

**ANNUAL TOWN MEETING  
TOWN OF MONTAGUE  
COMMONWEALTH OF MASSACHUSETTS  
MAY 22, 2021**

# MOTIONS

**ARTICLE 1. MOVED:** That the Town vote to receive and act upon the reports of the Officers of the Town and to receive the report of any committees and act thereon.

**PASSED/MAJORITY VOTE**

**ARTICLE 2. MOVED:** That the Town vote to authorize the Selectboard, or other Town departments with the approval of the Selectboard, to apply for and accept grants from the Federal Government, Commonwealth of Massachusetts, or any other source, and to expend the same for purposes received without further appropriation.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 3. MOVED:** That the Town vote to amend Section 7 of Article II of the Town of Montague General Bylaws, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, by creating a new Airport Fuel Revolving Fund for the Fiscal Year beginning July 1, 2021 as shown in Article 3 of the Annual Town Meeting Warrant and to establish an annual spending limit of \$160,000 for said Airport Fuel revolving fund, and which funds may be expended without further appropriation for the purposes defined therein, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 for the ensuing fiscal year, to increase the same; provided, however, that in accordance with state law, the Selectboard, with the approval of the Finance Committee, may increase the limit for that fiscal year only.

Section 7: Revolving Funds

(a) There are hereby established in the Town of Montague pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, the following revolving funds:

<u>Revolving Fund</u>	<u>Spending Authority</u>	<u>Revenue Source</u>	<u>Allowed Expenses</u>
Hazardous Materials Response Planning Committee (a.k.a. SARA Title III Committee)	SARA Title III Comm	Fees collected from individuals responsible for oil and hazardous material spills	For the purpose of cleaning up oil and hazardous material spills
<b>Airport Fuel</b>	<b>Airport Manager</b>	<b>Fees from sale of Airport fuel</b>	<b>Purchase of Airport fuel to be sold and</b>

used at the Airport

(b) Expenditures from each revolving fund shall be subject to the limitations established by Town Meeting, and to any additional limitations as otherwise set forth in Massachusetts General Laws Chapter 44, Section 53E½.

**PASSED/MAJORITY VOTE**

**ARTICLE 4. MOVED:** That the Town vote to fix the salaries of all elected officials as required by law for the fiscal year beginning July 1, 2021, as set forth in Schedule I, Elected Officials.

**SCHEDULE I  
Elected Officials**

<b><u>TITLE</u></b>	<b><u>FY21 BUDGET</u></b>	<b><u>FY22 REQUEST</u></b>	<b><u>FY22 RECOMMEND</u></b>
<b>MODERATOR</b>	370	370	370
<b>SELECTBOARD</b>			
Chairman	2,355	2,355	2,355
Second/Third Members	2,140	2,140	2,140
<b>BOARD OF ASSESSOR</b>			
Chairman	1,765	1,765	1,765
Second/Third Members	1,605	1,605	1,605
<b>TREASURER/COLLECTOR</b>	68,963*	71,396**	71,396
*G-7			
**G-8			
<b>TOWN CLERK</b>	75,014	76,139	76,139
G-11			
<b>BOARD OF REGISTRARS</b>			
Town Clerk	840	840	840
<b>TREE WARDEN</b>	1,575	1,575	1,575
<b>BOARD OF HEALTH</b>			
Chairman	1,765	1,765	1,765
Second/Third Members	1,605	1,605	1,605

**PASSED/UNANIMOUS VOTE**

**ARTICLE 5. MOVED:** That the Town vote to fix the salaries of all appointed officials as required by law for the fiscal year beginning July 1, 2021, as set forth in Schedule II, Appointed Officials.

**SCHEDULE II  
Appointed Officials**

<u>TITLE</u>	<u>FY21 BUDGET</u>	<u>FY22 REQUEST</u>	<u>FY22 RECOMMEND</u>
<b><u>ANNUAL STIPENDS</u></b>			
BOARD OF REGISTRARS (3)	525	525	525
EMERGENCY MGMT DIRECTOR	5,765	5,765	5,765
ANIMAL INSPECTOR	1,575	1,575	1,575
BARN INSPECTOR	1,050	1,050	1,050
IT COORDINATOR	2,100	2,100	2,100
MEDIC COORDINATOR	4,000	4,000	4,000
POLICE IT ADMINISTRATOR	3,000	3,000	3,000
FOREST WARDEN	1,710	1,710	1,710
<b><u>RATES PER INSPECTION</u></b>			
ASST. BUILDING INSPECTOR	35.00	35.00	35.00
GAS INSPECTOR	35.00	35.00	35.00
PLUMBING INSPECTOR	35.00	35.00	35.00
ELECTRICAL INSPECTOR	35.00	35.00	35.00
<b><u>HOURLY RATES</u></b>			
EXTRA CLERICAL	<u>Ranges/hr.</u> 12.75-14.50	<u>Ranges/hr.</u> 13.50-15.25	<u>Ranges/hr.</u> 13.50-15.25
ELECTION WORKERS	12.75-15.50	13.50-16.25	13.50-16.25
SUMMER HIGHWAY	12.75-14.75	13.50-15.25	13.50-15.25
SNOW PLOW DRIVERS	15.00-25.00	15.00-25.00	15.00-25.00
PART TIME POLICE OFFICERS	17.00-21.00	17.00-21.00	17.00-21.00
PART TIME DISPATCHERS	17.00-21.00	17.00-21.00	17.00-21.00
PARKS & RECREATION	12.75-20.00	13.25-20.75	13.25-20.75
AIRPORT INTERN	12.75-15.00	13.50-15.20	13.50-15.50

**Note: Minimum Wage is \$13.50 as of 1/1/21 and goes to \$14.25/hr 1/1/2022**

**SCHEDULE II  
Appointed Officials**

**NON-UNION EMPLOYEES NOT SHOWN ABOVE**

	<u>Grade</u>	<u>Range FY2021</u>		<u>Range FY2022</u>	
		Start	End	Start	End
<u>SALARIED</u>					
TOWN ADMINISTRATOR	J	94,203	115,934	95,616	117,673
TOWN ACCOUNTANT	G	61,251	75,014	62,170	76,139
CHIEF OF POLICE	I	85,639	105,395	86,924	106,976
DPW SUPERINTENDENT	H	77,854	95,813	79,022	97,250
DIRECTOR OF HEALTH	G	61,251	75,014	62,170	76,139
LIBRARY DIRECTOR	G	61,251	75,014	62,170	76,139
WPCF SUPERINTENDENT	H	77,854	95,813	79,022	97,250
<u>HOURLY</u>					
EXECUTIVE ASSISTANT	E	22.77	28.02	23.11	28.44
POLICE LIEUTENANT	G+8.5%	37.29	41.37	37.85	41.99
POLICE CUSTODIAN	A	15.26	18.78	15.49	19.06

