

## **CHAPTER 181. TREES, SHRUBS AND WOODY VEGETATION**

### **Sec. 181-1. Purposes.**

The purposes of this chapter are:

- (a) To promote and protect the public health, safety and general welfare of the residents by providing for the regulation of the planting, maintenance, protection and removal of trees, shrubs and woody vegetation within the City of Torrington.
- (b) To recognize and appreciate that trees produce oxygen, capture carbon dioxide from the atmosphere, provide air purification, prevent soil erosion, control flooding, assist in water purification, contribute to the quality of life by providing cooling shade, provide habitat for wildlife, reduce noise levels, and aesthetically enhance the landscape.
- (c) To preserve and protect trees and their canopies as an important environmental and cultural resource that enhances the City of Torrington's natural character and heritage.
- (d) To protect the people in the City of Torrington from personal injury and property damage caused by the improper planting, maintenance, protection or removal of trees, shrubs and woody vegetation located on City-owned property.
- (e) To protect property values by maintaining a healthy and vigorous community forest.
- (f) Nothing in this chapter and no permit granted pursuant to this chapter shall be deemed to prejudice any rights which the City may now or hereafter have with respect to trees, shrubs and woody vegetation planted on City-owned property

### **Sec. 181-2. Definitions.**

- (a) *Tree Warden*: The Torrington Tree Warden shall be the Director of Public Works, and shall have all the powers, duties and authority provided by The Public Shade Trees and Tree Protection Examining Board Statute (Connecticut State Statute Sec. 23-59) as may be hereafter amended, and by this chapter.
- (b) *City-owned property*: Any and all real property owned by the City of Torrington.
- (c) *City of Torrington Arboricultural Specifications and Policy Manual*: A manual prepared by the Tree Warden pursuant to subsection 181-3(b), as amended from time to time.
- (d) *Diameter at Breast Height (DBH)* — The diameter of a tree measured at a point 4.5 feet above the ground.
- (e) *Deputy Tree Warden(s)*: City of Torrington Deputy Tree Warden(s) as appointed by the Tree Warden.
- (f) *Person*: Any person, firm, corporation or other entity, including any public utility.
- (g) *Property Line* — The outer edge of a Town road or highway right-of-way boundary.
- (h) *Property Owner* — The owner of record or contract purchaser of any parcel of land.
- (i) *Public Nuisance*: Any tree, shrub or woody vegetation which is hazardous or injurious to the public health, safety and welfare or which causes substantial depreciation in the value of real property in the neighborhood.
- (j) *Public Road* — A street, road, public way or right-of-way owned by the Town, including the entire width between the street lines or right-of-way lines.

- (k) *Shrub*: A woody plant, branched from the base, generally less than fifteen (15) feet in height when mature.
- (l) *Tree*: A woody plant, usually with one (1) main trunk, reaching a height of at least fifteen (15) feet in height when mature.
- (m) *Tree Root Zone* — The area beneath and surrounding the tree where roots are or may be located. The zone may extend two to three times the diameter of the tree canopy.
- (n) *Urban/Community Forest*: Collectively, the natural resource of all City-owned trees, shrubs and woody vegetation upon street rights-of-way, parks, school campuses, open space properties, and grounds of City facilities.
- (o) *Urban/Community Forest Management Plan*: The long-range management plan prepared by the Tree Warden pursuant to subsection 181-3(B), as amended from time to time.
- (p) *Woody vegetation*: All woody, non-herbaceous plants, not defined as trees or shrubs.

### **Sec. 181-3. Urban/Community Forest Management Plan; City of Torrington Arboricultural Specifications and Policy Manual.**

- (a) The Tree Warden, in coordination with the Conservation Commission, shall prepare and maintain a long-range, comprehensive strategic plan for the administration and management of the Community Forest Program to implement the purposes set forth in Section 181-1, which, together with the resulting periodic work plans, shall comprise the Urban/Community Forest Management Plan.
- (b) The Tree Warden shall prepare and maintain a manual containing regulations and standards for the planting, maintenance, removal and protection of trees, shrubs and woody vegetation upon City-owned property which shall be known as the City of Torrington Arboricultural Specifications and Policy Manual.

