General Statutes.

To be considered a hazard, a tree (or limb) the Tree Warden may consider the following criteria:

(A) It is sufficiently large enough to cause damage or injury should it fall;

(B) It has a target that would be damaged or would cause injury should it fall;

(C) It has a condition that would make it likely to fall. Such conditions may include dead or damaged condition, insect infestation, disease, significant root

damage, or other physical damage or signs of decay or distress as noted by the Tree Warden.

(2) Infrastructure Improvement- Town trees that fail to meet the criteria of a hazardous tree may be removed as part of a *bona fide* infrastructure improvement or construction project and only when all reasonable accommodations and alterations have been considered and at the discretion of the Tree Warden and in a manner consistent with the Connecticut General Statutes. The Town of Hamden will develop plans for the installation of new plantings, where feasible, prior to the removal of a tree or trees required for infrastructure improvement or construction projects.

(3) Public Safety- Hamden government agencies, including the Police Department, Fire Department, and Department of Public Works, may report to the Tree Warden any town tree that they believe constitutes a threat to public safety - for example to motorists, pedestrians, or users of town recreational facilities. In the event that such a tree is identified, options including pruning, installing signage, or installing traffic signals will be evaluated. Removal of the tree will be performed only if no other cost-effective alternative exists. Such removal shall be undertaken at the discretion of the Tree Warden and in a manner consistent with the Connecticut General Statutes.

(4) Utility Maintenance- Utilities and their contractors seeking to prune and/or remove town trees to maintain their distribution lines are governed by Section 16-234 of the Connecticut General Statutes. Absent an exception enumerated in the statute, such activity will require a permit from the Tree Warden. The Tree Warden or a designee will review and approve the pruning or removal plan for each tree in a manner consistent with the Connecticut General Statutes.

(A) Pruning: The Town of Hamden endorses the industry standard of directional pruning to maintain canopy cover while accomplishing line clearance objectives. The practice of ground to sky pruning for line maintenance is discouraged except in select instances.

(B) Removal: All removals must meet the criteria of Section 5.B.1) Hazardous Trees, with the exception of instances governed by state statute.

(C) Stump Grinding: Stumps left as the result of utility maintenance designated by the Tree Warden or other Town of Hamden designee as a safety hazard to vehicular and/or pedestrian traffic shall be ground flush with surrounding surfaces.

(D) Appropriate Species Should Be Retained: Small tree and shrub varieties designated as compatible with utility distribution lines should not be removed.

(5) Nuisance Conditions- The Tree Warden may permit the removal of a town tree or shrub if they determine that the tree or shrub poses a nuisance to the community forest, as in the case of invasive species or weedy conditions. Such decision shall be made only after posting of notice in accordance with the Connecticut General Statutes.

(c) Disposal- The removal of town trees by the Town of Hamden will include the removal of all debris and the grinding of stumps, within the priorities and assigned resources of the Public Works Department.

(d) Prohibited Criteria for Removal- Unless it otherwise satisfies a criterion for

removal as defined by this ordinance, a town tree will not be removed for any of the following reasons:

- (1) Facilitate views (including advertising signs)
 - (2) To create off-street parking
 - (3) To allow for installation of solar panels
 - (4) To reduce the extent of leaf, flower or fruit drop
 - (5) To reduce the impact from any bird or other animal waste or noise
- (e) Tree Pruning- The Town shall encourage the pruning of town trees and shrubs as an alternative to removal wherever possible. Pruning or thinning of tree branches or limbs has several objectives including reducing risk, improving health, developing better structure and providing clearance. Pruning, especially of young trees, is essential to tree health, maximizing tree benefits and minimizing future costs of tree maintenance.

Pruning should be done according to ANSI A300, part 1 as explained in ISA best management practices or in a management plan provided by the Tree Commission

(f) Appeals- Any person, firm or corporation aggrieved by the decision of the Tree Warden may appeal such decision through the procedures defined by the Connecticut General Statutes.