**Informational Only: Fiscal Year 2022 budgeted wages –**

TOWN ADMINISTRATOR	117,673	DPW SUPERINTENDENT	97,250
TOWN ACCOUNTANT	76,139	DIRECTOR OF HEALTH	69,997
LIBRARY DIRECTOR	74,282	WPCF SUPERINTENDENT	87,227
CHIEF OF POLICE*	118,014	POLICE LIEUTENANT	41.99
POLICE CUSTODIAN	17.86	EXECUTIVE ASSISTANT	28.44

\*includes add'l 20% educational incentive pay

**PASSED/UNANIMOUS VOTE**

**ARTICLE 6. MOVED:** That the Town vote to acquire and accept, by donation, from Millers River Cemetery Corporation, or the current owner, all of the real property known as the Highland Cemetery, containing 7.393 acres, more or less, located at Millers Falls Road, Montague, and shown as Parcel 28-0-13; and further, to acquire and accept, by donation, all of the personal property, funds and accounts of said Millers River Cemetery Corporation owned, maintained and used in connection with the ownership and operation of the Highland Cemetery; and to authorize the Selectboard to take all actions and execute all documents necessary and appropriate for said acquisition and acceptance.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 7. MOVED:** That the Town vote to appropriate the sum of \$10,775,731 for the maintenance of the several departments of the Town, said sums to be allocated in accordance with Schedule III, Budget, and for any other necessary changes with \$59.80 to be raised from Transportation Infrastructure Fund Receipts Reserved for Appropriation and \$10,775,671.20 to be raised from Taxation.

DEPT NO.	BUDGET FY21	REQUEST FY22	SELECTBOARD FIN COMM RECOMMEND FY22	
GENERAL GOVERNMENT				
113	TOWN MEETING	2,090	2,140	2,140
122	SELECT BOARD	192,014	194,971	194,971
131	FINANCE COMMITTEE	1,000	700	700
132	RESERVE FUND	60,000	60,000	60,000
135	TOWN ACCOUNTANT	81,934	83,400	83,400
141	ASSESSORS	195,422	179,952	179,952
145	TREASURER/COLLECTOR	239,560	229,164	229,164
151	TOWN COUNSEL	80,000	85,000	85,000
155	INFORMATION TECHNOLOGY	74,100	97,800	97,800
159	SHARED COSTS	74,759	77,579	77,579
161	TOWN CLERK	167,001	155,379	155,379
175	PLANNING	121,187	123,121	123,121
176	ZONING BOARD OF APPEALS	1,200	700	700
182	MEDIC	5,000	5,000	5,000
190	PUBLIC BLDG UTILITIES	106,320	109,846	109,846
	TOTAL GENERAL GOVT	1,401,587	1,404,752	1,404,752
PUBLIC SAFETY				
211	POLICE	1,652,537	1,761,945	1,761,945
211	POLICE CRUISER	53,000	53,000	53,000
212	DISPATCH	311,584	310,291	310,291
241	BUILDING INSPECTOR	141,444	143,080	143,080
244	SEALER OF WEIGHTS	2,750	2,750	2,750
291	EMERGENCY MANAGEMENT	5,765	6,265	6,265
292	ANIMAL CONTROL	20,414	21,527	21,527
294	FOREST WARDEN	1,710	1,710	1,710
299	TREE WARDEN	20,285	30,285	30,285
	TOTAL PUBLIC SAFETY	2,209,489	2,330,853	2,330,853
PUBLIC WORKS				

420	DEPT OF PUBLIC WORKS	1,441,408	1,522,924	1,522,924
420	FLAIL LEASE #2/5	24,090	21,321	21,321
423	SNOW & ICE	278,050	278,050	278,050
433	SOLID WASTE	598,886	624,796	624,796
480	CHARGING STATIONS	7,000	6,000	6,000
491	CEMETERIES	7,000	13,440	13,440
	TOTAL PUBLIC WORKS	2,356,434	2,466,531	2,466,531
				SELECTBOARD
				FIN COMM
DEPT		BUDGET	REQUEST	RECOMMEND
NO.		FY21	FY22	FY22
	HUMAN SERVICES			
511	BOARD OF HEALTH	135,948	160,507	160,507
541	COUNCIL ON AGING	46,980	46,521	46,521
543	VETERANS' SERVICES	88,400	87,800	87,800
	TOTAL HUMAN SERVICES	271,328	294,828	294,828
	CULTURE & RECREATION			
610	LIBRARIES	426,950	437,744	437,744
630	PARKS & RECREATION	143,539	147,944	147,944
691	HISTORICAL COMMISSION	500	500	500
693	WAR MEMORIALS	1,300	1,300	1,300
	TOTAL			
	CULTURE/RECREATION	572,289	587,488	587,488
	DEBT SERVICE			
700	DEBT SERVICE	1,128,500	1,066,809	1,066,809
	INTERGOVERNMENTAL			
840	INTERGOVERNMENTAL	111,179	111,609	111,609
	MISCELLANEOUS			
910	EMPLOYEE BENEFITS	2,238,057	2,397,861	2,397,861
946	GENERAL INSURANCE	96,000	115,000	115,000
	TOTAL MISCELLANEOUS	2,334,057	2,512,861	2,512,861
	TOTAL TOWN BUDGET	10,384,863	10,775,731	10,775,731

**PASSED/MAJORITY VOTE**

**ARTICLE 8. MOVED:** That the Town vote to appropriate the sum of \$2,586,971 for the purpose of operating the Water Pollution Control Facility and associated pumping stations, said sums to be allocated in accordance with Schedule IV, WPCF Budget, with

\$251,228 to be raised from Taxation and \$2,335,743 to be raised from Sewer User Fees.