### **Sec. 181-4. Operations Under the Jurisdiction of the Tree Warden.**

- (a) The Tree Warden shall serve as liaison to all City Departments, agencies, and the Board of Education on all matters relating to individual trees and forest resources, and may provide technical assistance as appropriate.
- (b) Any City department or agency shall notify the Tree Warden of any applications for new curb, gutter, sidewalks or driveway installations, utility installations or other improvements which might require the removal of or cause injury to any City-owned tree.
- (c) Whenever, in the opinion of the Tree Warden, the public safety demands the removal or pruning of any tree or shrub under the Tree Warden's control, the Tree Warden may cause such tree, shrub, or group of shrubs to be removed or pruned at the expense of the city, and shall order paid to the person performing such work such reasonable compensation therefor as may be determined and approved in writing by the Tree Warden. Unless the condition of such tree, shrub or group of shrubs constitutes an immediate public hazard, the Tree Warden shall, at least 10 days before such removal or pruning, post on each tree or shrub and may post on each group of shrubs a suitable notice stating the Tree Warden's intention to remove or prune such tree, shrub or group of shrubs. If any person, firm or corporation objects to such removal or pruning, such person, firm or corporation may appeal to the Tree Warden in writing by letter or digital submission, who shall hold a public hearing at some suitable time and place after giving reasonable notice of such hearing to all persons known to be interested therein and posting a notice thereof on such tree, shrub or group of shrubs. Within three days after such hearing, the Tree Warden shall render a decision granting or denying the application, and the party aggrieved by such decision may, within 10 days, appeal therefrom to the superior court. The Tree Warden may remove any trees or other plants within the limits of public road or grounds under the Tree Warden's jurisdiction that are particularly obnoxious as hosts of insect or fungus pests.

- (d) Remove or cause to be removed all illegally erected signs or advertisements placed upon trees and/or shrubs within any public road or placed within his/her jurisdiction.

#### **Sec. 181-5. Public utilities.**

- (a) Any public utility maintaining any overhead wires or underground pipes or conduits shall obtain a public utilities permit from the Tree Warden before performing any maintenance work on the wires, pipes, or conduits which would cause injury to City-owned trees. The public utility shall not injure, deface, prune, or scar any City-owned tree until its plans and procedures have been approved by the Tree Warden.
- (b) When maintaining City-owned trees, a public utility must observe good arboricultural practices, as specified by the Pruning Standards prescribed in the City of Torrington Arboricultural Specifications and Policy Manual.
- (c) The Tree Warden shall review all proposed public utility work affecting trees at the sites where work is proposed prior to determining whether a permit will be considered. All utility pruning shall be performed under the supervision of a Connecticut licensed arborist as required by Connecticut General Statutes. The Tree Warden shall post notice on all trees for which an application for removal or pruning has been requested by a public utility, unless the Tree Warden has determined that no permit will be issued. The Tree Warden or a person appointed by the Tree Warden shall, supervise the work as it is being performed.
- (d) All trees to be removed will be posted by the Tree Warden for public information purposes. State law prohibits utilities from pruning or removing any tree or shrub that is not a hazard within or overhanging a set area around poles and wires without providing advance notice to abutting property owners. Such notice must include an option for the property owner to consent or object to the pruning or removal, and an opportunity to modify the utility's proposal. The notice will give property owners 10 business days to raise concerns, and ultimately to appeal to PURA if the matter cannot be resolved.
- (e) Pruning practices will be consistent with the following:
  - a. The practice of ground to sky pruning for line maintenance is discouraged except where it is unavoidable as determined by the Tree Warden.
  - b. Stumps designated by the Tree Warden or other City of Torrington designee, as a hazard to vehicular and/or pedestrian traffic, shall be ground flush with surrounding surfaces.
  - c. Limbs are to be pruned to branch collar and topping of trees is not permitted. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Per ANSI pruning standards no more than 25% of a tree's foliage should be removed per trimming.
  - d. Exception: Tree severely damaged by storms or other causes where other pruning practices are impractical may be exempted from this section at the determination of the Tree Warden.

