

TOWN OF BRANFORD REPRESENTATIVE TOWN MEETING RULES &
ORDINANCES COMMITTEE SPECIAL MEETING

TUESDAY, January, 24 2023 7:30 PM

The Rules and Ordinances Committee of the Representative Town Meeting of Branford held a special meeting on Tuesday, January 24, 2023, at 7:30p.m via ZOOM. Meeting started at 7:31pm

Peter Black Chair

Committee attendance: Josh Brooks, Adrian Bonenberger, Peter Hentschel, Tricia Anderson. Absent: David Wells, Sean Kelly

Also in attendance: First Selectman Jamie Cosgrove, RTM members Tracy Everson, Carolyn Sires, Chris Sullivan and Ray Ingraham who facilitated the Zoom meeting.

The following items were discussed:

1. To review town Community Forest Commission and Tree warden ordinances, Chapter 16, Article I and II of the Town Code.

After review of the changes and updates by the R&O committee and Forest Commission members on Chapter 16 Article 1 Community Forest Commission; a motion to recommend yo yhr full ZRTM, subject to Town Attorney review, as presented by Peter Hentschel and second by Josh Brooks. Roll call motion to approve was unanimous, motion carries. Copy of draft text attached.

After review, discussion, changes and updates by R&O committee, First Selectman and Community Forest members on Chapter 16 Article II Tree Warden and Public Tree Protection, a motion to recommend to the full RTM, subject to Town Attorney review, made by Peter Hentschel and second by Adrian Bonenberger. Roll call motion to approve was unanimous, motion carries. Copy of draft text attached.

2. To consider, and if appropriate, adopt a policy for virtual meetings into our Town Meeting Rules.

After much discussion regarding logistics, IT operations, equipment and requirements of chairs per committee among other virtual points of pros and cons, a motion to re-refer for further discussion by Peter Hentschel and second by Josh Brooks. Roll call motion to approve was unanimous, motion carries.

Motion to adjourn at 9:41 by Josh Brooks second by Adrian Bonenberger was unanimous.

Note: Video of meeting will be available at for 45 days after this meeting.

https://us02web.zoom.us/rec/share/mNJ0hN4lQHE_Gig2iHE79E43-Jf37ZXgb-iXRdvwNWIU41a7EcXnfkYy4vnSyL2C.x0Fyt683RqbEy97k

Passcode: &D8B@iVt

Peter Black,

Chair

ARTICLE I
Community Forest Commission [Adopted
1-14-2009]

§ 16-1. Purpose.

It is the purpose of this chapter to recognize and promote the importance of trees in the community and the many benefits they provide, including property value enhancement, home heating and cooling cost reduction, noise and light pollution abatement, wildlife habitat and food source, water purification and soil erosion prevention and atmospheric carbon dioxide reduction on public property within the Town of Branford.

§ 16-2. Powers and duties.

- A. The Community Forest Commission, with the advice and in collaboration with the Tree Warden, may initiate long-term monitoring and management activities focused on trees located on public properties, except for those located on the Town Green. These activities may include but are not limited to tree inventories and surveys; lists of trees appropriate for planting in the Town; and long-term management plans.
- B. The Commission may develop an educational program for residents, property owners, and developers concerning recommendations for plantings and maintenance of existing trees.
- C. The Commission may organize an annual Arbor Day Celebration to promote and educate the community about the importance of trees and the many benefits that trees bring to our community. The celebration's funding by the Town through tax dollars shall be restricted to administrative expenses.
- D. The Commission may act in an advisory capacity to the Planning and Zoning Commission with respect to landscape design, and principles, locally suitable plant species and protection of natural resources.
- E. The Commission may advise and consult with the Tree Warden on any matter pertaining to this chapter and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, amendments to this chapter; policies concerning selection, planting, maintenance, and removal of trees, shrubs and other plants within the Town; vegetation management requests from utilities.

§ 16-3. Composition; appointment and terms; vacancies; compensation.

- A. Said Commission shall consist of five members, all of whom shall be residents of the Town of Branford. In addition, the Tree Warden shall be a non-voting member of the Commission.
- B. All members of said Commission shall be appointed by the Board of Selectmen and shall serve for terms of three years; provided, however, that initially, in January 2009, two members shall be appointed for terms of three years, two members shall be appointed for two years, and one member shall be appointed for a term of one year. The Commission shall elect a Chairman. Thereafter, in the month of January of each succeeding year members shall be appointed for terms of three years.
- C. In the event of a vacancy in the term of any member, the Board of Selectmen shall appoint a successor to serve for the balance of the term vacated. Any member may be removed for cause by said Board of Selectmen.
- D. Members shall serve without compensation, but **the Commission** shall be compensated for expenses **which are** incurred in the performance of its official duties, **and which are within the limits of specifically appropriated funding.**

§ 16-4. Annual report.

