

Town of Kennebunkport
Conservation Shade Tree Program
Tree Removal, Maintenance and Planting Policy

November 2003
Revised July 2016

Article 1 – Preamble

This policy statement has been created by the Conservation Shade Tree Committee. Since the early 1960s, the Town of Kennebunkport has consistently dedicated resources to preserve, maintain and plant safe and attractive trees. A large portion of these resources have been volunteer tree wardens, committee members, and special project volunteers. The Kennebunkport Shade Tree Program is keyed to the interests of property owners, visitors, and public safety.

The Shade Tree Committee serves Kennebunkport in several ways:

- Maintains an inventory of Town trees along streets, walkways and public parks. A special tag identifies tree that are monitored for health and safety.
- Publicizes and educates in school and the community on tree quality, diversity and care.
- Monitors elm tree health, preservation, disease detection treatment, and removal.
- Recommends replacement trees, respecting species variety, location and compatibility.
- Interacts with Tree Warden concerning public and private tagged tree issues.
- Participates in Arbor Day celebrations and assures that Tree City USA requirements are fulfilled annually.

Article 2 – Authorization

This policy statement has been created by the Conservation Shade Tree Committee and is subject to change. The policy is authorized by Section 4.2 of the Administrative Code – Shade Tree Committee.

Article 3 – Responsibilities of Tree Warden and Shade Tree Committee.

The Shade Tree Committee and Tree Warden work in concert together to protect and maintain the tree canopy of Kennebunkport. Although they work jointly, the Tree Warden and Committee have separate responsibilities:

TREE COMMITTEE	TREE WARDEN
<ul style="list-style-type: none">• Reviews and approves the maintenance and removal budget.	<ul style="list-style-type: none">• Develops tree maintenance and removal budget.
<ul style="list-style-type: none">• Four or more members.	<ul style="list-style-type: none">• Reviews and approves any contracted work.
<ul style="list-style-type: none">• Tree warden is the 5th member, but does not count as one of the required 4 members.	<ul style="list-style-type: none">• Serves as a voting member of tree committee.
<ul style="list-style-type: none">• Alerts Town Manager to any tagged tree damage by private property owner.	<ul style="list-style-type: none">• Reviews all requests for service, and serves as liaison between private property owners and committee.
	<ul style="list-style-type: none">• Negotiates cost share for tree work outside of public property.
	<ul style="list-style-type: none">• Liaison with Public Works and Wastewater in determining impact of shade trees on public infrastructure.

Article 4 – Tree Planting

The Town of Kennebunkport is committed to planting new trees in areas deemed to be in the best interest of the Town. The Shade Tree Committee and Tree Warden are authorized to determine the location, size and species of trees to be planted and may depend on the advice and input from private property owners and the Town’s consulting arborist.

Tree planting within any Town right of way or on Town owned property shall require the approval of the Tree Warden and input from the Public Works Director and Waste Water Superintendent, in order to negate interference with above and below ground infrastructure.

Tree planting on private property with public funding shall require a tree maintenance easement which is attached as Appendix A.

Article 5 – Tree Maintenance

The Town of Kennebunkport is committed to maintaining public tagged shade trees and all tagged elm trees listed on the Town's inventory of shade trees. All evaluations will include the tree species, condition, location, value, life expectancy and other considerations. Tree maintenance will be performed in the following manner:

- A. **Requests for Maintenance.** Requests from the Shade Tree Committee, Tree Warden, Consulting Arborist, Municipal official, or private property owner will all begin with a request for service form. A sample request for service form is attached as Appendix B. – Need Appendix B.
1. The Tree Warden and Consulting Arborist shall evaluate the request and decide the course of action.
 2. When on Town owned property or within a Town right of way, such work shall require the approval of the Tree Warden and input from the Public Works Director and Waste Water Superintendent, in order to negate interference with above and below ground infrastructure.
 3. When on private property with a tree maintenance easement granted to the Town, such work shall require the approval of the Tree Warden and input from the property owner, Highway Superintendent, and Waste Water Superintendent.
 4. When on private property without a tree maintenance easement, the Town will only maintain that portion of the tree that poses a public threat, meaning potential damage to any person or property while on Town owned property or in a Town right of way. Maintenance will require permission from the private property owner. If the private property owner refuses to grant such permission, the Town will notify the property owner that the maintenance must be performed at the private property owner's expense. If maintenance is not performed in a reasonable length of time after such notice the Town will take action so as to force action or liability upon the private property owner to the extent provided by law.
 5. When on private property the Tree Warden or his/her designee may ask the private property owner to contribute to the cost of work to be performed, with the goal of a 50% match of private funds to any public funds supplied for maintenance or planting.
 6. When the Town, through its Tree Warden or his/her designee, determines that there is a public interest in treating elm trees for Dutch elm disease, which are located on private property, the Town will treat the tree. Treatment will require an easement from the private property owner. Public interest shall mean that no treatment will result in wide spread damage and disease caused by Dutch elm disease to other private and public elm trees. All other maintenance responsibilities shall be the responsibility of the private property owner.