§53.07. PERMITS, LICENSES AND INSURANCE

It shall be a violation of this ordinance for any individual or entity other than the Town of Hamden and its agents to perform work on a tree on town owned property or in a town right-of-way without meeting the following requirements:

- (a) Permit: A permit is required for any entity except the Town of Hamden to do work on a tree on town property or in a town right-of-way. Tree work includes but is not limited to: removal, planting, pruning, bracing, cabling, spraying and other remedial treatments for disease or infestation. A detailed description of the work to be performed must be included in the permit application and approved by the Tree Warden prior to the issuance of a permit. A permit must be issued by the Tree Warden if all the requirements for the permit have been met. A copy of the permit must be present on the work site and available for public inspection. In addition, whenever feasible, the Tree Commission shall receive a copy of all permits prior to the work defined in the permit being performed. Only the Tree Warden or their designee may issue permits. The entity obtaining the permit shall abide by the standards as set forth in this ordinance and policies and specifications of the Town. No individual or company will be issued a permit without proper electrical accreditation when working within 10 feet of electrical wires. Failure to follow the conditions of the permit and the requirements of this ordinance shall be cause for the revocation of the permit and additional penalties as determined by the Tree Warden and defined by state and local statutes.
- (b) Licensed arborist- Any work performed on a town tree including pesticide application under a permit issued by the Tree Warden must be performed by or under the direction of a licensed arborist. All work performed must meet current ANSI A300 standards as explained in ISA best management practices.

(c) Insurance- Before any permit shall be issued, each applicant shall first file evidence of possession of general liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the Town of Hamden and/or any person injured or whose property was damaged resulting from the pursuit of such endeavors as herein described. Town of Hamden shall be added as an additional insured.

(d) Debris- All debris generated as a result of the permitted work on a public tree will be removed from the site by the contracted arborist or firm.

§53.08. TREE PLANTING

(a) Planting of new trees- The Town of Hamden will support an ongoing tree planting program with a goal of creating and maintaining a healthy community forest with no net loss of town trees. Any property owner who agrees to care for a tree for a period of at least three years may request a tree, however planting plans will focus on streets and neighborhoods with reduced canopy cover. The number of trees planted will equal or exceed the number removed each year so there will be no net loss in the number of trees. Diversity in planting will be encouraged. Tree planting on town property shall be managed by the Public Works Department under supervision of the Tree Warden. The Tree Warden and Tree Commission will coordinate on tree selection and planting plans.

(b) List of recommended trees- The Tree Warden, in consultation with the Tree Commission and the Planning and Zoning Department, shall maintain and publish a list of recommended tree varieties including those appropriate for locations with overhead wires, narrow tree lawns and other limiting factors.

§53.09. ENFORCEMENT & PENALTIES

In accordance with Section 23-59 of the Connecticut General Statutes, the Tree Warden is hereby authorized to administer and enforce this ordinance on behalf of the Town. The Tree Warden shall prepare all permits, procedures, and necessary documents and shall maintain accurate records of all activities conducted.

Any person who violates the terms of this ordinance shall be subject to a fine in an amount of fifty (\$50) dollars. Each tree removed, injured or defaced shall constitute a separate violation. In addition to such fines that may be imposed by the Town, if the Tree Warden determines that such violation was willful or if such violation results in irreparable harm to said tree, the Town shall seek civil damages against the perpetrator as are permitted and defined in Section 23-65 of the Connecticut General Statutes.

§53.10. SEVERABILITY

If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Approved by the Legislative Council at its meeting held on _____, 2021.

APPROVED AS TO FORM:

Susan Gruen
Town Attorney

Kathleen Schomaker
President Pro Tem, Legislative Council

Curt Balzano Leng
Mayor

Kim Renta
Clerk, Legislative Council

Date _____

Ordinance:
Newspaper:
Published:
Effective Date: