

Weston Forest and Trail Fallen Tree Policy – Approved 11/2/2020

Weston Forest and Trail Association (WFTA) maintains approximately 100 miles of trails, approximately 200 acres of conservation land in fee, and holds dozens of conservation restrictions (CRs) and trail easements (TEs).

WFTA primary responsibility is to keep trails passable for recreational and educational use. To do this, we may need to remove part or all of a fallen tree that is blocking a trail whether the trail is on WFTA property (owned in fee), Town property or on an easement WFTA holds on private property. We will remove enough of the blockage to allow passage, moving the cut pieces to the side of the trail.

If a tree falls entirely on property WFTA owns in fee, we will leave it on the ground in its natural state. As stated above, WFTA may choose to remove the section of the tree that is blocking the trail and move it to the side of the trail.

If a tree falls on a homeowner's property on which WFTA holds a CR or TE, and the tree is fully on, partly on, or fully off the CR or TE, WFTA will not remove it. WFTA does not own the land in these cases, but only the right to cross it and/or to protect it from development. The land on which the easement was established is owned by the homeowner. What the homeowner can and cannot do in the CR or TE is governed by the original CR or TE. In most cases, the homeowner can choose to remove the fallen tree or not, as they see fit and as they could with any other tree on their property. As stated above, WFTA may choose to remove the section of the tree that is blocking the trail and move it to the side of the trail.

If a tree on a CR or TE *threatens* to fall on a homeowner's property, but has not actually fallen, then the homeowner can remove it. (In some cases the CRs and TEs stipulate that the homeowner or WFTA should not remove trees on a CR or TE, but a tree that threatens to damage private property would be an exception and the homeowner would be permitted to remove the tree.)

If a tree whose root are on WFTA fee-owned property falls on a neighbor's property, WFTA will take care of the tree that is on its property. WFTA will not remove the tree on the neighbor's property. This is the normal policy with any two abutting neighbors.

If WFTA is notified of a tree on its fee-owned property that *threatens* to fall on a neighbor's property, WFTA will examine the tree to determine if it should be removed or not. If WFTA decides not to remove the tree and the tree subsequently falls on the neighbor's property, then WFTA will be liable for the cleanup and any damage done to the neighbor's property.

If WFTA is notified that a tree should be removed because it may fall over a trail, in general WFTA will not remove the tree until it falls. The probability that a falling tree injures as person walking on a trail is vanishingly small and has rarely been reported anywhere in the state.

If a tree falls from WFTA property, TE or CR in a pond or stream, in general WFTA will not remove the fallen tree.

There are several reasons behind this policy.

- First, good forestry practice is to leave dead wood and brush in the woods or wetlands where they fall, even wood that has been cut up and moved beside the trail. Both provide significant habitat for fungus, plants, insects, mammals and birds.
- Second, removing trees and brush can be very expensive. WFTA only has the resources to remove trees that it must to keep our trails open to the public.
- Third, WFTA does not remove trees on private property. WFTA does not own the land an easement sits on, the homeowner does. It would inappropriate if WFTA removes fallen trees on some homeowner's property, but not on others. Such preferential treatments would open us up to lawsuits. There could also be liability issues for WFTA working on private land.
- Fourth, many homeowners and neighbors of homeowners with CRs and TEs desire a "minimalist" approach to managing these protected spaces. They would consider it inappropriate for WFTA to do more than keep the trails open on their property.