

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 and saplings 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. For purposes of this policy, use of the term "tree" shall also include "sapling", as defined herein.

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 woody plant, dead or alive, 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."

A sapling is "Any woody plant, dead or alive, which is three inches or more in diameter at a height of three 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 is cognizant of the importance of trees for the environmental, health and aesthetic role that they play in 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 in accordance with the Tree Planting/Replanting Policy set forth in Section V below.

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

1. Inspection of work

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 with the input of an arborist, either under the Town's employ or by a contractor procured by the Town through its procurement process and approved by the Town Board. The arborist shall also make recommendations about feasibility and location for tree re-plantings, which recommendation shall be set forth in a report. 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.

2. Determination of final scope of work

Upon the completion of the inspection specified in Section 1, 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 informed 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 other remedies, can be taken that will allow the tree to remain.

3. 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 Supervisor, 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(s) shall be conspicuously posted on the tree no less than 7 calendar days prior to the removal of the tree. The notice(s) shall be oriented towards pedestrian and vehicular traffic

wherever possible. The text of the notice shall be black lettering on a bright orange or similar color background:

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 with respect to this tree. A copy of the arborist report can be obtained by [visiting northhempsteadny.gov/XXXXXXXX](http://northhempsteadny.gov/XXXXXXXX) OR by contacting 311 or (516) 869-6311.

- (c) The Highway Department, in conjunction with the IT Department or other relevant department, shall cause a copy of each tree removal notice to be placed on the Town's website.
- (d) A copy of the arborist report, subject to any required redactions, shall be placed on the Town's website within 3 business days of its receipt by the Highway Department. Except in cases of an emergency, the arborist report shall remain available on the website for at least 7 calendar days prior to the removal of the tree.
- (e) If a tree on a public right-of-way or Town-owned public place constitutes a hazard to adjoining public rights-of-way or to persons using the adjoining public rights-of-way and if such hazard cannot be effectively eliminated by trimming the tree or taking other precautionary steps available to the Town that will allow the tree to remain, the tree may be removed without public notice.
- (f) Whenever possible, the Highway Department shall take photographs prior to the tree being removed, records of which shall be retained in accordance with applicable law.

4. 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.

5. 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 Planting/Replanting Policy (see Section V).

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, the Commissioner of Administrative Services, or the Port Washington Public Parking District intends to have a Town tree removed from a public right of way, park or other Town owned property¹, or if the Executive Director of the Community Development Agency (CDA) intends to have a tree removed from CDA owned or administered property where a license agreement exists between the CDA and the Town establishing the property for public use, when such work is not done in conjunction with a *Category 1 Tree Removal* project referenced above, the following steps shall be taken:

- 1) A notice of intent to remove such tree shall be conspicuously posted on the tree for a period of not less than 7 calendar days. The notice(s) shall be oriented towards pedestrian and vehicular traffic wherever possible. The text of the notice shall be black lettering on a bright orange or similar color background;
 - a. The Highway Department or other relevant Town department, in conjunction with the IT Department or other relevant department, shall cause a copy of each tree removal notice to be placed on the Town's website.
- 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;
 - a. Any resident may submit their email address and contact information to 311 and request that they be notified of a tree to be removed in their zip code.
- 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, which in no case shall be less than 7 calendar days from the date of posting;

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 Town/SWMA administration property remain subject to the provisions of this category.

- 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) If an objection is received, either the Supervisor or the Council Member, following consultation with the relevant Town department, 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 that are available to the Town can be taken that will allow the tree to remain;
- 6) If an independent arborist 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 to the extent possible by the Department having jurisdiction;
 - (a) A copy of the arborist report, subject to any required redactions, shall be placed on the Town's website within 3 business days of its receipt by the Highway Department. However, once a final determination is made with respect to the subject tree pursuant to Subsection 6 above, the Highway Department or other relevant Town department shall act accordingly, and if removal is recommended, the Highway Department may proceed with such action.
- 7) The Town shall maintain a list of independent arborists who are approved by the Town Board and qualified to make a report when one is requested. In no event shall such arborist be hired to remove the tree;
- 8) If no objection is received, then the Department having jurisdiction shall be authorized to proceed with the tree removal;
- 9) If a tree on a public right-of-way or Town-owned public place constitutes a hazard to adjoining public rights-of-way or to persons using the adjoining public rights-of-way and if such hazard cannot be effectively eliminated by trimming the tree or taking other precautionary steps available to the Town that will allow the tree to remain, 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 removed; and
- 10) The Highway Department will follow the replanting policy set forth in the Tree Planting/Replanting Policy (see Section V).