DEPT NO.		BUDGET FY21	REQUEST FY22	SELECTBOARD FIN COMM RECOMMEND FY22
	WATER POLLUTION CONTROL			
440	Wages & Expenses	1,585,763	1,693,291	1,693,291
440	Capital Outlay		58,500	58,500
700	Debt Service	520,551	514,047	514,047
910	Employee Benefits	291,954	270,333	270,333
	SUBTOTAL WPCF	2,398,268	2,536,171	2,536,171
449	DPW SUBSIDIARY			
	Wages & Expenses	42,800	42,800	42,800
	Capital Outlay	8,000	8,000	8,000
	SUBTOTAL DPW SUBSIDIARY	50,800	50,800	50,800
	TOTAL WPCF	2,449,068	2,586,971	2,586,971

**PASSED/MAJORITY VOTE**

**ARTICLE 9. MOVED:** That the Town vote to appropriate the sum of \$78,950 for the purpose of funding the operations, maintenance, and debt service of the Colle Building, said sum to be raised from Colle Receipts Reserved for Appropriation.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 10. MOVED:** That the Town vote to appropriate the sum of \$206,164 for the purpose of operating the Turners Falls Airport, said sum to be raised from Airport User Fees.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 11. MOVED:** That the Town vote to appropriate the sum of \$1,221,005 for the purpose of paying the Franklin County Technical School District for Montague's share of the assessment for the yearly operation of the Franklin County Technical School, with \$27,262 to be raised from the Franklin County Technical School Stabilization Fund and \$1,193,743 to be raised from Taxation.

**PASSED/UNANIMIOUS VOTE**

**ARTICLE 12. MOVED:** That the Town vote to appropriate the sum of \$10,950,854 for the purpose of paying the Gill-Montague Regional School District for Montague's share of the assessment for the yearly operation of the Gill-Montague Regional Schools, said sum to be raised from Taxation.

**PASSED/MAJORITY VOTE**

**ARTICLE 13. MOVED:** That the Town vote to appropriate the sum of \$13,130 for the purpose of utility valuation appraisal services, said sum to be raised from Taxation.

**PASSED/UNANIMIOUS VOTE**

**ARTICLE 14. MOVED:** That the Town vote to appropriate the sum of \$190,000 for the following school building related projects and any and all incidental and related costs, said sum to be raised from Free Cash.

- A. \$55,000 to repair the Hillcrest Façade
- B. \$45,000 to repair the Sheffield Façade
- C. \$90,000 to update the Sheffield fire alarm system

**PASSED/UNANIMIOUS VOTE**

**ARTICLE 15. MOVED:** That the Town vote to appropriate the sum of \$56,511 for the purpose of resurfacing the tennis courts at the Turners Falls High School, including any and all incidental and related costs, said sum to be raised from the Gill-Montague Regional School District Stabilization Fund.

**PASSED/UNANIMIOUS VOTE**

**ARTICLE 16. MOVED:** That the Town vote to appropriate the sum of \$100,000 for the purpose of purchasing, equipping, and making major repairs to DPW vehicles and equipment, including any and all incidental and related costs, said sum to be raised from Taxation.

**PASSED/UNANIMIOUS VOTE**

**ARTICLE 17. MOVED:** That the Town vote to appropriate the sum of \$250,000 for the purpose of purchasing and equipping a six wheel dump truck with plow and sander, including any and all incidental and related costs, said sum to be raised from the Town Capital Stabilization Fund.

**PASSED/TWO-THIRDS MAJORITY VOTE**



**ARTICLE 18. MOVED:** That the Town vote to appropriate the sum of \$75,000 for the following Town projects and any and all incidental and related costs, said sum to be raised from Taxation.

- A. \$25,000 Unsafe Unhealthy Buildings
- B. \$25,000 for Unexpected Engineering Services
- C. \$25,000 for Bid/Project Overrun

**PASSED/MAJORITY VOTE**

**ARTICLE 19. MOVED:** That the Town vote to appropriate the sum of \$50,000 for the purpose of a Building Assessment and Capital Plan Study, including any and all incidental and related costs, said sum to be raised from Free Cash.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 20. MOVED:** That the Town vote to appropriate the sum of \$32,500 for the purpose of a Phase II Environmental Study for 500 Avenue A, including any and all incidental and related costs, said sum to be raised from Free Cash.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 21. MOVED:** That the Town vote to appropriate the sum of \$120,050 for the costs associated with the establishment and operation of a marijuana establishment known as 253 Farmacy, said sum to be raised from the Cannabis Impact Fee Stabilization fund.

- A. \$14,012 for costs incurred by Town departments in connection with the establishment and operation of 253 Farmacy
- B. \$5,538 for costs incurred by the Turners Falls Fire District in connection with the establishment and operation of 253 Farmacy
- C. \$7,000 for police training relative to identification of cannabis intoxication
- D. \$8,500 for prevention programming development and monitoring
- E. \$85,000 for school-based substance abuse counseling resources

**PASSED/TWO-THIRDS MAJORITY VOTE**

**ARTICLE 22. MOVED:** That the Town vote to appropriate the following sums for the purpose of increasing the special purpose funds set forth below, said sums to be raised from Taxation.

<b>Fund</b>	<b>Amount (\$)</b>
Town Capital Stabilization Fund	127,690
OPEB Trust Fund	50,000

GMRSD Stabilization Fund	39,890
<b>Total:</b>	<b>217,580</b>

**PASSED/UNANIMOUS VOTE**

**ARTICLE 23. MOVED:** That the Town vote to appropriate the sum of \$180,000 for the purpose of increasing the WPCF Capital Stabilization Fund, said sum to be raised from WPCF Retained Earnings.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 24. MOVED:** That the Town vote to authorize the Selectboard to acquire by gift, purchase and/or eminent domain, an easement across the FirstLight Canal for the placement of a new 5<sup>th</sup> Street pedestrian bridge, southerly of the existing 5<sup>th</sup> Street vehicular bridge and the 1880 County Layout, and permanent and temporary construction easements at the western and eastern termini of the new pedestrian bridge as may be needed for support, access, bridge appurtenances, and for the purpose of constructing the bridge, and for all purposes incidental and related thereto, all as shown on a plan entitled "Easement Plan Canal Street & Fifth Street Bridge," dated April 5, 2021, prepared by Sherman & Frydryk, as said plan may be amended, a copy of which plan is on file with the Town Clerk, and such other permanent and temporary easements adjacent to and within 500 feet of said easements, and further that the Town vote to appropriate the sum of \$700 to fund such acquisitions, said sum to be raised from Free Cash.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 25. MOVED:** That the Town vote to authorize the Selectboard to file a petition to join the Pioneer Valley Mosquito Control District, if the Selectboard determines that joining said District is in the best interests of the Town, and to authorize the Selectboard to execute any and all documents and to take such actions as may be necessary to effectuate the purposes of this article.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 26. MOVED:** That the Town vote to appropriate the sum of \$10,000 for the purpose of mosquito control, and anything incidental or related thereto, which may include but not be limited to paying an assessment for the Town's membership in the Pioneer Valley Mosquito Control District, said sum to be raised from Free Cash.

