

**JOINT SELECTBOARD and BOARD OF HEALTH
MEETING NOTICE**

Due to COVID-19 Public Participation will be by:

Join Zoom Meeting: <https://zoom.us/j/95568286606>

Meeting ID: 955 6828 6606 Password: 103396

Dial into meeting: +1 646 558 8656 or +1 312 626 6799 or +1 301 715 8592

Monday, April 26, 2021

Topics may start earlier than specified, unless there is a hearing scheduled

Meeting Being Taped

Votes May Be Taken

1. 6:30 PM Selectboard Chair opens the meeting, including announcing that the meeting is being recorded and roll call taken
2. 6:30 Board of Health Chair opens the meeting, roll call taken
3. 6:31 Approve Minutes:
 - Joint Selectboard and Board of Health Meeting: March 29, 2021 and April 12, 2021
4. 6:32 Public Comment Period: Individuals will be limited to two (2) minutes each and the Selectboard will strictly adhere to time allotted for public comment
5. 6:35 COVID-19 Updates and Action Items
 - Update on Montague COVID case counts
 - Update on Vaccine Eligibility & County Clinics
 - Review of Updated State Guidance or Orders
6. 6:50 Consideration of opting out from State Aerial Spraying
7. 7:00 Sarah Burstein, Principal at Hillcrest Elementary
Use of Public Property: Story Walk
 - Montague Center Town Common, May 8, 2021, 8:30 AM – 4:00 PM
 - Rutter's Park, Lake Pleasant, May 15, 2021, 9:00 AM – 4:00 PM
 - Highland Park, Millers Falls, May 22, 2021, 9:00 AM – 4:00 PM
8. 7:10 Emma Ayres, Program Coordinator/Shea Presents and Arin Andrews (Musical Team)
Use of Public Property: School for Contemporary Dance and Thought/Musical: The Musical
 - Peskeompskut Park, May 8, 2021, 10:30 AM – 6:00 PM
9. 7:20 Angela Rovatti-Leonard, Youth Services Librarian, Montague Public Libraries
Use of Public Property: Puppet Show
 - Peskeompskut Park, July 30, 2021, 8:30 AM – 12:30 PM (raindate: 8/6/21)
10. 7:30 Personnel Board
 - Retirement of Herb Hohengasser as Plumbing and Gas Inspector
 - Appoint John Letourneau as Plumbing and Gas Inspector until June 30, 2021
 - Execute Memorandum of Agreement between the Town and N.A.G.E to reactivate the position on Assistant Treasurer/Collector

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11. 7:40 Chelsey Little, WPCF Superintendent
 - Execute Agreement with Wright-Pierce Engineering Assistance for High-Flow Management and Effluent Limit Compliance Plans for Administrative Order CWA-AO-R01-FY21-14, not to exceed \$26,500
12. 7:50 David Detmold, Tree Committee
 - 2021 Arbor Day Proclamation
13. 7:55 Brian McHugh, Director of Community Development FCRHRA
 - Authorization to Disburse No. 12, Invoice #2019-135-14, Spinner Park Restoration Project, Berkshire Design Group, Inc. \$220.00
14. 8:00 Everett W. Tatelbaum, Kearsarge Energy LP
Solar and Burn Dump
 - Execute First Amendment to Solar Lease between Town and Kearsarge Montague LLC
 - Execute Amended Notice of Solar Lease with Kearsarge Montague LLC
 - Execute First Amendment to Solar and Energy Storage Lease between Town and Kearsarge Montague BD LLC
 - Execute Notice of Ground Lease with Kearsarge Montague BD LLC
 - Execute Commonwealth Land Title Insurance Company Affidavit/Indemnity
15. 8:15 Town Meeting Warrant – To review draft May 22, 2021 warrant, attached hereto; and make recommendations on all items in warrant; votes may be taken
16. 8:30 Town Administrator’s Report
 - Execute Agreement with Harold L. Eaton & Associates for Surveying of Montague Center Park, School & Station St’s, Montague MA, \$3,000
 - Building Inspector Position Hiring Update
 - General Pierce Bridge Closure Update
 - Topics not anticipated in 48 hour posting

Upcoming Meetings:

- Selectboard Meeting, **MONDAY, May 3, 2021, 6:30 PM** via Zoom

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

Franklin, ss.

To either of the Constables of the Town of Montague in the County of Franklin:

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the Inhabitants of the Town of Montague qualified to vote in Town affairs to meet at the Franklin County Technical School, 82 Industrial Boulevard, Turners Falls, Massachusetts, on Saturday, May 22, 2021, at 8:00 A.M. and to act on the following articles and any motions which may be presented.

ARTICLE 1: To see if the Town will 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.

ARTICLE 2: To see if the Town will 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, or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 3: To see if the Town will 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, with the changes as shown in **bold** below; 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, or pass any vote or votes in relation thereto.

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	SARA Title III Comm	Fees collected from individuals responsible for oil and hazardous	For the purpose of cleaning up oil and hazardous material spills

Committee (a.k.a.
SARA Title III
Committee)

material spills

Airport Fuel	Airport Manager	Fees from sale of Airport fuel	Purchase of Airport fuel to be sold and used at the Airport
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(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.

(Airport Manager)

ARTICLE 4: To see if the Town will 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, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374/Annual-Budget-Information> or pass any vote or votes in relation thereto.

ARTICLE 5: To see if the Town will 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, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374/Annual-Budget-Information> or pass any vote or votes in relation thereto.

ARTICLE 6: To see if the Town will 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, or pass any vote or votes in relation thereto.

ARTICLE 7: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$10,775,731, or any other amount, for the maintenance of the several departments of the Town, said sums to be allocated in accordance with Schedule III, Budget, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374/Annual-Budget-Information> and for any other necessary changes, or pass any vote or votes in relation thereto.