#### **Sec. 181-6. Permits for trees, shrubs, and woody vegetation on City-owned property.**

- (a) No person shall plant any tree, shrub or woody vegetation within the limits of any City-owned property without having first obtained a permit to do so from the Tree Warden. Written application for such permission shall be made to the Tree Warden setting forth the size, species, type and location of each tree, shrub or woody vegetation, for which such permission is requested.
- (b) The Tree Warden shall consider the effect of planting the specified trees, shrubs or woody vegetation upon the general welfare of the community and upon the present and future use, safety, maintenance, development and improvement of City-owned property for all lawful purposes.

- (c) Any person other than the Tree Warden or his/her deputy, who desires to conduct any of the following activities within the limits of any parcel of municipal property or public road or grounds which may impact municipal trees or shrubs must apply for and receive a written permit from the Tree Warden prior to conducting any such activity.
- (1) Activities include but are not limited to:
- (a) Removal, planting, treating, pruning, topping, or application of fertilizer, pesticides, or other treatments. These activities may be required to be conducted under the supervision of a CT licensed arborist in compliance with CGS § 23-61B as may be revised.
  - (b) Disturbance within root zone of any tree or shrub which may result in damage to roots, existing vegetation, or soil which may negatively impact health of trees or shrubs. Such activities may include but are not limited to grading, excavating, snowplowing, filling, driving; storage of vehicles, materials, or equipment; or, dumping, stockpiling soil, debris, trash, signs, or other material; application or discarding of fertilizer, or other chemicals.
  - (c) Activities which deface, cut, mark, injure the tree such as using climbing spurs on, affixing or fastening of any sign, playbill, picture, notice, advertisement, rope, wire, chain, or other materials on, around or through any public trees or shrubs, except in an emergency, such as storms or accidents. Draping of holiday lights are exempt unless the lights are attached by nails, staples or similar means, or lights are left on tree until they begin to restrict bark growth.
  - (d) Applications for activities involved with construction and/or site development, must document in writing or on site plans, proposed protective measures and best practices, to insure protection of existing trees and shrubs and survival of proposed plantings. This must include watering plan/schedule, maintenance of surrounding vegetation, mulching schedule, etc.
    - Activities that involve removal of trees are required to replant trees as approved by the Tree Warden on a 1:1 ratio.
- (2) The Tree Warden shall inspect or require inspection by qualified individual to ensure compliance with the permit.
- (3) The Tree Warden shall have the right to require stump removal, and replacement of trees and shrubs or substitution of appropriate landscape material as a condition of a permit for removal of trees or shrubs.
- (4) For the purpose of shading or ornamenting highway or grounds, the Tree Warden may at his/her discretion expend funds designated for planting, trimming, spraying, care and preservation of shrubs or ornamental or shade trees, on private property located within 10 feet of public road or grounds, with written consent of the property owner. All shrubs and trees planted under this provision shall be deemed public shrubs and trees and shall be under the care and control of the Tree Warden and may be removed only upon issuance of written permit by the Tree Warden.
- (d) Under this chapter, permits shall be issued in conformity with Connecticut General Statutes Sec. 23-65(f). Applications for permits must be made on application forms provided for such purpose by the Tree Warden. Permits expire thirty (30) days after the date of issue unless otherwise noted thereon by the Tree Warden.

### **Sec. 181-7. Trees, shrubs and woody vegetation on City-owned property.**

Any tree, shrub or woody vegetation planted on City-owned property shall become the property of the City.

### **Sec. 181-8. Prohibition; arboricultural standards.**

Except as otherwise provided in Sections 181-5, and 181-10 of this chapter, no person shall cut, trim, prune, remove, injure or interfere with any tree, shrub or woody vegetation, including the branches, trunk, root system or crown thereof, in whole or in part, on any City-owned property without a permit from the Tree Warden. When maintaining City-owned trees, a person must observe good arboricultural practices, as specified by the pruning standards prescribed in the City of Torrington Arboricultural Specifications and Policy Manual.

### **Sec. 181-9. Work.**

All work performed on such trees, shrubs or woody vegetation shall be done in strict accordance with the permit and under the direction of the Tree Warden.

