The town receives many requests from residents for tree planting. Because of budget restrictions, these requests can be honored only where residences abut major streets or commercial areas. Street trees *can* be planted in residential areas on the basis of donations from homeowners or neighborhood associations.

To stretch tax dollars, planting with public funds is limited to major streets, urbanizing areas and buffer zones. Grants are applied for when state or federal funds are available. An inventory of tree losses and vacant spaces is maintained by the DPW Park & Tree Division. Replacements are made on the basis of planting plans approved by the Natural Resources Commission. Wherever space permits, large canopy species are planted to sustain the gracious, shady avenues which distinguish Wellesley from other residential communities.

Tree planting funds do not include the flowers and shrubs which beautify Wellesley's streets. These plantings are provided through the generosity of Wellesley's six garden clubs and are maintained with the assistance of Volunteers in Parks under the Public Works V.I.P. program.

If you would like to donate or to help keep Wellesley beautiful, please call the DPW Park & Tree Division at 235–7600 Ext. 330.

### WELLESLEY'S TREE BYLAWS

Police regulations found at Article 49 of the Town Bylaws contain several provisions for the care, protection and replacement of Wellesley's trees. Violation of police regulations carries a $50 fine unless otherwise specified.

*Section 49.3* requires a permit from Public Works before a street or sidewalk is dug up. This requirement assures a review by the DPW Park & Tree Division so that damage to public shade trees is avoided.

*Section 49.8A* forbids mutilation of any tree, bush, flower or plant on town land.

*Section 49.8B*, known as the Inch-for-Inch Tree Replacement Bylaw, provides that any developer wishing to remove public shade trees larger than 2½ inches in diameter must plant an equivalent number of smaller trees in locations specified by the Natural Resources Commission. The total caliper (diameter) of the replacement trees must equal or exceed the total caliper of the trees to be removed.

Police Regulation *§49.23* requires that sightlines at intersections be kept clear of obstruction by fences, hedges, shrubbery and trees. *Section 49.32* establishes a fine of $300 for anyone violating Wellesley's Scenic Road regulations.

### SCENIC ROAD REGULATIONS

MGL Chapter 40 §15C provides protection for trees and stone walls on designated Scenic Roads. No work is permitted on scenic roads without a hearing conducted by the Planning Board. This law and the regulations Wellesley has adopted under it protect trees on certain private as well as public roads.

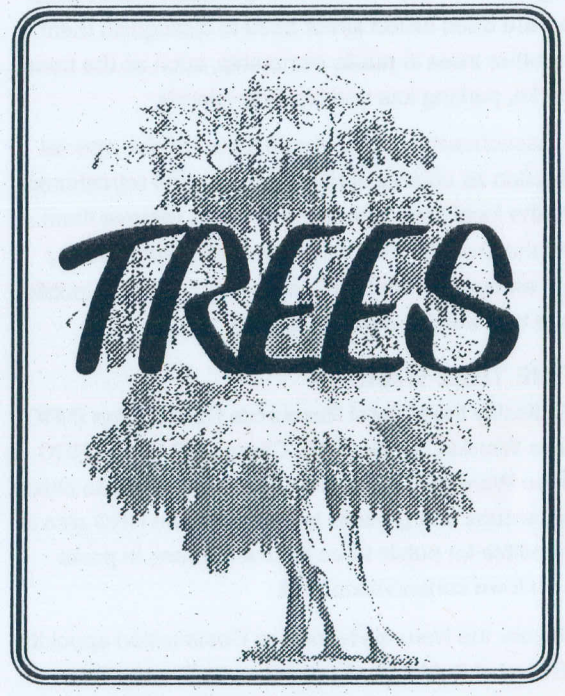
Wellesley currently has five designated scenic roads: The Waterway, Squirrel Road, Pond Road, Cartwright Road and Cheney Drive, the Wellesley access point to Elm Bank.