ARTICLE 8: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$2,586,971, or any other amount, 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, a copy of which is on file in the Office of the Town Clerk and on the Town's website at <https://www.montague-ma.gov/p/374/Annual-Budget-Information>, or pass any vote or votes in relation thereto.

ARTICLE 9: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$78,950, or any other amount, for the purpose of funding the operations, maintenance, and debt service of the Colle Building, or pass any vote or votes in relation thereto.

(Selectboard Request)

ARTICLE 10: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$206,164, or any other amount, for the purpose of operating the Turners Falls Airport, or pass any vote or votes in relation thereto.

(Airport Commission Request)

ARTICLE 11: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$1,221,005, or any other amount, 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, or pass any vote or votes in relation thereto.

(Franklin County Technical School Request)

ARTICLE 12: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$10,950,854, or any other amount, 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, or pass any vote or votes in relation thereto.

(Gill-Montague Regional School District Request)

ARTICLE 13: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$13,130, or any other amount, for the purpose of utility valuation appraisal services, or pass any vote or votes in relation thereto.

(Board of Assessors Request)

ARTICLE 14: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$190,000, or any other amount, for the following school building related projects and any and all incidental and related costs, or to pass any vote or votes in relation thereto.

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
(GMRSD Request)

ARTICLE 15: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$56,511, or any other amount, for the purpose of resurfacing the tennis courts at the Turners Falls High School, including any and all incidental and related costs, or to pass any vote or votes in relation thereto.
(GMRSD Request)

ARTICLE 16: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$100,000, or any other amount, for the purpose of purchasing, equipping, and making major repairs to DPW vehicles and equipment, including any and all incidental and related costs, or pass any vote or votes in relation thereto.
(Department of Public Works Request)

ARTICLE 17: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$250,000, or any other amount, for the purpose of purchasing and equipping a six wheel dump truck with plow and sander, including any and all incidental and related costs, or to pass any vote or votes in relation thereto.
(Department of Public Works Request)

ARTICLE 18: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$75,000, or any other amount, for the following Town projects and any and all incidental and related costs, or to pass any vote or votes in relation thereto.

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

(Town Administrator and CIC Requests)

ARTICLE 19: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$50,000, or any other amount, for the purpose of a Building Assessment and Capital Plan Study, including any and all incidental and related costs, or to pass any vote or votes in relation thereto.
(CIC Request)

ARTICLE 20: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$32,500, or any other amount, for the purpose of a Phase II Environmental Study for 500 Avenue A, including any and all incidental and related costs, or to pass any vote or votes in relation thereto.

(Town Planner Request)

ARTICLE 21: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of **\$100,670**, or any other amount for the purpose of reimbursing the Town for costs associated with the establishment and operation of 253 Farmacy, or pass any vote or votes in relation thereto.

- A. \$14,012 to reimburse the Town for costs associated with the establishment and operation of 253 Farmacy
- B. \$5,538 to reimbursing the Turners Falls Fire District for costs associated with the establishment and operation of 253 Farmacy
- C. \$6,120 for police training relative to cannabis
- D. **\$75,000** for school substance abuse prevention programs

(Town Administrator Request)

ARTICLE 22: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the following sums, or any other amount, for the purpose of increasing the special purpose funds set forth below, or pass any vote or votes in relating thereto. **(NOTE: Does SB want 1st line as separate article?)**

Fund	Amount (\$)
WPCF Capital Stabilization Fund (from WPCF RE)	180,000
Town Capital Stabilization Fund (from Taxation)	127,690
OPEB Trust Fund (from Taxation)	50,000
GMRSD Stabilization Fund (from Taxation)	39,890
Total:	397,580

ARTICLE 23: To see if the Town will 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 5th Street pedestrian bridge, southerly of the existing 5th 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 ____, 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 to see if the Town will

vote to raise and appropriate, transfer from available funds or borrow the sum of \$X, or any other amount, to fund such acquisitions; or pass any vote or votes in relation thereto.

ARTICLE 24: To see if the Town will vote to raise and appropriate, transfer from available funds, borrow, or otherwise provide the sum of \$5,000, or any other amount for the purpose of joining the Pioneer Valley Mosquito Control District, or pass any vote or votes in relation thereto.

ARTICLE 25: Petitioned Article

**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, know 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.

ARTICLE 26: To see if the Town will vote to approve the following bylaw, or pass any vote or votes in relating thereto.

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’ **+* (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 x 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 x mongolica 'Harvest Gold' (Harvest Gold Linden) * (E) 40'x 30'.
Tilia cordata (Littleleaf Linden) * (E) Greenspire® or 'Norlin' are good cultivars 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').

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)

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')

(Montague Tree Advisory Committee Request)

ARTICLE 27: To see if the Town will 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, with the changes as shown in **bold** below; 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, or pass any vote or votes in relation thereto.

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
Montague Tree Fund	Tree Warden	Fees received under the Public Tree Protection Bylaw	Tree planting and maintenance consistent with the Public Tree Protection Bylaw

(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.

(Montague Tree Advisory Committee Request)

Given under our hands this ___ day of May in the Year of Our Lord Two Thousand and Twenty One.

Michael Nelson

Christopher M. Boutwell, Sr.

Richard Kuklewicz, Chairman
Selectboard, Town of Montague

Franklin, ss Montague, MA April ____, 2021

Pursuant to the within warrant, I have warned the Inhabitants of the Town of Montague by posting attested copies of the same in a conspicuous place in each of the Post Offices, Libraries, and the Town Hall of the Town of Montague at least seven days before said meeting as within directed.

Constable of Montague