

## **Chapter 221**

### **TREES**

#### **GENERAL REFERENCES**

- Noncriminal disposition — See Ch. 1, Art. I.**      **Scenic roads — See Ch. 180.**
- Tree height restrictions near airport — See Ch. 13.**      **Care of trees during excavations — See Ch. 404.**
- Tree Warden — See Ch. 138, Art. I.**      **Subdivision Rules and Regulations — See Ch. 801.**
- Christmas tree sales — See Ch. 141, Art. II.**



## ARTICLE I

**Preamble; Purpose; Definitions****§ 221-1. Preamble.**

- A. In order to maintain and enhance the architectural character, streetscapes and scenic views along the Town's roadways of which trees are an integral part, the Town hereby reiterates its established policy with regard to wires and cables along roadways: Since 1926 the Town has established policies for the placement of utility wires and cables underground. Underground utilities were first articulated in "The Preliminary Survey for a Town Plan for the Town of Barnstable," dated October 1926, and more recently in the "Local Comprehensive Plan" adopted by the Town Council October 1997 and approved by the Cape Cod Commission 1998. Policy 7.3.3 states that all new utilities shall be placed underground, and that all existing overhead utilities shall be phased underground.
- B. All utilities should submit a program to the Town for phasing of utilities underground in order to prevent continued damage to the Town's trees by trimming, pruning and removals, and to prevent the constant occurrence of power outages.
- C. Until such time as utilities are placed underground, bare wires should be replaced with aerial spacer cable systems or covered wires, in order to limit the amount of tree trimming and clearance, and maintain the viability of the Town's trees. Such systems will also provide the highest reliability of electrical service of any aboveground system available.
- D. The utilities should submit a program to the Town for replacement of bare wires with covered conductors, and/or aerial spacer systems. The utilities and the Town should establish priorities for this program. In priority order, the Old Kings Highway (Rt. 6A), scenic roads, the Town center and village commercial centers are the Town's first priorities for such installation.

**§ 221-2. Purpose.**

It is the expressed policy of the Town of Barnstable to enhance the appearance of the Town by beautifying roadways and public property with shade trees and, in so doing, improve property values and the economy. The Town has invested substantial resources to plant and maintain trees, and these trees belong to the citizens of the Town. The Town also recognizes the need for a highly reliable network of public utilities to supply businesses, homes, hospitals, and other services, in an area subject to frequent storms and high winds.

**§ 221-3. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

TOWN TREES — Trees, shrubs and bushes within the Town's jurisdiction.

TREE TOPPING — 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.

VISION CLEARANCE — That area included within the street lines at points which are 20 feet distant from their point of intersection measured along said street lines which will materially obstruct the view of a driver of a vehicle approaching a street intersection.

ARTICLE II  
**Permit Requirements**

**§ 221-4. Permit required.**

A valid tree work permit shall be obtained prior to doing any of the following work:

- A. Trimming of Town trees.
- B. Excavation within or adjacent to the public right-of-way or public property which may disturb roots of Town trees, including but not limited to the installation of utilities.
- C. Removal of Town trees.

**§ 221-5. Applicability.**

This chapter shall not apply to:

- A. The clearance of trees and brush under major, cross-country transmission lines belonging to electric utility companies, except that this chapter shall apply to work in the vicinity of such utility lines along roadways.
- B. Work being done by the Town of Barnstable, or under contract to the Town of Barnstable, except where tree removal is subject to the jurisdiction of agencies listed in § 221-19 below.
- C. Maintenance and beautification of shrubs and trees within the public right-of-way which overhang private property, by the adjacent property owner, except that removal of any Town tree shall be subject to all applicable laws and regulations pursuant to § 221-19 below.

**§ 221-6. Application.**

Application for a tree work permit shall be made to the Tree Warden a minimum of 15 business days prior to commencement of the planned work, except in an unforeseen emergency. Application for work on conservation lands shall be submitted to the Conservation Commission.

**§ 221-7. Clean up of brush and wood; stump removal.**

All wood disposal is the responsibility of the utility or the contractor, except when specific direction is given by the Department of Public Works or the Conservation Commission to deliver to an in-town location. Chipping of brush and cleanup of all stumps, wood and other debris shall be a continuous operation. Stumps of trees shall be removed to the surface of the ground so that tops of stumps do not project above the surface of the ground, so that cleared areas can be maintained by mowing, and to provide safe passage for pedestrians.

**§ 221-8. Reimbursement of Tree Warden's time.**

- A. The Town shall be reimbursed for the total cost of the time of the Tree Warden, or his designee, and support staff, for reviewing work to the Town's trees. Costs shall be assessed through permit application fees or by direct billing.
- B. Fees may be waived for work done for the benefit of the Town, at the discretion of the Tree Warden.

**§ 221-9. Verification of ownership.**

It is the obligation of the contractor to positively verify that trees to be trimmed or removed are growing within the public right-of-way.

**§ 221-10. Utility emergencies.**

An emergency shall be considered to be breakage which threatens a power location. The utility company or tree contractor shall notify the Tree Warden of the emergency within two business days. In major emergencies, the utility shall notify the Tree Warden as soon as reasonable after the emergency.