Article 6 – Tree Removal

The Town of Kennebunkport is committed to maintaining tagged shade and tagged elm trees, public shade trees and all elm trees listed on the Town's inventory of shade trees. All evaluations will include the tree species, condition, location, value, life expectancy and other considerations. Tree removal will be performed in the following manner:

- A. **Request for Removal.** Request from the Shade Tree Committee, Tree Warden, Consulting Arborist, Municipal official or private property owner will begin with a request for service form. A sample request for service form is attached as Appendix B. – Need Appendix B.
1. The Tree Warden and Consulting Arborist shall evaluate the request and decide the course of action. In addition to the evaluation of the tree condition, the evaluation shall include a determination of whether the tree is located on public or private property and whether there is a tree easement deed.
 2. When on Town owned property or within a Town right of way, such work shall require the approval of the Tree Warden and input from the Public Works Director and Waste Water Superintendent, in order to negate interference with above and below ground infrastructure.
 3. When on private property with a tree maintenance easement granted to the Town, such work shall require the approval of the Tree Warden and input from the property owner, Public Works Director, and Waste Water Superintendent.
 4. When on private property without a tree maintenance easement, the Town will only remove that portion of the tree that poses a public threat meaning potential damage to any person or property while on Town owned property or in a Town right of way. Removal will require permission from the private property owner. If the private property owner refuses to grant such permission, the Town will notify the property owner that the removal must be performed at the private property owner's expense. If removal is not performed in a reasonable length of time after such notice the Town will take action so as to force action or liability upon the private property owner to the extent provided by law.
 5. The Tree Warden or his/her designee may ask the private property owner to contribute to the cost of work to be performed, with the goal of 50% match of private funds to any public funds supplied for the work.
 6. When the Town, through its Tree Warden or his/her designee, determines that there is a need to remove a tree due to public interest, the Town will remove the tree. Public interest shall mean that no removal will result in wide spread damage and disease. All other removals shall be the responsibility of the private property owner.

Article 7 – Record Keeping

All requests for service and activity shall be recorded and include the following information:

- Tree identification number.
- Street address location.
- Tax map, block and lot.
- Current property owner.
- Requested service.
- Evaluation by Tree Warden and Consulting Arborist.
- Action taken.
- Cost estimate.
- Easement deed.

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS that _____, (Property Owner) of County of York, State of Maine, (“Grantor”), for consideration paid, **GRANT** to the **INHABITANTS OF THE TOWN OF KENNEBUNKPORT** (“Grantee” or “Town”), a municipality organized and existing under the laws of the State of Maine, with a mailing address of P.O. Box 566, Kennebunkport, Maine 04046-0566, and its successors and assigns forever, **WITH WARRANTY COVENANTS**, the following real property rights subject to the limitations and conditions contained below:

1. The Grantor and Grantee/Town acknowledge that the purpose of this easement is to meet the Town’s objective of providing and maintaining trees – which contribute shade, beauty and clean air to the environment – for the benefit of the Town, Grantor, and the general community.
2. This easement shall be a perpetual easement that runs with the land for the purpose of planting, replanting, maintaining, pruning, or removing any part of the Tree, as hereinafter described, on Grantor’s property (the “Property”) located at _____, in Kennebunkport, Maine, as more particularly described in a deed to Grantor, dated _____ and recorded in the York County Registry of Deeds in Book ____, Page _____.
3. This easement shall include the right, but not the obligation, to enter onto the Property for the purpose of planting, replanting, maintaining, pruning, or removing all or any part of the Tree. The easement shall also include a right of access twenty feet wide, for persons and machines, for ingress and egress to the easement area in a straight line from the nearest public way for any purpose related to the subject of this easement. Grantee agrees that, following the completion of any such work, Grantee shall repair any damage to the Property resulting from such work so as to restore the Property substantially to its prior condition.
4. The Tree means any tree which the Town has planted (or may plant or replant in the future) on the Property, and if there is more than one such tree, this agreement applies to each of them. A general description of the Tree referenced herein, including the type of tree, number of trees, Town identification number and approximate location on the Property, is attached hereto as Schedule A.
5. Grantor agrees not to remove or prune the Tree without the Town’s prior written permission, unless such action is required in response to an emergency situation, such as severe storm damage that results in imminent danger to Grantor or any relative, guest, invitee or neighbor of Grantor, Grantor’s property, or the property of any neighbor of Grantor.
6. The Town shall not be responsible for the raking or cleanup of leaves or small branches that may fall from the Tree.

Appendix A

IN WITNESS WHEREOF, the said _____, (Property Owner) has executed this instrument, this _____ day of _____, 2016.

Witness

Signature

Print Name

Witness

Signature

Print Name

STATE OF Maine
YORK, SS.

_____, 2016

Personally appeared before me the above-named _____ and acknowledged the foregoing instrument to be his/her free act and deed.

Before me,

Notary Public

Type or Print Name

My Commission Expires: _____

TOWN OF KENNEBUNKPORT
Request for Services Form – Shade Trees

Complainant Information:

Form Completed By: _____

Name: _____ Date/Time of Notification: _____

Address: _____

Email: _____

Telephone: (Home) _____ (Other) _____ Fax: _____

Type of complaint or request (check one):

Tree Warden:

- Tree Removal
- Damaged Tree
- Other - Explain: _____

Other:

- Other - Explain: _____

Location of Problem: _____

Complaint Forwarded to: _____ Date: _____

Responding Municipal Officer: _____

Date Investigated: _____

Description and Date of Resolution: _____

Resolution Complete/Case Closed (Date): _____

Municipal Officer (Signature): _____