If you have any questions or would like more information, please call:

**Town of Wellesley**
**NATURAL RESOURCES COMMISSION**
**(781) 431–1019 Ext. 294**



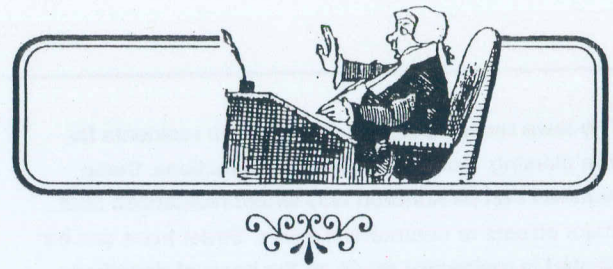
# KNOW THE LAW




PUBLIC SHADE TREES
SHADE TREE HEARINGS
INCH-FOR-INCH BYLAW
POLICE REGULATIONS
PENALTIES

WELLESLEY, MASSACHUSETTS 02482

# When is a tree a public shade tree?



### PUBLIC SHADE TREES

Under Chapter 87 Section 1 of the Massachusetts General Laws, all trees within a public way or on the boundaries of a public way are *public shade trees*. This means that all trees planted along the roadside, even evergreen trees, are public shade trees. Public shade trees are often called *street trees* to distinguish them from other trees in public ownership, such as the trees in parks, parking lots and highway islands.

In Massachusetts, public shade trees receive special protection as objects of beauty, grace and refreshment. Only the local Tree Warden may cut or remove them. Even the Tree Warden, who acts with state authority when enforcing Chapter 87, may not cut down a public shade tree without a public hearing.

### THE TREE WARDEN

In Wellesley the Natural Resources Commission (NRC) is Tree Warden. Under MGL Chapter 87 §2 the NRC as Tree Warden has care and control of all public shade trees, shrubs and growths in the town. The NRC also is responsible for public trees in Town Forest, in parks and on town conservation land.

Each year the Natural Resources Commission appoints the Board of Public Works to act as its Deputy Tree Warden. Written standards have been worked out between the two boards to permit emergency work and prompt removal of trees which endanger the public.

### PUBLIC SHADE TREE HEARINGS

MGL Chapter 87 §3 provides that public shade trees may not be removed without a public hearing advertised in the local newspaper. To ensure that everyone knows which tree or trees are to be removed, a notice of the hearing must be posted on the tree itself. Wellesley uses bright pink or orange posters for this purpose.

From time to time drivers inquire why colorful signs have appeared on trees along their route. An inspection of the poster will reveal the time, date and place of the tree hearing. All citizens are encouraged to attend and to speak at the public hearing.

There is one exception to the hearing requirement. If the Selectmen or road commissioners determine that a tree is a danger to travellers on the roads, they must order the Tree Warden to trim or remove the tree and the Tree Warden must do so. In this case no notice or hearing is required, though it is optional.

### APPEAL TO SELECTMEN

The Tree Warden's decision to *keep* a tree is final. However, if any person objects in writing to a tree *removal* before or at the hearing, under MGL Chapter 87 §4 the Tree Warden may not remove the tree without the Selectmen's consent.

### ADMINISTRATIVE PROCEDURES

The Natural Resources Commission usually uses a rule-of-thumb to determine whether or not a particular tree is a public shade tree under Chapter 87. The rule is based on the fact that public rights-of-way are usually 40 feet wide (a 24–foot paved way plus space on both sides for a five-foot sidewalk and a three-foot treelawn).

Under the law, a public shade tree is any tree within or on the boundaries of this 40–foot space. Since tree roots flare to varying degrees, the town standard for trees on the boundary of the public way is any tree whose trunk one foot above the ground extends over the boundary line.

But what if the right-of-way is not 40 feet wide? What if the paved way is not in the center of the right-of-way?

Or what if the boundary between public and private property is not evident? In such cases a survey line must be run.

### PENALTIES

Penalties for unauthorized tree cutting are severe but are seldom necessary in Wellesley. Chapter 87 §6 provides a fine of $500 for any person who cuts or removes a public shade tree without a permit from the Tree Warden. In addition, violators may be assessed triple damages plus the value of the wood under MGL Chapter 242 §7. If the act is wanton or malicious, additional fines of $500 per tree plus damages and imprisonment for six months are provided under Chapter 87 §§ 11–12.

A more common problem is signs or other objects being nailed to trees, opening a pathway for rot. Chapter 87 §9 provides a fine of $50 for affixing anything to a public shade tree.

### PUBLIC SHADE TREE PLANTING

Because street trees provide a public benefit, MGL Chapter 87 §7 authorizes the Tree Warden to plant trees not only in the public way, but—with the consent of the landowner—on private land up to 20 feet from the public right-of-way.

Since trees do better away from sidewalks, street salt and compaction, Wellesley plants street trees between 8–20 feet from the travelled way wherever possible. After a street tree is planted on private property, its care and maintenance becomes the responsibility of the landowner.