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 removed 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;
 - a. Any resident may submit their email address and contact information to 311 and request that they be notified of a tree to be removed in their zip code.
- (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, which in no case shall be less than 7 calendar days from the date of posting. The notice(s) shall be oriented towards pedestrian and vehicular traffic wherever possible. The text of the notice shall be black lettering on a bright orange or similar color background;
 - a. The Highway Department, in conjunction with the IT Department or other relevant department, shall cause a copy of each tree removal notice to be placed on the Town's website.
- (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) If an objection is received, 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 that are available to the Town can be taken that will allow the tree to remain;
- (5) If an independent arborist 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;
 - a. A copy of the arborist report, subject to any required redactions, shall be placed on the Town's website within 3 business days of its receipt by the Highway

Department. However, once a final determination is made with respect to the subject tree pursuant to Subsection 5 above, the Highway Department shall act accordingly, and if removal is recommended, the Highway Department may proceed with issuing such tree removal permit.

- (6) The Town shall maintain a list of independent arborists who are approved by the Town Board and 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 remove the tree;
 - (7) If no objection is received, then the Highway Department shall be authorized to proceed with issuing the tree removal permit; and
 - (8) The Highway Department will follow the replanting policy set forth in the Tree Planting/Replanting Policy (see Section V).
- B. When the Superintendent of Highways receives a permit application seeking to have a Town tree removed 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 sewer connection.*

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 sewer connection, 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 sewer connection at the property resulting from damage caused by tree roots (from the tree sought to be removed) having infiltrated the house sewer connection causing damage.

V. PLANTING/REPLANTING POLICY

A. Any tree removed by the Town in the right-of-way or other Town property shall require the Highway Department or other relevant Town department to replant a tree in accordance with the following:

- 1) Town Property (not within the right-of-way)

To the extent practicable, any tree removed on Town property (not within the right-of-way) shall be replanted by the Department having jurisdiction within one year from the date of removal.

- 2) Right-of-Way (adjacent to private property)

The properties requiring a replacement tree(s) will be included in the nearest available scheduled planting schedule. The Highway Department will be responsible for

maintaining a list of properties requiring tree(s) planting in the right-of-way. Properties requiring a tree planting shall not be removed from the list until such tree planting has occurred. The Highway Department shall keep a record confirming the date when such plantings occur. Such information for the preceding year shall be provided to the Tree Advisory Committee on or before May 1 of each year.

The Town shall procure replacement trees in accordance with its purchasing policy, consistent with the Tree Standards and Specifications to be approved by the Town Board, subject to the advice of the Tree Advisory Committee. Effective January 1, 2022, replacement tree(s) shall be a minimum diameter of 3 inches, measured at 4 1/2 feet in height.

Use of root barriers will be implemented where possible. Replacement tree(s) will be based on available stock and the most appropriate tree species for the location(s) with a focus on native, 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 or other site considerations in the utility strip/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 watering and maintenance when the replacement tree(s) is planted.

3) Right-of-Way (adjacent to Town property)

If a tree is removed from a right-of-way adjacent to Town property, to the extent practicable, the tree shall be replaced in the right-of-way near the same location as the removed tree. If a replacement tree is unable to be planted in the right-of-way, then the replacement tree shall be planted, to the extent practicable, on the adjacent Town property. If a replacement tree is unable to be planted on the adjacent Town property, then the Town shall plant the replacement trees at another suitable location.

- B. The above provisions notwithstanding, in any case where a property owner or utility (See Chapter 20A) seeks to plant or replant a tree in the Town's right-of-way, or is required to replant a tree in the Town's right-of-way pursuant to a tree removal permit, 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.

C. Request a Tree Program

In addition to trees removed by the Town that require a tree replanting, the Town will also plant trees in the Town's right-of-way upon request from property owners. The Highway Department will determine the sufficiency of the location requested for the tree planting. Locations that are approved for a Town tree planting will be included on the replanting schedule and be handled in the same manner as the replanting policy described above.

VI. TREE STANDARDS AND SPECIFICATION; Preferred Street Trees and Prohibited Street Tree Species

(INTENTIONALLY OMITTED---TO BE INCLUDED ONCE ADOPTED BY TOWN BOARD, SUBJECT TO THE ADVICE OF THE TREE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO CHAPTER 20A)

***This will include a "Right Tree, Right Place" policy and focus on native trees with a goal towards diversity of species.

VII. Effective Date

This policy shall become effective on January 1, 2022.