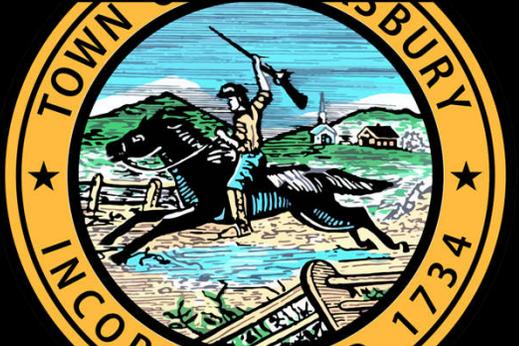




# TREE TALK

Understanding Public  
Shade Trees



# DISCUSSION TOPICS



DEFINITIONS



LAWS, RULES, AND  
REGULATIONS



HOMEOWNER &  
CONTRACTOR  
RESPONSIBILITIES



TREE REMOVAL  
PROCESS

# DEFINITIONS



- **Massachusetts General Law Chapter 87** – The Massachusetts General Law that provides the legal protection of public shade trees.
- **Public Shade Tree** – Any tree within a public right-of-way or on the boundaries thereof including trees planted in accordance with the provisions of Chapter 87 section 7. Trees shall have a minimum diameter of 1.5-inches one foot from the ground.
  - If the location of the right-of-way cannot be determined, a tree shall be considered a public shade tree until proven otherwise.
  - Additionally, trees planted within 20-feet of the right-of-way for the purpose of being a public shade tree shall be protected by the provisions of Chapter 87.
- **Right-of-Way** - A right of way is publicly owned area reserved for transportation purposes.
- **State Highway** – A roadway under the control of MassDOT.
- **Tree Warden** – Person with the required credentials who is appointed to enforce Chapter 87.

# LAWS, RULES AND REGULATIONS



- **Massachusetts General Law Chapter 87** – The Massachusetts General Law that provides the legal protection of public shade trees.
- **Town of Tewksbury General Bylaw Sections 12.04.290 to 12.04.350** – Bylaw requiring police details when work is conducted in or adjacent to roadways.
  - Contains a list of roadways that always require police details for any work
  - Includes requirements for all other roadways
    - Work taking longer than 15 minutes, or;
    - Work area extends 1/3 of the travel lane, or;
    - Work that constitutes a safety hazard.

# TREE WARDEN RESPONSIBILITIES



The Tree Warden shall oversee the implementation of M.G.L. Chapter 87 including:

- Appointing Deputy Tree Wardens
- Have care and control of all Public Shade Trees, shrubs, and growths in Town except:
  - Within a State Highway
  - Within Public Parks or Open Places under the jurisdiction of the Parks Commissioners
- Enforce all provisions of the law for the preservation of trees, shrubs, and growths
- Making Regulations for the care and preservation of Public Shade Trees
  - When approved by the Select Board, shall have the effect of Town Bylaws
- Establishing fines and forfeitures for violations

# PUBLIC SHADE TREE DETERMINATION



The Tree Warden utilizes various resources to determine if a tree is located within the Right-of-Way and therefore a Public Shade Tree. These resources include but are not limited to:

Street Acceptance Plans

County Roadway Layout Plans

Subdivision Plans

Record Utility Plans

Certified Plot Plans for adjacent properties

Geographic Information System (GIS) Data

# TREE REMOVAL PROCESS



When a homeowner or contractor is looking to trim or remove a tree along the Right-of-Way, they must work with the Tree Warden as follows:

- Request a determination from the Tree Warden on the status of a tree as a Public Shade Tree.
- A Public Hearing is required if the tree is determined to be Public Shade Tree\*
  - \*A tree hearing is not required if the tree is deemed a hazard or nuisance by the Tree Warden.
- The Tree Warden shall set the date and time of the tree hearing, typically Thursdays at 10 a.m.
- The Requestor shall place a Notice of Hearing in the local news paper at their expense.
  - Notice shall be advertised once per week for two consecutive weeks at least 7 days prior to the hearing
  - The Tree Warden shall provide the language for the tree hearing advertisement.
- The Tree Warden shall post the same notice on the tree being requested for removal as well as two other public places in Tewksbury (DPW, Town Hall, Library).

# TREE REMOVAL PROCESS



- The Tree Warden shall hold a public hearing.
- Any objections to the trimming or removal of a tree shall be provided in writing.
  - A tree removal can be objected to by the Tree Warden if it is felt the tree removal is not warranted
- If an objection is filed, the issue is then remanded to the Select Board for final decision.
- If the tree removal is approved, the Tree Warden will issue a Tree Removal Permit, which may include special conditions such as stump removal, restoration, and planting a replacement tree.
- The Planning Board and/or Conservation Commission may have additional regulations based on the location of the subject tree.
- Trees located within a State Highway require approval from MassDOT prior to removal.
  - No hearing is required.

# VIOLATIONS



- Chapter 87 Violations
  - Trimming or removal of a Public Shade Tree - Fine of not more than \$500 plus damages
  - Posting a sign, advertisement, cuts, paints, or marks a Public Shade Tree - Fine of not more than \$50
  - Injury to Trees of another Person - Fine of not more than \$500 or imprisonment of not more than six months
- Tewksbury's imposition of fines will be based on the severity of the violation

# RESIDENT/CONTRACTOR RESPONSIBILITIES



- Contact the Tree Warden if you want to trim or remove any vegetation along the roadway.
- The location of the Right-of-Way can vary greatly
  - We have found that sometimes the Right-of-Way extends more than **30-feet** back from the roadway
- Contact the Community Development Office to see if your planned work requires any additional approval/permits
- Contact the Police Department to see if a police detail will be needed for your work

# UTILITY COMPANIES



- Utility Companies may submit the following to the Tree Warden for approval:
  - An annual vegetation management plan
  - An annual hazard tree removal plan
- The plan(s) shall be submitted at least 90 days prior to the start of work
- The Tree Warden shall notify the Utility within 60 days of the Plan is approved
  - The approval can includes mutually agreed upon modifications
  - If the Tree Warden fails to respond within 60-days, the Utility can seek approval from the Select Board
- The Utility Company shall notify the Tree Warden, in writing, 14-days prior to starting the work
- The utility shall provide to the State Forester a copy of any annual vegetation management plan or hazard tree removal plan and a copy of the approval or denial letter from the applicable Tree Warden.

# QUESTIONS



## References

- Commonwealth of Massachusetts. (2025, February 25). 194th General Court of the Commonwealth of Massachusetts. Retrieved from Chapter 87:  
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter87>