**PASSED/UNANIMOUS VOTE**

**ARTICLE 27. MOVED:**

**A Resolution in Opposition to State Subsidies and Incentives  
for Biomass Plants**

WHEREAS, the Town Meeting of Montague is committed to ensuring and safeguarding the health, safety, and environment of the residents in our community, and

WHEREAS, wood-burning biomass plants are a highly polluting form of energy generation, known to release pollutants including fine particulate matter, volatile organic compounds, nitrogen oxides, carbon monoxide, and carbon dioxide, and

WHEREAS, the Commonwealth adopted science-driven Renewable Portfolio Standard (RPS) regulations in 2012 recognizing that wood-burning power plants emit more carbon dioxide than fossil fuel power plants per unit of energy generated, and

WHEREAS, if the weakened RPS regulations proposed in December 2020 by the Massachusetts Department of Energy Resources (DOER) go into effect, Massachusetts subsidies and incentives would be available for inefficient large-scale biomass power plants, and

WHEREAS, the proposed RPS regulations would wrongly incentivize and directly subsidize the construction of a large-scale wood-burning biomass plant proposed by Palmer Renewable Energy in Springfield, an Environmental Justice community already heavily burdened by industrial air pollution and by record-setting rates of asthma and other respiratory illnesses, and

WHEREAS, our Town Meeting stands in solidarity with the residents of the City of Springfield, and the Springfield City Council, which passed a resolution on December 21, 2020, opposing Massachusetts state subsidies and incentives for wood-burning biomass plants,

NOW, THEREFORE BE IT RESOLVED, that Montague Town Meeting opposes any state subsidies or incentives for commercial wood-burning biomass plants in the Commonwealth of Massachusetts, and

BE IT FURTHER RESOLVED, that Montague Town Meeting calls upon the Massachusetts DOER to revise the proposed RPS regulations by returning the woody biomass provisions to their previous, science-based language, and

BE IT FURTHER RESOLVED, that Montague Town Meeting urges its State Legislative Delegation to support legislation in the forthcoming session of the Massachusetts General Court to remove and bar taxpayer and ratepayer incentives for commercial biomass power plants in the Commonwealth of Massachusetts, and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to our municipality's State Legislators, as well as Governor Charles Baker, DOER Commissioner Patrick Woodcock, and the Co-Chairs of the Joint Committee on Telecommunications, Utilities, and Energy Committee, Senator Mike Barrett and Representative Jeff Roy.

(Petitioned Article)

**PASSED/MAJORITY VOTE**

**ARTICLE 28. MOVED:** That the Town vote to amend the General Bylaws of the Town of Montague, by adding a new section titled "Montague Public Tree Protection Bylaw", as set forth in Article 28 of the Annual Town Meeting Warrant, and authorize the Town Clerk to assign such numbering as is appropriate to bring said bylaw into conformance with the existing codification.

**Montague Public Tree Protection Bylaw**

1. Preamble:

The Town of Montague recognizes that trees are an asset to the community and provide a healthier and more beautiful environment in which to live. Trees improve air quality and provide shade, wildlife habitat, and beauty. Trees give protection from wind, glare and noise, and act as barriers and water quality protection. Public trees and landscaping are economically beneficial in attracting new residents, shoppers, visitors and industry. When properly chosen varieties are planted in appropriate settings, trees enhance property values, promote the economic viability of commercial districts, and enhance the desirability and sustainability of residential neighborhoods.

2. Intent and Purpose:

This by-law is enacted for the purpose of preserving and protecting public shade trees pursuant to Massachusetts General Law Chapter 87. It is also enacted to encourage the planting of more public shade trees than are removed to compensate for tree losses and the time it takes for trees to mature.

3. Definitions:

**Critical Root Zone (CRZ):** Defined by measuring outwards from the trunk a minimum of 1.25 feet for every inch diameter of tree trunk four feet above the ground. For any tree, a minimum of six feet must be protected around trees regardless of the trunk diameter.

**Public Tree:** Any tree within public right-of-way, in a municipal park, or adjacent to public buildings.

**Right-of-Way:** All land within the boundaries of the public right-of-way as set forth by an order of the town laying out a public way. The public right-of-way may include not only the traveled surface of the public way but lands adjacent thereto, including sidewalks and the tree belt.

**Drip Line:** Drip line of a tree is the area defined by the outermost circumference of a tree's canopy, where water drips from and onto the ground.

#### 4. Tree Warden:

The Tree Warden is an elected position pursuant to Massachusetts General Law, Chapter 41, Section 106.

The duties and responsibilities of the Tree Warden shall conform to the Massachusetts General Law Chapter 87 and shall include, but not be limited to the following:

- Care, control, and management of all trees within public rights-of-way, adjacent to public buildings on public land, and on public commons; and the care, control, and management of trees within parks if so requested by the Director of Parks and Recreation;
- Expenditure of funds for public tree planting and maintenance consistent with this bylaw and Massachusetts General Law Chapter 87;
- Enforcement of the provisions of this bylaw and Massachusetts General Law Chapter 87;
- Preparation and maintenance of a current Public Tree Management Plan;
- Coordination with the Highway Department, Planning Department, Parks and Recreation, Planning Board, and the Montague Tree Advisory Committee on matters related to urban forestry and public tree management, and;
- Develop regulations for the care and preservation of public trees and establish fines and forfeitures for violation thereof.
- Other responsibilities consistent with this bylaw and Massachusetts General Laws.

#### 5. Cutting of Public Trees:

Consistent with Massachusetts General Law Chapter 87, no person except the Tree Warden, may cut, trim, prune, damage, or remove any part of a public tree, including the roots within the drip line of the tree, without written permission as described in Section 7.

The Tree Warden may not remove, permit the removal of, or cause to be destroyed any tree greater than 1.5 inches in caliper without a duly advertised public hearing as specified in Massachusetts General Law Chapter 87, or if objection is given at or prior to

the hearing in writing, without the additional approval of the Selectboard, unless that tree is determined to be an imminent hazard tree, as described in Section 8.

Utilities may, or at the request of the Tree Warden must, file an annual vegetation management plan and/or a hazard tree removal plan.

In all cases, pruning and removal of public trees shall be done in accordance with the current ANSI pruning standards.

#### 6. Planting of Public Trees:

No person except the Tree Warden may plant a tree on public property without written permission as described in Section 7.

No trees, except those smaller species appropriate for planting under utilities, shall be planted within 10 lateral feet of an overhead electric utility wire.

Consistent with Massachusetts General Law Chapter 87, the Tree Warden may plant trees within 20 feet of the public right-of-way with the written consent of the adjoining land owner. The Property owner will own the tree immediately after planting and is responsible for the maintenance for the lifetime of the tree. The Tree Warden may require a one-time cost share for the expense of the tree.

