

Town of North Hempstead Tree Policy

The Town Board is authorized pursuant to Section 20A-4 of the Town Code to adopt and amend the Town's Tree Removal Policy, which governs the removal of trees from a public right-of-way and Town-owned public places. This policy is intended to provide reasonable public notice of the removal of a tree(s), is designed to minimize the removal of trees other than for public safety or other public benefit and sets forth replanting requirements.

Under this policy, the Town has determined that it is necessary to have more than one process for tree removals undertaken by the Town, depending on the circumstances of the tree removal. A *Category 1 Tree Removal* will include trees that are to be removed in conjunction with a sidewalk, curb or other right-of-way project, regardless of size or scope of the project. A *Category 2 Tree Removal* will include all other tree removals by the Town from the public right-of-way, as well as removals from parks or other Town-owned property. Procedures related to a *Category 3 Tree Removal* or *Category 4 Tree Removal* shall be followed by the Town upon application from a private applicant seeking to remove a tree on a public right-of-way and/or private property pursuant to Town Code Chapter 20A.

As defined by the Town Code, a tree is "Any living woody plant which is six inches or more in diameter at a height of 4 1/2 feet above the base of the trunk, including its root system and the environment within the area defined by the outermost limits of its branches."

I. CATEGORY 1 TREE REMOVAL Sidewalk, Curb Cut or Other Right-of-Way Work

The Town of North Hempstead Sidewalk District is responsible for maintaining sidewalks within the unincorporated areas of the Town. The Sidewalk District undertakes routine sidewalk replacement projects and capital funded projects. The Sidewalk District also completes repairs and ongoing maintenance on sidewalks that are identified within this policy. Based on the location of sidewalks, it is necessary for the Sidewalk District to address existing conditions during its maintenance and replacement efforts, which include but are not limited to conditions relating to trees and curbs.

The Town is cognizant of the importance of trees for the environmental, health and aesthetic role that they play in the various areas of our Township. As a matter of policy, the Town is committed to preserving existing trees when feasible during sidewalk projects.

The Town is aware of the sometimes inherent conflict in its efforts to preserve existing trees and maintain safe sidewalks and curbs. The Town further recognizes that during certain projects tree roots have caused uplifting and/or damage to sidewalks and/or roadside curbs. Trees will be removed only when necessary to ensure public health, safety and welfare of the constituents of the

Town. Trees removed will be re-planted one for one unless the circumstances dictate otherwise (space restrictions, utility issues, etc.).

For these reasons the Town has established the following policy to address these ongoing conflicts:

1. Identification of work

The Sidewalk District will undertake projects based on: (a) proactive identification; (b) constituent requests for repair and/or replacement; and (c) requests made by the Town Supervisor and Councilmembers. Requests for large projects should be sent by the Supervisor and Councilmembers to the Sidewalk District prior to the months of August and September for potential inclusion into the following year's Capital Plan. The Sidewalk District also responds to and completes emergency work when necessary.

2. Inspection of work

In response to work identified in Paragraph 1 above, the Sidewalk District will inspect work areas to determine the following:

- (a) If a repair of the sidewalk(s) is necessary;
- (b) If a replacement of the sidewalk(s) is necessary;
- (c) If the sidewalk work can be completed without removal of the tree while maintaining safety standards;
- (d) If the sidewalk work requires the removal of a tree(s);
- (e) If a section(s) of curb needs to be replaced or repaired due to the sidewalk work; and

Items (c), (d) and (e) will be determined by an arborist, either under the Town's employ or by an approved contractor. The arborist shall also make recommendations about feasibility and location for tree re-plantings. The Sidewalk District shall be guided by the arborist report. No action with respect to any tree, except in emergency circumstances, shall be taken until such arborist report is obtained.

3. Determination of final scope of work

Upon the completion of the inspection specified in Section 2, a final scope of work will be developed. Any action with respect to a tree proposed to be removed or included in the final scope of work shall be supported by the arborist report. Any tree removal recommendations contained in the final scope of work must specify, based on the arborist report, whether the tree must be removed or, in the alternative, can be safely left as is, or whether other steps, such as repositioning of the sidewalk, among others remedies, can be taken that will allow the tree to remain.