**§ 221-11. Supervision of all work on Town trees.**

All work on Town trees shall be supervised in the field by an attending Massachusetts certified arborist, who shall be responsible for the work performed, and shall maintain regular contact with the Town's Tree Warden. Both the contractor and the utility shall be responsible for ensuring that the bucket operators are trained and knowledgeable of the standards of this chapter, including the ANSI Standard Z-133, and National Arborist Association (NAA) Pruning Standards.

**§ 221-12. Suspension of permit; stop-work order.**

The Tree Warden may cancel a permit or issue a stop-work order without notice.

**§ 221-13. Appeal.**

The Trees Warden's decision under §§ 221-6 and 221-12 may be appealed to the Town Manager.

ARTICLE III  
**Trimming**

**§ 221-14. Compliance required.**

In order to minimize adverse impacts of pruning on the Town's trees, all work performed shall comply with the following requirements and standards.

**§ 221-15. Pruning and trimming standards.**

- A. Trimming shall be done in such a manner as to protect current tree health with all possible regard for future growth and development
- B. All work will be performed in compliance with ANSI Standard Z-133 and National Arborist Association (NAA) Pruning Standards.
- C. No major limb or a limb with a diameter greater than 15% of the tree diameter at breast height (dbh) shall be removed unless approved by the Tree Warden, prior to the commencement of trimming.
- D. Climbing irons shall not be used on any tree.
- E. Unless otherwise authorized by the Tree Warden, it shall be unlawful as a normal practice for any person or firm to top any Town tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the Tree Warden.
- F. A reasonable attempt shall be made to trim dead wood from the area being worked.

**§ 221-16. Line clearance standards.**

- A. Trimming for utility line clearance shall protect the viability and proper shape of a tree, and in no case shall trees be trimmed to provide clearance to wires and cables in excess of the following standards:
  - (1) The maximum clearance standards in Table 1 below, except under well documented circumstances, for specific trees only, to be approved by the Tree Warden; and
  - (2) In no case shall tree trimming remove more than 15% of the leaf surface in any one year, unless approved by the Tree Warden; and
  - (3) Tree trimming for clearance to wires and cables shall be performed for no more than three years' growth; and
  - (4) In all cases tree trimming shall be reduced wherever possible, especially on young trees.

B. Maximum line clearance standards. See all other preceding sections including but not limited to the following:

- (1) Subsection A(2): "In no case shall trimming remove more than 15% of the leaf surface....."
- (2) Subsection A(3): "Tree trimming ... for no more than three years growth."

**Table 1**

**Type of Wire, Cable, or Device**

<b>Specification (in feet)</b>	<b>120/240 Volts</b>	<b>13,800 Volts</b>			<b>3,800 Volt</b>
		<b>2,400/4160 Volts Street Lighting</b>	<b>Open wire Lighting</b>	<b>25,000 Volts + Open Wire</b>	<b>Spacer (covered)</b>
To overhanging branch	5	10	12	12	8
Side trimming	2	2	6	8	2
Topping (to top of tree beneath wire)	5	5	8	8	6

**§ 221-17. Conflict with other laws.**

Nothing in Article III shall conflict with the safety standards of the National Electrical Code.



ARTICLE IV  
**Tree Removal and Replanting**

**§ 221-18. Tree removal permits required.**

A valid work permit shall be obtained from the Tree Warden for removal of any Town tree, except that approval of the Conservation Commission shall be required on conservation lands. Tree removal is subject to approval including but not limited to the Tree Warden acting pursuant to MGL Ch. 87; the Planning Board along designated scenic roads pursuant to MGL Ch. 40, § 15C, and Chapter 180, Scenic Roads, of the Code of the Town of Barnstable, and the Old Kings Highway along Route 6A pursuant to MGL Ch 61. In addition, tree removal may be subject to the Old Kings Highway Regional District pursuant to MGL Ch. 470 of the Acts of 1973, as amended, or any local Historic District, pursuant to MGL Ch. 40C, as amended. The forgoing list is intended to be for convenience only and does not purport to be exhaustive; this section shall not be construed as an exemption from or a relaxation of any applicable requirements of law.

**§ 221-19. Replacement of Town trees.**

- A. Town trees to be removed shall be replaced, subject to approval of a plan detailing the species and location, by the entities with jurisdiction listed in § 221-18 above. In the event that the tree replacement plan is in dispute, the following methods for assessing replacement shall apply:
- (1) The value of a public tree being removed shall be assessed by the Tree Warden based upon standards in the industry, and the costs assessed to the applicant. Such costs shall be placed in an account dedicated to the replacement planting of trees along the Town's roadways. In evaluating tree value, the applicant for tree removal may submit information based upon the Council of Tree and Landscape Appraisers, trunk formula method, or other nationally recognized methodology. Alternatively, the approving entities listed in § 221-18 above may require the replanting of street trees of equivalent value to the tree being removed.
  - (2) Where a Town tree is being removed for safety reasons and the value of the tree being removed has been reduced by previous damage or trimming, the tree shall be replaced with a minimum of two street trees, or the value thereof placed into an account dedicated to tree replacement.
  - (3) Any planned program of tree removal shall be subject to a tree replacement program, specifying the numbers, location, type and size of trees to be installed, and a maintenance program. Where a general area program of Town tree removal is planned, the approving entities listed in § 221-18 above may require implementation of the tree replacement program at least three growing seasons prior to commencement of the tree removal program.