#### 7. Permission for Planting, Cutting, Pruning or Removal of Non-Hazardous Public Trees:

No person other than the Tree Warden shall plant, prune, trim, cut above the ground, remove, or conduct any excavation within the drip line of, a public tree without first filing an application and procuring written permission from the Tree Warden. The Tree Warden may grant permission, may deny permission or may issue permission with conditions.

Permission must be granted by the Tree Warden not less than three business days in advance of the time the work is to commence with the exception that, if the work consists of cutting down or removal of a public tree, the application shall be made no less than thirty days in advance. At the time that the application is submitted, applicants shall pay a non-refundable fee of five dollars per tree to the Montague Tree Fund. In cases of emergency, an applicant may seek and receive oral permission from the Tree Warden to trim or excavate within the drip line of a public shade tree without first requesting permission in writing. An emergency is defined as an unforeseen occurrence, which requires immediate action to avoid or reduce significant injury or damage to persons or property. Within three business days after oral permission is granted, the applicant must submit a written request to the Tree Warden who shall grant pre-approval due to emergency.

#### Removal:

An applicant who wishes to remove a non-hazardous public shade tree is responsible for the following expenses:

- Cost of advertising a hearing as specified in Massachusetts General Law Chapter 87;
- Cost of removal of tree and stump, including hauling away of all debris, and proper filling of stump hole;
- Planting of sufficient replacement trees as described below;
- Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility structures; and
- All other costs related to the removal and replanting.

Public trees shall not be removed for a private purpose without suitable compensation to the Town for replacements. The value of existing shade trees is to be calculated on an inch-by-inch replacement basis. Replacements shall be at least two-inch trunk diameter, nursery grown stock. The Tree Warden may, at their discretion, require larger replacements. For example, if an 18-inch diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the Town to provide for the purchase and planting of nine, two-inch diameter replacements. At the discretion of the Tree Warden, the applicant shall either:

- A. Arrange to plant suitable replacements using his/her own contractor, working to the Town's specifications, or
- B. Make a cash contribution to the Montague Tree Fund to be used exclusively for the purchase and planting of replacements, and related expenses.

If the applicant proposes to trim or prune a public tree, and if, in the opinion of the Tree Warden, the proposed work will drastically affect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of the tree. In these cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, provided that it does not present an imminent hazard. In either case, appropriate replacement plantings must be provided by the applicant.

Nothing contained in this bylaw shall prohibit the Tree Warden from refusing to permit the cutting, trimming or removal of non-hazardous trees.

All trees or tree parts (i.e. wood) removed from the town trees are owned by the Town of Montague, with the exception of fallen leaves.

#### 8. Removal of Hazard Trees:

The Tree Warden may remove, without a public hearing, a tree that is determined by the Tree Warden, to be an imminent hazard to persons or property.

The hazard determination shall be made based on an objective risk tree rating system such as the USDA Forest Service 12-point Risk Tree Rating system or the International Society of Arboriculture Hazard Tree Evaluation system. Hazard trees shall be prioritized for pruning, removal, or otherwise minimizing the risk based on hazard trees objectively presenting the most risk.

### 9. Fines:

Any person who removes, or causes to be destroyed, a non-hazardous public tree without a duly advertised hearing, permission from the Tree Warden, and the approval of the Selectboard if an objection is made to the removal, shall pay a fine of up to \$500 or the appraised value of the tree, whichever is greater, to the Montague Tree Fund.

Any person who cuts, trims, prunes, damages or removes any part of a public tree, including the roots within the drip line of the tree, without written permission, or who fails to comply with the conditions of their permission, shall pay a fine of up to \$100 per tree to the Montague Tree Fund.

This provision is inclusive, but not limited to the following prohibited acts:

- Mutilating (e.g. driving in nails or screws), girdling, carving into, or topping a tree;
- Damage to the root system by trenching, digging, or other excavation;
- Tapping a publicly owned sugar maple;
- Removing any tree guard, tree stake, watering bag, or other device or material intended for the protection or to support the health of a public tree;
- Covering or obstructing any open land at the base of a public tree designed to permit access of air, water and fertilizer to the root system;
- Applying or sweeping road salt onto the CRZ of a public tree;
- Securing, fastening or running any rope, wire, holiday lighting, unprotected electrical installation, or other device or material to, around or through a public tree, or attaching any sign, poster, notice or other object to any public tree, except that the Tree Warden may authorize tying temporary signs to such trees as necessary;
- Causing or encouraging any fire or burning within the drip line of any public tree. This includes the grilling of food below a public tree, within the drip line, unless the grill is provided in a public park and is permanently installed under the tree;
- Paving over the tree belt and/or over the CRZ on public land;
- Parking a vehicle on the CRZ of a public tree;
- The application of chemicals including, but not limited to, pesticides and herbicides on public land.

### 10. Public Hazard and Abatement:

Upon a determination by the Tree Warden that a private tree constitutes a public hazard, they shall give written notice to the owner of the property upon which said hazard exists to remove, or otherwise mitigate the hazard posed by such tree as to cause the hazard to the public to be abated. Failure to comply with such written notice within fifteen days thereafter is a violation of this section, and the Tree Warden or coworkers may then remove or trim such tree and assess the cost thereof against the property.



## 11. Severability:

Should any part or provision of this bylaw be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the bylaw as a whole or any part thereof other than the part held to be invalid.

## Appendix A. Suitable Trees for the Town of Montague (May 2019)

Note: A more extensive discussion of tree tolerances and preferences can be obtained from the MTC in an expanded treatment of this list. **NOTE:** specific cultivar ("variety") names are listed intentionally. Many species are not suitable for various reasons but the specific cultivars may have special traits that make them much more desirable (e.g. no seed production, narrow outline, shorter stature, etc.). Measurements are mature HEIGHT X WIDTH. Ultimate size is influenced by growing conditions and regional climate. All trees are cold hardy to at least Zone 5 (all of the town of Montague).

### Shade trees and ornamental flowering trees

***Acer campestre*** (Hedge Maple) +\* (A, B, C) – preferred cultivars are Metro Gold® (aka 'Panacek') and Streetwise™ (aka 'Stwizam') 30'x30'. Obtain trees trained to **one** leader.

***Acer ginnala*** (Amur Maple) +\* (A, B, C) Obtain trees trained to **one** leader. 20' x 25'

***Acer miyabei*** (Miyabei Maple) \* (E) – preferred cultivar is State Street™ (aka 'Morton') 35' x 35'.

***Acer rubrum***\* (D, E) (Red or Swamp Maple) Male cultivars are preferred to avoid seed.

***Acer tataricum*** (Tatarian Maple) +\* (A, B, C) – best cultivar is Rugged Charm®, aka 'JFS-KW2', and HotWings® (aka 'GarAnn') 20' x 20'.