4. Notification of work

The Sidewalk District shall be responsible for providing notification of work to be undertaken when done in connection with a tree removal, to the following:

- (a) The Councilmember for the area in which the work is to be undertaken and their legislative aide prior to the start of work.
- (b) For any tree to be removed, the following notice shall be conspicuously posted on the tree no less than 5 working days prior to the removal of the tree:

NOTICE OF INTENT TO REMOVE THIS TREE

This tree shall be removed under the authority of the Town of North Hempstead in connection with a right-of-way project. An arborist report has been obtained by the Town supporting removal of this tree. A copy of the arborist report can be obtained by contacting 311 or (516) 869-6311.

- (c) If the public health, welfare or safety is immediately endangered, the tree may be removed without public notice.
- (d) Whenever possible, the Highway Department shall take photographs prior to the tree being cut down, records of which shall be retained in accordance with applicable law.

5. Performance of work

When necessary, the Sidewalk District shall coordinate sidewalk repair and/or replacement with Highway Department activity, including but not limited to tree and stump removal, etc. Both the tree removal and stump removal must occur prior to any sidewalk work occurring. The Town, its authorized contractor(s), or electrical utility (if the removal involves electrical wires) will complete the work identified.

6. Completion of work

The Sidewalk District will complete their work and notify the Highway Department of the property or properties that require tree plantings. The Highway Department will follow the replanting policy set forth in the Tree Replanting Policy (see Section IV).

II. CATEGORY 2 TREE REMOVAL

All other tree removals performed by the Town

When the Superintendent of Highways, the Commissioner of Parks and Recreation, the Executive Director of SWMA/Commissioner of Solid Waste, or the Commissioner of Administrative Services intends to have a Town tree cut down from a public right of way, park or other Town owned property¹, when such work is not done in conjunction with a *Category I Tree Removal* project referenced above, the following steps shall be taken:

- 1) A notice of intent to remove such tree shall be posted on the tree for a period of not less than five (5) business days;
- 2) Simultaneously with the posting of such notice, notice by e-mail shall be given to the Supervisor, the Council Member in whose district the tree is located and 311;
- 3) The notice posted on the tree shall include the statement that any resident who would like to object to the removal of the tree shall call 311 on or before a date certain;
- 4) 311 shall immediately notify both the Supervisor and the appropriate Council Member when an objection is received, including the name, address, telephone number and e-mail address of each such resident calling to object;
- 5) Either the Supervisor or the Council Member may request that an independent arborist be retained to inspect the tree and make recommendations as to whether the tree must be removed or, in the alternative, can be safely left as is, or whether trimming or other precautionary steps can be taken that will allow the tree to remain;
- 6) If a report is requested by either the Supervisor or Council Member, no action shall be taken until such report is provided to both. Following receipt of the report, unless the Supervisor and/or Council Member direct otherwise, the recommendation of the arborist shall be followed by the Department having jurisdiction;
- 7) The Town shall maintain a list of independent arborists qualified to make a report when one is requested. In no event shall such arborist be hired to cut down the tree;
- 8) If the public health, welfare or safety is immediately endangered, the tree may be removed without public notice. In such a case, the Supervisor and Council Member shall be notified in advance by e-mail or telephone, if possible. Whenever possible, photographs shall be taken by the Highway Department prior to the tree being cut down;

¹ The provisions of this category shall not apply to the Town/SWMA landfill properties in Port Washington. Maintenance of the landfill is governed by a 1992 consent decree as well as a Town/SWMA DEC agreement. Lands surrounding the transfer station and around the retention basins, as well as SWMA administration property remain subject to the provisions of this category.

- 9) The Highway Department will follow the replanting policy set forth in the Tree Replanting Policy (see Section IV).

III. CATEGORY 3 TREE REMOVAL

By a private applicant for tree removal on a public right-of-way pursuant to Town Code § 20A-5.1