- B. All replacement trees shall have a minimum caliper of three inches, unless a lesser caliper is approved for a smaller size class.
- C. Abutting property owners may plant street trees within the road layout, provided that the Tree Warden grants approval and that the selection and location of said trees are in accordance with the provisions of this chapter.

ARTICLE V  
**Tree Planting Standards**

**§ 221-20. Listing of trees acceptable for planting.**

- A. The Tree Warden shall develop and maintain an up-to-date listing of trees considered most desirable for new plantings along streets in the following three size classes based on mature height:
- (1) Small (under 20 feet).
  - (2) Medium (20 to 40 feet).
  - (3) Large (over 40 feet).
- B. Lists of trees not suitable for new plantings will also be developed and maintained current by the Tree Warden.

**§ 221-21. Spacing between street trees.**

- A. Street trees shall be planted on public property no closer together than the following:
- (1) Small size class: 20 feet.
  - (2) Medium size class: 30 feet.
  - (3) Large size class: 40 feet.
- B. An exception may be made to the above spacing for special plantings if authorized by the Tree Warden.

**§ 221-22. Planting near curbs and sidewalks.**

- A. Street trees may be planted on public property no closer to any curb or sidewalk than the following:
- (1) Small size class: two feet.
  - (2) Medium size class: three feet.
  - (3) Large size class: four feet.
- B. An exception may be made to the above spacings for special plantings if authorized by the Tree Warden.

**§ 221-23. Planting near street corners and fire hydrants.**

No tree shall be planted on public property to obstruct visual clearance of any street corner, measured from the point of nearest intersecting curbs or curblines nor within 10 feet of any fire hydrant.

**§ 221-24. Planting near overhead utilities.**

No tree other than those species listed as small trees in § 221-20 of this chapter, or trees with a columnar form, may be planted on public property under or within 10 feet of any overhead utility wire, except where authorized by the Tree Warden.

**§ 221-25. Power of Town to plant, maintain and remove trees and shrubs.**

The Town shall have the right to plant, maintain, and remove trees, plants and shrubs within the lines of all Town-owned streets, alleys, avenues, lanes, squares and other public property that may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public property.

**§ 221-26. Installation of tree lights.**

- A. With the approval of the Town Manager and the Tree Warden, decorative lights may be installed in Town-owned trees on public property for periods which will not interfere with the proper growth and maintenance of the trees and when the occasion for the lights is deemed appropriate.
- B. Unless otherwise authorized, holiday lights shall be installed no earlier than November 1 and removed no later than March 15.

## ARTICLE VI

**Tree Removal From Private Property****§ 221-27. Hazardous or diseased trees.**

A tree located on private property which constitutes a hazard to life and property in the Town right-of-way or adjacent private property, or harbors disease for which the removal of such tree will eliminate a potential threat to other trees within the Town shall be removed by the owners at their expense within 60 days following written notification by the Tree Warden. In the event the owners fail to comply with such notification, the Town shall have the right to remove or cause to have removed such trees and charge the cost of removal to the owners. Any person owning property in the Town and who qualifies on the basis of 125% of the federal poverty guidelines may petition the Town Manager for removal of a diseased tree or one which constitutes a hazard to life and limb by Town forces at no charge.

**§ 221-28. Pruning trees which endanger public safety.**

The Tree Warden may permit the pruning of any tree or shrub on private property when it endangers public safety by interfering with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight distance at intersections.



## ARTICLE VII

**Trees on Public Property and Town-Owned Trees****§ 221-29. Plan for care of street and park trees.**

The Tree Warden shall develop, update annually, and administer a comprehensive plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public property. The plan shall be submitted in June of each year to the Town Manager via the Superintendent of Public Works and upon their acceptance and approval shall constitute the official tree plan for the Town of Barnstable. The standards and specifications contained within the plan shall apply not only to work performed by Town forces but any private individuals or contractors who perform work on public property. Nothing in said plan shall be inconsistent with this chapter.

**§ 221-30. Harming Town-owned trees.**

It shall be unlawful to trim, prune or remove any Town tree without the approval of the Tree Warden and where applicable, approval of the entities listed in § 121-18 above, or to harm a Town tree by removing or otherwise damaging the bark and by attaching signs or any other item to any part of the tree using nails or other device that punctures the bark.





ARTICLE VIII  
**Enforcement**

**§ 221-31. Severability.**

If any provision of this chapter is held invalid by a court of competent jurisdiction, the remainder of the chapter shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this chapter shall not affect the validity of the remaining sections or parts of sections or the other ordinances of the Town of Barnstable.

**§ 221-32. Violations and penalties.**

Violation of any provision of this chapter shall be punished by a fine of not more than \$300 for each offense. Each act causing damage to a separate tree shall constitute a separate offense. This chapter may be enforced by noncriminal disposition methods of the Town of Barnstable.