***Catalpa speciosa***\* (Northern Catalpa) (E). 45'x 35'

***Celtis occidentalis*** (Common Hackberry) \* (A – if lines are not droopy, B, C) – Better cultivars include 'Chicagoland' and Prairie Sentinel™ (extremely narrow)

***Cercis canadensis*** (Eastern Redbud) + (A – see conditions) – 20'x20'

***Cornus mas*** (Cornelian Cherry Dogwood) +\* (A, B, C) 20 to 25 feet Buy only those trained into a tree form.

***Cotinus*** x 'Grace'+\* (Grace Cotinus) (A, B, C) 20'x15'

Use only specimens trained to a single stem.

***Crataegus viridis*** 'Winter King' (Winter King Hawthorn) +\* (A, B, C)– 30' x 30'

***Eucommia ulmoides*** (E) (Hardy Rubber Tree) – 45' x 45' after 30 years. Use any but Emerald Pointe™ is an upright column only 5 feet wide

***Ginkgo biloba***\* (E) (Ginkgo or Maidenhair tree) Huge but very slow. Use only male clones like 'Autumn Gold', 'Princeton Upright'

***Gleditsia triacanthos*** var. ***inermis***\* (C) (Thornless Honeylocust)

(preferably 'Skyline', 'Shademaster' or the narrower 'Draves' aka Street Keeper® Honeylocust). 40-50' x 40-50'

***Heptacodium miconioides*** (Seven Son Flower) +\* (A, B, C) Only use single trunk specimens 15-20' at maturity with a 10' spread.

***Liquidambar styraciflua*** 'Ward' (Cherokee™ Sweetgum) \* (E) 60'x70' ***Maackia amurensis*** (Amur Maackia) +\* (A) 25'-30' '

***Maclura pomifera*** 'White Shield' (White Shield Osage Orange) +\* (A, B, C) 30' x 30'.

***Magnolia*** 'Galaxy' (Galaxy Magnolia) \* (E) 30' x 20'.

***Magnolia x soulangeana*** (Saucer Magnolia) + (E) generally 25'x 25'

***Malus*** 'Adirondack' (Adirondack Crabapple) +\* (A, B, C). 18'x14'.

***Malus*** 'Sugar Tyme' (Sugar Tyme Crabapple) +\* (A, B, C). 18'x16'

***Malus*** 'Donald Wyman' (Donal Wyman Crabapple) +\* (B, C). 15' to 20' x 20 to 25'

**Platanus × acerifolia** (Planetree) \* (E). 80' x 80' is possible. Use only disease-resistant cultivars like 'Morton Circle' aka Exclamation!® or 'Bloodgood'.

**Prunus sargentii** +\* (Sargent Cherry) (A, B) 30'x30' The cultivar 'Columaris' is a narrow (to 20') vase shaped tree useful when width is an issue.

**Prunus serrulata** 'Kwanzan' (Kwanzan cherry) +\* (A, B) 25'x25'

**Prunus virginiana** 'Canada Red' (Canada Red Choke Cherry) \* (A, B, C). Purple leaves. 25-35'x18'

**Prunus x yedoensis** (Yoshino Flowering Cherry) (A, B) 25' x 25'

**Quercus** Oaks produce acorns, which can litter streets and if planted near fast traffic roads hit moving cars at high speed. Oaks also extend cleanup season as many leaves are retained until spring.

**Quercus bicolor** \* (Swamp White Oak) (E) About 50'x 50'

**Quercus palustris** \* (Pin Oak) (C, E) – 60'x40'

**Quercus rubra** \* (Red Oak) (E) 70'x60'

**Sophora japonica, now Styphnolobium japonicum** (Scholar Tree) \* (E). '60'x 60' at maturity. Regent' is the best cultivar as it grows fast enough to be useful.

**Syringa reticulata**\*? (Japanese Tree Lilac) (A, B). 20'x20' 'Ivory Silk', 'Summer Snow', and 'Regent' will perform best but mixed results under city conditions .

**Taxodium distichum** (Bald Cypress) \* (D, E) Preferred cultivars are 'Mickelson' aka Shawnee Brave® (50'x20') or 'Skyward' (20'x6')

**Tilia americana 'Redmond'** (Redmond Linden) \* (E).

**Tilia cordata × mongolica 'Harvest Gold'** (Harvest Gold Linden) \* (E) 40'x 30'.

**Tilia cordata** (Littleleaf Linden) \* (E) Greenspire® or 'Norlin' are good culitvars but there are many good selections. 60'x35'

**Ulmus davidiana var. japonica 'Discovery'** (Discovery Elm)\* (C, E). 40'x35'

**Ulmus 'Frontier'** (Frontier Elm) \* (A, C, E). (35'x20')

**Ulmus wilsoniana 'Prospector'** (Prospector Elm) \* (E) 40'x25'

**Ulmus 'Morton Glossy'** (Triumph™ Elm) \* (E) 50'x40'

**Zelkova serrata** (Japanese Zelkova) \* (A, B for 'Musashino', C, E for the rest)  
Dwarf 'JFS-KW1' aka City Sprite® (24'x18'), Wireless® aka 'Schmidtlow' flat top that avoids power lines (24'x35') or use 'Musashino' tight upright column (45'x15') or 'Village Green' when space permits as it provides more shade (50'x50').

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**KEY:**

Trees with no asterisk or plus sign are suitable for parks and open spaces and may not tolerate street conditions (drought, salt, compaction, limited root zone).  
 \* Trees that can tolerate street conditions (size, width, shade vs. sun, etc. still need to be considered). The width of the tree belt or size of a tree pit will greatly influence success on some if not all of these.  
 + Trees suitable for use under power lines.  
 Mapping codes below established by the Franklin Regional Council of Governments (FRCOG)

- A. Under utility lines
- B. In otherwise constrained canopy area (but not under utility line)
- C. In constrained root area
- D. In wetland or river area
- E. No constraints (park, front yard, wide tree belt (8 feet or greater))

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**Fruit trees**

The planting of edible fruit or nut bearing trees on municipal tree belts is prohibited in Montague, except by the permission of the Tree Warden. Fruit and nut trees can cause damage to personal property (e.g. automobiles) and their low-lying limbs can provide obstruction to easy passage of pedestrians on sidewalks. They are generally considered shorter lived and more pest prone than urban shade trees. Acknowledging the important resource (nutritious fresh food) and positive community associations and harvesting traditions that develop around fruit and nut trees, the use of edible fruit and nut bearing

species at community gardens and certain parklands is acceptable, with the permission of the Tree Warden.