- A. When the Superintendent of Highways receives a permit application seeking to have a Town tree cut down from a public right of way (not done in conjunction with a *Category 1 or Category 2 Tree Removal* and not related to a curb cut application), the following steps shall be taken:
 - (1) Simultaneously with the Superintendent of Highways providing the applicant with a notice of intent to remove such tree, the Superintendent of Highways shall notify by e-mail the Supervisor, the Council Member in whose district the tree is located and 311;
 - (2) The notice posted on the tree shall include the statement that any resident who would like to object to the removal of the tree shall call 311 on or before a date certain;
 - (3) 311 shall immediately notify both the Supervisor and the appropriate Council Member when an objection is received, including the name, address, telephone number and e-mail address of each such resident calling to object;
 - (4) Either the Supervisor or the Council Member may request that an independent arborist be retained by the Town to inspect the tree and make recommendations as to whether the tree must be removed or, in the alternative, can be safely left as is, or whether trimming or other precautionary steps can be taken that will allow the tree to remain;
 - (5) If a report is requested by either the Supervisor or Council Member, no permit shall be issued by the Highway Department until such report is provided to both. Following receipt of the report, unless the Supervisor and/or Council Member direct otherwise, the recommendation of the arborist shall be followed by the Highway Department;
 - (6) The Town shall maintain a list of independent arborists qualified to make a report when one is requested. In no event shall the Town retain an arborist who has also been hired by the applicant to cut down the tree; and
 - (7) The Highway Department will follow the replanting policy set forth in the Tree Replanting Policy (see Section IV).
- B. When the Superintendent of Highways receives a permit application seeking to have a Town tree cut down from a public right of way in conjunction with a curb cut application, the Superintendent of Highways shall be guided by the following criteria in making the determination to grant or deny the application:
 - (1) The ability of the applicant to rearrange the layout of the proposed curb cut to minimize the removal of trees.
 - (2) The necessity of removal of the tree in question.

- (3) The condition of the tree with respect to disease and danger of falling. In the event that the diseased condition of the tree is not evident, the Superintendent of Highways maintains the right to require the applicant to submit proof from a New York State certified arborist.
- (4) The proximity of the tree to proposed or existing curb cut.
- (5) The significance of the tree in regard to:
 - [a] The size of the tree.
 - [b] The rarity of the species.
 - [c] The historical value of the tree.
- (6) The effect of removal on:
 - [a] The character of the location with respect to vegetation management practices.
 - [b] Ecological systems.
 - [c] The existing screening of any road or highway bordering the location in question.
 - [d] Erosion control from the location on which the tree is to be removed and its impact on adjacent parcels.
- (7) Whether a denial of the permit will result in unnecessary hardship or severe financial loss to the applicant.

IV. CATEGORY 4 TREE REMOVAL

By a private applicant for tree removal on a public right-of-way or private property pursuant to Town Code Chapter 20A, when tree roots infiltrate the house connection sewer.

In reviewing an application for tree removal from a public right-of-way or private property in connection with an application for removal based on tree roots interfering with a house connection sewer, the Superintendent of Highways or the Commissioner of Buildings shall require the following prior to issuing a tree removal permit:

- 1) A paid invoice from a plumber or other drain cleaning service professional for work performed on the house connection sewer at the property resulting from damage caused by tree roots (from the tree sought to be removed) having infiltrated the house connection sewer causing damage.

V. REPLANTING POLICY

- A. Any tree removed by the Town shall require the Highway Department to replant a tree in accordance with the following:

The properties requiring a replacement tree(s) will be included in the nearest scheduled planting schedule. The Highway Department will be responsible for maintaining a list of properties requiring tree(s) planting and keep a record confirming the date when such plantings occur.

Use of root barriers will be implemented where possible. Appropriate tree species for planting shall be determined by the Town's Tree Advisory Board, in consultation with the Town's horticulturist and/or arborist (whether a town employee or contractor). Replacement tree(s) will be based on available stock and the most appropriate tree species for the location(s) with a focus on disease resistant, drought resistant, deep rooted species to ensure a long life and avoid future sidewalk lifts, if applicable. If, based on the recommendation of an arborist, a replacement tree is unable to be planted at said property due to physical restrictions in the utility trip/right-of way area, the Highway Department will review the Tree Planting Service Requests and choose the next-in-line service request (based on creation date) and plant the replacement tree at that location (if suitable for tree planting).

Educational material will be provided to the property owner(s) on tree maintenance when the replacement tree(s) is planted. This material will be focused on best practices for watering and maintaining the tree both at its current age and moving forward.

- B. The above provisions notwithstanding, in any case where a property owner or utility seeks to plant or replant a tree in the Town's Right-of-Way, the following process shall be complied with:

- 1) The property owner or utility shall file a tree planting permit application with the Highway Department together with the requisite permit fee, prior to undertaking any tree planting.
- 2) If a property owner or utility procures a tree meeting the Town's tree planting specifications, the property owner or utility may arrange with the Highway Department for the planting of the tree in the adjacent Right-of-Way. No permit is required if the Town plants the tree.

VI. Effective Date

This policy shall become effective immediately upon its adoption by the Town Board.