The Community Forest Commission shall submit an *Annual Report* to the Town summarizing its activities for the year.

§ 16-5. Public Communication.

The Community Forest Commission shall utilize the town website to communicate to the public any relevant plans, policies, and actions of the Commission.

ARTICLE II
Tree Warden and Public Tree Protection
[Adopted 10-9-2019]

§ 16-6. Title.

This article shall be known and may be cited as the "Branford Tree Ordinance, Branford, Connecticut."

§ 16-7. Purpose.

It is the purpose of this article to protect, preserve, and enhance the public trees that constitute the Town of Branford's community forest **and to provide for the safety of the public where such safety demands the removal or pruning of any tree or shrub under the tree warden's control** by establishing a framework for tree policies, regulations, and standards and by appointment of a Tree Warden with responsibility for care and control of public trees. The Town intends to be proactive in conserving the values associated with these trees; encouraging maintenance, minimizing unnecessary removals, and encouraging new street planting whenever possible. A healthy community forest benefits the public interest in many ways, including the following: improved air quality, reduced stormwater runoff and erosion, traffic calming, quieter neighborhoods, energy savings, wildlife habitat, increased property values and a generally improved quality of life. This article has been adopted in conjunction with the recommendations of the Town Tree Warden and Community Forest Commission.

§ 16-8. Definitions.

As used in this article, the following terms shall have the meanings indicated: CGS

— Connecticut General Statutes.

DIAMETER AT BREAST HEIGHT (DBH) — The diameter of a tree measured at a point 4.5 feet above the ground.

PERSON — **any individual, firm, partnership, association, corporation, limited liability company, company, organization, or legal entity of any kind, including any political subdivision of the state and including any state agency.**

PROPERTY LINE — **the boundary between the land comprising a street and the land that abuts thereon.**

PROPERTY OWNER — The owner of record of any parcel of land.

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.

SHRUB — Woody plants, usually branched from the base, generally less than 15 feet tall when mature.

TOWN PROPERTY — Any and all property owned by the Town of Branford, including, for the purposes of this article, such limbs, roots or parts of trees and shrubs as extend into or overhang the limits of any municipal road or grounds.

TREE — a woody perennial plant usually having one self-supporting stem or trunk which has a definitely formed crown and is normally expected to attain a mature height of over twenty feet.

TREE ROOT ZONE — The area beneath and surrounding the tree where roots are located.

§ 16-9. Tree Warden, appointment and qualifications.

- A. The Town Tree Warden shall be appointed by the Board of Selectmen ~~for a term specified and~~ in accordance with CGS § 23-58 as may be revised **for a term of 2 years.**
- B. The Town Tree Warden shall meet all state requirements specified **in CGS 23-59a** for training and certification of successful completion of coursework, **or** be a licensed arborist, or appoint a deputy Tree Warden who meets the requirements in accordance with CGS § 23-59a as may be revised.
- C. **Upon completion of the term of appointment the reappointment of the Tree Warden by the Selectmen shall only be granted if evidence of compliance with CGS 23-59a has been submitted into the public record and additionally if such Tree Warden has successfully carried out the duties of the Tree Warden as required in CGS 23-59a.**
- D. In order to make informed and knowledgeable decisions concerning public safety and the health of municipal trees, a licensed arborist **may** be a part of the decision-making process for all trees **within the Tree Warden's jurisdiction.** If the Tree Warden does not possess a current Connecticut arborist license, the town shall be required to contract the services of a Connecticut Licensed Arborist to work in a consulting role with the Tree Warden. **The Tree Warden shall maintain a standing "On-Call Contract" with a specific Connecticut Licensed Arborist to provide the above decision-making consulting services in situations where public safety concerns are involved.**

§ 16-10. Powers and duties of Town Tree Warden

The Tree Warden shall, in accordance with CGS § 23-59 and CGS § 23-65 as may be revised:

- A. Have the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of the Town of Branford, except those along state highways under control of the Commissioner of Transportation and public parks or grounds which are under the jurisdiction of a board or commission given authority for such care and control by Town ordinance and of these the Tree Warden shall take the care and control if so requested in writing by such board or commission. Such care and control shall extend to such limbs, roots, and parts of trees and shrubs as extend or overhang the limits of any such public road or grounds. The Tree Warden shall expend all funds appropriated for setting out, care, and maintenance of all trees and shrubs.
- B. Enforce all provisions of law for the preservation of trees and of shrubs and of roadside beauty.
- 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 Town, and the Selectmen 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, with the approval of the Selectmen, 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.
- E. Review all proposed public utility work affecting trees as required in § 16-12. Utility maintenance.
- F. Maintain a list of the Town of Branford notable trees, as identified by the Connecticut Notable Tree Project, and maintained in the database at the Connecticut College Arboretum.
- G. Maintain the inventories, as may be available, of Town trees.
- H. Whenever the Tree Warden has received a public communication indicating a potential hazard created by a tree or shrub under his/her jurisdiction, the Tree Warden shall inspect such condition and determine if further action as specified in 16-10 C is necessary.
- I. Within the normal course of the Tree Warden's duties the Tree Warden shall endeavor to identify obvious hazardous trees or shrubs within the Tree Warden's area of jurisdiction and proceed to address such observed hazards per section 16-10 C. This duty shall not constitute in any way an implication that all such hazards have been identified.
- J. Manage Public Communication
 - A. It shall be the responsibility of the Tree Warden to receive and respond to public requests for information about the management of trees under the jurisdiction of the Tree Warden, and it shall be the responsibility of the Tree Warden to keep records of the same.
 - B. It shall be the responsibility of the Tree Warden to establish and publicize a clear process for communication between the public and the Tree Warden.

§ 16-11. Operations under the jurisdiction of the Tree Warden.

- A. **Removal of trees or shrubs as outlined in 16-10 C above.**
- B. **Removal of illegally erected signs as outlined in 16-10 D above.**
- C. **Issuance of Permits.** 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 may 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.
 - (2) 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.
 - (3) The Tree Warden shall inspect or require inspection by qualified individual to ensure compliance with the permit.
 - (4) 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.
- D. 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.

- E. The Branford Department of Public Works is assigned the responsibility to assist the Tree Warden in his/her duties.

§ 16-12. Utility maintenance.

- A. 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.
- B. 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. This process is defined in Chapter 283, § 16-234 of the Connecticut General Statutes.
- C. Pruning practices will be consistent with the following:
 - (1) The practice of ground to sky pruning for line maintenance is discouraged except where it is unavoidable as determined by the Tree Warden.
 - (2) Stumps designated by the Tree Warden or other Town of Branford designee, as a hazard to vehicular and/or pedestrian traffic, shall be ground flush with surrounding surfaces.
 - (3) 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.
 - (4) 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.

§ 16-13. Interference with Town Tree Warden.

No person shall unreasonably hinder, prevent, delay or interfere with the Town Tree Warden or his/her agents while engaged in the execution or enforcement of this article.

§ 16-14. Penalties for offenses, conducted under jurisdiction of the Tree Warden.

- A. The Tree Warden shall be authorized to issue citations to any person, firm, or corporation, for the following violations, in compliance with the procedure as set forth in Chapter 196 and as authorized by CGS § 23-59 and CGS § 23-65 as may be revised. Each individual action shall be considered a separate offense of the provisions of this section.
- B. Until such time as regulations are adopted per CGS § 23-59, any person who violates any provision of this article or who fails to comply with any notice issued pursuant to the provisions of this chapter shall be subject to the following fines:
 - (1) For the following violations, \$50 for each separate offense, treated as an infraction:
 - (a) Attaching notices, advertisements, flyers, and similar items to trees, shrubs, rocks, or other natural objects;
 - (b) Cutting, painting, or marking trees, shrubs, rocks, or other natural objects, except to protect them or the public (such as blazing a trail);
 - (c) Using climbing spurs to climb an ornamental or shade tree.
 - (2) For removal or damage to a tree that necessitates removal: Court action.
 - (3) For the following violations, \$250 for each separate offense, first offense treated as an infraction, subsequent offenses treated as a Class C misdemeanor, punishable by a fine of up to \$500 and up to three months in prison:
 - (a) Depositing or throwing any advertisement or, with certain exceptions, refuse paper, camp or picnic refuse, junk, or other material on tree roots or other parts; or
 - (b) Affixing to trees, rocks, or natural objects a paper or advertisement other than a legally posted notice.