If fruit trees are to be planted the following should be used because they require less intensive pest control:

Apple varieties ('Baldwin', 'Raritan', 'Northern Spy', 'Fuji', 'Liberty', 'Honeycrisp', 'Red Delicious', and 'Gold Delicious')

Peach varieties ('Harcot')

Pear varieties ('Seckel')

**HANDOUT - ARTICLE 28. MOVED:** That the Town vote to amend the General Bylaws of the Town of Montague, by adding a new section titled "Montague Public Tree Protection Bylaw", as set forth in the handout titled "Montague Public Tree Protection Bylaw", and authorize the Town Clerk to assign such numbering as is appropriate to bring said bylaw into conformance with the existing codification.

## **Montague Public Tree Protection Bylaw**

### 1. Preamble

The Town of Montague recognizes that trees are an asset to the community and provide a healthier and more beautiful environment in which to live. Trees improve air quality and provide shade, wildlife habitat, and beauty. Trees store carbon, give protection from wind, glare and noise, and act as barriers and water quality protection. Public trees and landscaping are economically beneficial in attracting new residents, shoppers, visitors and industry. When properly chosen varieties are planted in appropriate settings, trees enhance property values, promote the economic viability of commercial districts, and enhance the desirability and sustainability of residential neighborhoods.

### 2. Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting public trees pursuant to Massachusetts General Law Chapter 87. It is also enacted to encourage the planting of more public trees than are removed to compensate for tree losses and the time it takes for trees to mature.

### 3. Definitions

**Critical Root Zone (CRZ):** Defined by measuring outwards from the trunk a minimum of 1.25 feet for every inch diameter of tree trunk four feet above the ground. For any tree, a minimum of six feet must be protected around trees regardless of the trunk diameter.

**Public Tree:** Any public shade tree, tree in a municipal park, or tree on Town-owned land adjacent to or within 200 feet of any public building, but not including trees within State highways.

**Public Shade Tree:** All trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of section 7 of Chapter 87 of the Massachusetts General Laws and this Bylaw, shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

**Right-of-Way:** All land within the boundaries of the public right-of-way as set forth by an order of the town laying out a public way. The public right-of-way may include not only the traveled surface of the public way but lands adjacent thereto, including sidewalks and the tree belt.

**Drip Line:** Drip line of a tree is the area defined by the outermost circumference of a tree's canopy, where water drips from and onto the ground.

**Hazardous Tree:** Any public shade tree which endangers persons travelling on a highway and any other public tree which presents a threat of injury or damage to persons or property.

#### 4. Tree Warden

The Tree Warden is an elected position pursuant to Massachusetts General Law, Chapter 41, Section 106.

The duties and responsibilities of the Tree Warden shall conform to the Massachusetts General Law Chapter 87 and shall include, but not be limited to the following:

- Care, control, and management of all public trees, shrubs and growths within the Town; ; and the care, control, and management of trees in public parks or open places under the jurisdiction of the park commissioners, if so requested in writing by the park commissioners; ;
- Expenditure of funds for public tree planting and maintenance consistent with this bylaw, Massachusetts General Law Chapter 87 and appropriations by Town Meeting.
- Enforcement of the provisions of this bylaw and Massachusetts General Law Chapter 87;
- Preparation and maintenance of a current Public Tree Management Plan;
- Coordination with the Highway Department, Planning Department, Parks and Recreation, Planning Board, and the Montague Tree Advisory Committee on matters related to urban forestry and public tree management;
- Develop regulations for the care and preservation of public trees; and
- Other responsibilities consistent with this bylaw and Massachusetts General Laws.

#### 5. Cutting of Public Trees

No person other than the Tree Warden or the Tree Warden's deputy shall plant, prune, trim, cut above the ground, remove, or conduct any excavation within the drip line of, a public tree without first procuring written permission from the Tree Warden, in accordance with the procedures set forth in Sections 5 and 7 of this Bylaw.

The Tree Warden may not remove, permit the removal of, or cause to be destroyed any public tree measuring

1.5 inches in diameter, measured one foot from the ground, or more without a duly advertised public hearing as specified in Massachusetts General Law Chapter 87, or if objection is given at or prior to the hearing in writing, without the additional approval of the Selectboard, unless that tree is determined to be a hazardous tree as defined herein.

The Tree Warden and their deputies, but no other person, may, without a hearing, trim, cut down or remove public trees, less than one and one half inches in diameter one foot from the ground, and bushes, standing in public ways; and, if ordered by the Selectboard or Highway Superintendent, shall trim or cut down trees and bushes, if the same shall be deemed to obstruct, endanger, hinder or incommode persons traveling thereon or to obstruct buildings being moved pursuant to the provisions of section eighteen of chapter eighty-five of the Massachusetts General Laws.

Utilities, as defined in section 14 of Chapter 87 of the Massachusetts General Laws, shall be exempt from the requirements of this section with respect to any work done in accordance with an Annual Vegetation Management Plan or an Annual Hazardous Tree Removal Plan, provided that the work complies with said plan and the procedural requirements of said section 14 of Chapter 87.

In all cases, pruning and removal of public trees shall be done in accordance with the ANSI pruning standards, as may be amended from time-to-time.

An applicant who wishes to remove a non-hazardous public shade tree shall be responsible for the following expenses:

- Cost of advertising a hearing as specified in Massachusetts General Law Chapter 87;
- Cost of removal of tree and stump, including hauling away of all debris, and proper filling of stump hole;
- Planting of sufficient replacement trees as described below;
- Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility structures as may be required; and
- All other costs related to the removal and replanting.

All trees or tree parts (i.e. wood) removed from public trees are owned by the Town of Montague, with the exception of fallen leaves.

#### 6. Planting of Public Trees

No person except the Tree Warden may plant a public tree without written permission as described in Section 7.

No public trees, except those smaller species appropriate for planting under utilities, shall be planted within 10 lateral feet of an overhead electric utility wire.

Consistent with Massachusetts General Law Chapter 87, the Tree Warden may plant trees within 20 feet of the public right-of-way with the written consent of the adjoining land owner. Such trees shall not be considered public trees and the Property owner will own the tree immediately after planting and is responsible for the maintenance for the lifetime of the tree. The Tree Warden may require a one-time cost share for the expense of the tree.

Any public tree planted on property owned by the Town of Montague shall become the property of the Town.