### **Sec. 181-10. Emergencies.**

Work which, in the opinion of the Tree Warden, is of an emergency nature, such as failure of gas, water or electric utility lines, may be performed as prescribed by the Tree Warden at the expense of the person requesting same.

### **Sec. 181-11. Penalties.**

- (a) Except as otherwise provided in this section, any person who unlawfully or willfully cuts, destroys, carries away, removes, prunes, injures or defaces any tree or shrub on City-owned property without proper authority shall be fined the cost as determined by the Tree Warden but not less than one hundred dollars (\$100.00) for each separate offense and shall be liable civilly for damages.
- (b) In addition to any fines authorized hereunder for any tree, shrub or woody vegetation unlawfully cut, destroyed or carried away, the Tree Warden may seek recovery of three (3) times the value of the tree, shrub or woody vegetation pursuant to Connecticut General Statutes Section 52-560 and, for any encroachment (as referred to in Connecticut General Statutes Section 52-560a), may bring an action to enforce the remedies and damages specified in Connecticut General Statutes Section 52-560a. Nothing in this section shall limit the authority of the Tree Warden to invoke any other remedies under Connecticut General Statutes Section 52-560 and Section 52-560a.
- (c) Any person who affixes to a telephone, electric light pole, power pole or other utility pole, tree, shrub, rock or other natural object on City-owned property a playbill, picture, notice, advertisement or other similar thing, or cuts, paints or marks any tree, shrub, rock or other natural object or uses climbing spurs for the purpose of climbing any tree on City-owned property shall be fined not more than fifty dollars (\$50.00) for each offense. Each affixing, cutting, painting, marking or climbing shall be considered a separate offense.
- (d) The removal, pruning or willful injury of any tree, shrub or woody vegetation by any person without a permit from the Tree Warden or the affixing of any playbill, picture, notice, advertisement or other similar thing concerning the business or affairs of any person to a tree, shrub, rock or other natural object on City-owned property by an agent or employee of such person shall be deemed to be the act of such person, and such person or any member of such firm or any officer of such corporation, as the case may be, shall be subject to the penalty therein provided, unless such act is shown to have been done without his knowledge or consent.

- (e) The affixing of each individual playbill, picture, notice or advertisement or other similar thing to a tree, shrub, rock or other natural object or the willful removing, pruning, injuring or defacing of each tree or shrub shall constitute a separate violation. Nothing in this section shall affect the authority of the Tree Warden to remove, prune or otherwise deal with a tree or shrub under his jurisdiction.
- (f) If any person plants any tree, shrub or woody vegetation on City-owned property without obtaining the required permit, said person shall be fined not more than one-hundred dollars (\$100.00) and shall remove the same at own expense with a period of thirty (30) days.

**Sec. 181-12. No exemption.**

Nothing herein contained shall be deemed to exempt any person from the application of any other applicable statute, ordinance, regulation or rule.

**Sec. 181-13. Interference with planting, maintenance, and removal.**

No person shall interfere with the Tree Warden or persons acting under his authority while engaged in planting, mulching, pruning, removing or maintaining any tree, shrub or woody vegetation on City-owned property.

**Sec. 181-14. Tree protection during construction activities.**

All trees on City-owned property that are designated for preservation shall be protected in accordance with the Tree Protection Specifications section of the City of Torrington Arboricultural Specifications and Policy Manual.

**Sec. 181-15. Hazardous trees, shrubs and woody vegetation.**

Any tree or part of the tree or any shrub or other vegetation that poses an unreasonable risk to any Town-owned property and is determined to pose an unreasonable risk to the public health, safety or welfare by the Tree Warden and any tree, shrub or other vegetation which is hazardous or injurious to the public health, safety and welfare or which causes substantial depreciation in the value of real property in the neighborhood shall be determined to be a "nuisance" and is to be abated.

**Sec. 181-16. Duties of the Deputy Tree Warden.**

The Tree Warden may assign the Deputy Tree Warden(s) to perform those duties of the Tree Warden as the Tree Warden shall designate, but the Tree Warden shall remain responsible for those duties. The Tree Warden may rescind the right to be designated as Deputy Tree Warden at any time with or without cause.