#### 7. Permission for Pruning or Trimming Public Trees

The Tree Warden may, without a hearing, grant written permission to trim or prune portions of public trees.

In cases of emergency, the Tree Warden may, without a hearing, grant written permission to trim or excavate within the drip line of a public tree.

An emergency is defined as an unforeseen occurrence, which requires immediate action to avoid or reduce significant injury or damage to persons or property.

If the applicant proposes to trim or prune or excavate within the dripline of a public tree, and if, in the opinion of the Tree Warden, the proposed work will drastically affect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of the tree. In these cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, provided that it does not present an imminent hazard. In either case, appropriate replacement plantings must be provided by the applicant.

Nothing contained in this bylaw shall prohibit the Tree Warden from refusing to permit the cutting, trimming or removal of non-hazardous trees.

#### 8. Replacement of Public Trees

Public trees shall not be removed for a private purpose without suitable compensation to the Town for replacements. The value of existing public trees is to be calculated on an inch-by-inch replacement basis. Replacements shall be at least two-inch trunk diameter, nursery grown stock. The Tree Warden may, at their discretion, require larger replacements. For example, if an 18-inch diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the Town to provide for the purchase and planting of nine, two-inch diameter replacements. At the discretion of the Tree Warden, the applicant shall either:

- A. Arrange to plant suitable replacements using his/her own contractor, working to the Town's specifications, or
- B. Make a cash contribution to the Town to be used exclusively for the purchase and

planting of replacements, and related expenses.

#### 9. Removal of Hazardous Trees

The Tree Warden may remove, without a public hearing, a tree that is determined by the Tree Warden, to be a Hazardous Tree. The Tree Warden shall maintain a photographic record of all hazardous tree removals.

The hazard determination shall be made based on an objective risk tree rating system such as the USDA Forest Service 12-point Risk Tree Rating system or the International Society of Arboriculture Hazard Tree Evaluation system. Hazardous trees shall be prioritized for pruning, removal, or otherwise minimizing the risk based on hazardous trees objectively presenting the most risk.

#### 10. Penalties and Enforcement

Any person who removes, or causes to be destroyed, a non-hazardous public shade tree without a duly advertised hearing, permission from the Tree Warden, and the approval of the Selectboard if an objection is made to the removal, shall pay a fine of up to \$500.

The following acts are prohibited with respect to Public Trees:

- Cutting, trimming, pruning, or damaging, or removing any part of a public tree, including roots within the drip line of the tree without or otherwise not in compliance with permission from the Tree Warden;
- Mutilating (e.g. driving in nails or screws), girdling, carving into, or topping a tree;
- Damage to the root system by trenching, digging, or other excavation;
- Tapping a publicly owned sugar maple;
- Removing any tree guard, tree stake, watering bag, or other device or material intended for the protection or to support the health of a public tree;
- Covering or obstructing any open land at the base of a public tree designed to permit access of air, water and fertilizer to the root system;
- Applying or sweeping road salt onto the CRZ of a public tree;
- Securing, fastening or running any rope, wire, holiday lighting, unprotected electrical installation, or other device or material to, around or through a public tree, or attaching any sign, poster, notice or other object to any public tree, except that the Tree Warden may authorize tying temporary signs to such trees as necessary;
- Causing or encouraging any fire or burning within the drip line of any public tree. This includes the grilling of food below a public tree, within the drip line, unless the grill is provided in a public park and is permanently installed under the tree;
- Paving over the tree belt and/or over the CRZ on public land;
- Parking a vehicle on the CRZ of a public tree;
- The application of chemicals including, but not limited to, pesticides and herbicides on public land.

This Bylaw may be enforced by the Tree Warden, Whoever violates any provision of this

Bylaw may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be:

First Offense:	\$100
Second Offense:	\$200
Third and Subsequent Offenses:	\$300

Each tree damaged shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

Whoever violates any provision of this Bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300). Each tree damages shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

#### 11. Public Hazard and Abatement

Upon a determination by the Tree Warden that a private tree constitutes a public hazard, they shall give written order to the owner of the property upon which said hazard exists to remove, or otherwise mitigate the hazard posed by such tree. Any person aggrieved by an order of the Tree Warden made pursuant to this section may make a written request for a hearing. Said written request shall be received by the Tree Warden within five business days of receipt of the Tree Warden's order. After such hearing, the Tree Warden may affirm, rescind or modify the order. Failure to request a hearing or comply with such written order within fifteen days thereafter is a violation of this section, and the Tree Warden may assess monetary penalties as set forth above and/or seek enforcement through a court of competent jurisdiction.

#### 12. Interaction with Other Laws

This Bylaw is intended to further the objectives of and to act in concert with any existing federal, state, or local laws concerning public trees, including but not limited to the provisions of Chapter 87 of the Massachusetts General Laws, and nothing herein shall be deemed to limit or restrict Town officials whatsoever from acting in accordance with such laws.

#### 13. Severability

Should any part or provision of this bylaw be declared invalid, the same shall not affect the validity of the bylaw as a whole or any part thereof other than the part held to be invalid.

**PASSED/MAJORITY VOTE AS PRINTED IN THE HANDOUT**



**ARTICLE 29. MOVED:** That the Town vote to amend Section 7 of Article II of the Town of Montague General Bylaws, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, by creating a new Montague Tree Fund for the Fiscal Year beginning July 1, 2021, as shown in Article 29 of the Annual Town Meeting Warrant and to establish an annual spending limit of \$5,000 for said Montague Tree Fund revolving fund, and which funds may be expended without further appropriation for the purposes defined therein, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 for the ensuing fiscal year, to increase the same; provided, however, that in accordance with state law, the Selectboard, with the approval of the Finance Committee, may increase the limit for that fiscal year only.

Section 7: Revolving Funds

(a) There are hereby established in the Town of Montague pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 53E½, the following revolving funds:

<u>Revolving Fund</u>	<u>Spending Authority</u>	<u>Revenue Source</u>	<u>Allowed Expenses</u>
Hazardous Materials Response Planning Committee (a.k.a. SARA Title III Committee)	SARA Title III Comm	Fees collected from individuals responsible for oil and hazardous material spills	For the purpose of cleaning up oil and hazardous material spills
<b>Montague Tree Fund</b>	<b>Tree Warden</b>	<b>Fees received under the Public Tree Protection Bylaw</b>	<b>Tree planting and maintenance consistent with the Public Tree Protection Bylaw</b>

(b) Expenditures from each revolving fund shall be subject to the limitations established by Town Meeting, and to any additional limitations as otherwise set forth in Massachusetts General Laws Chapter 44, Section 53E½.

**PASSED/UNANIMOUS VOTE**