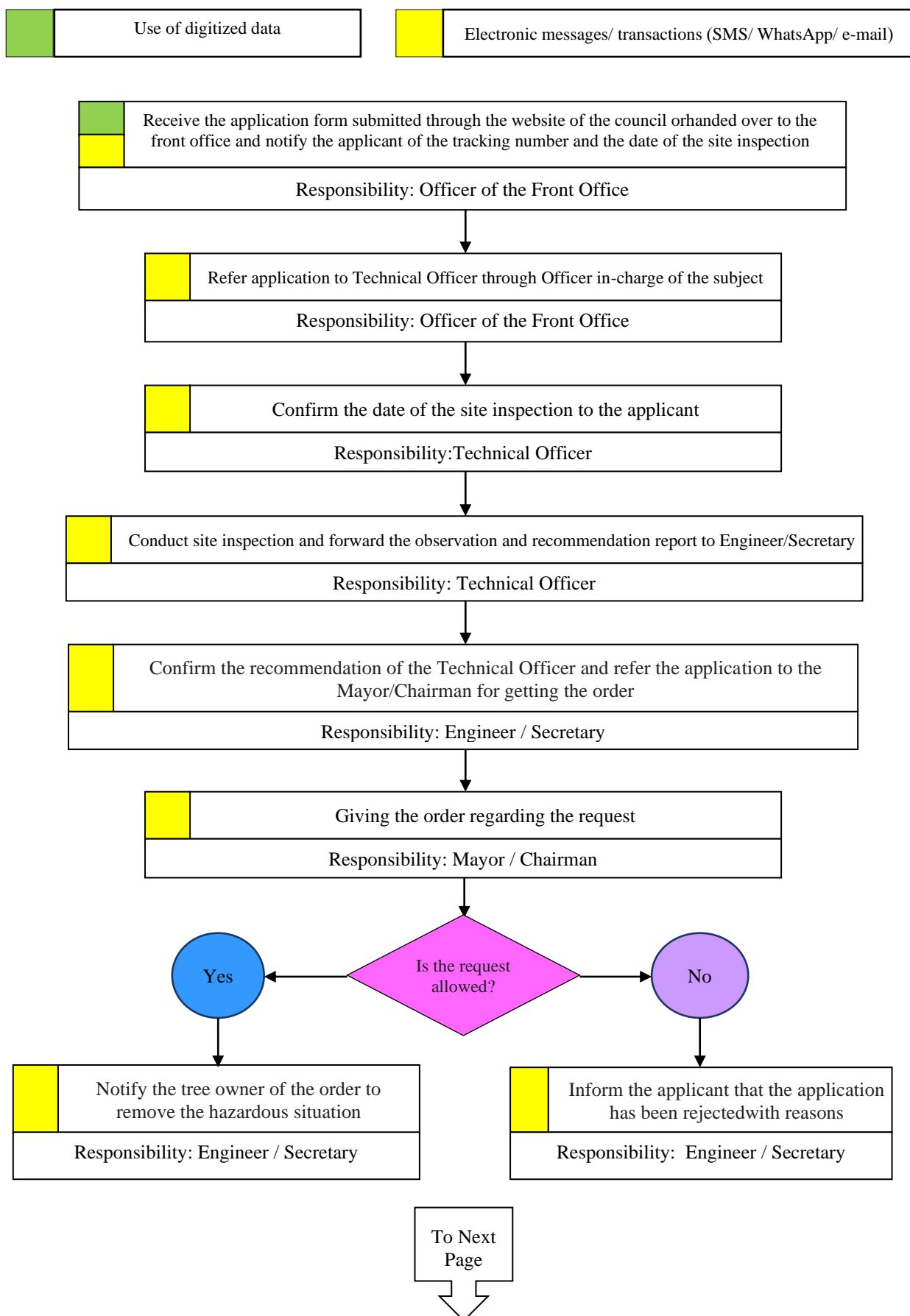
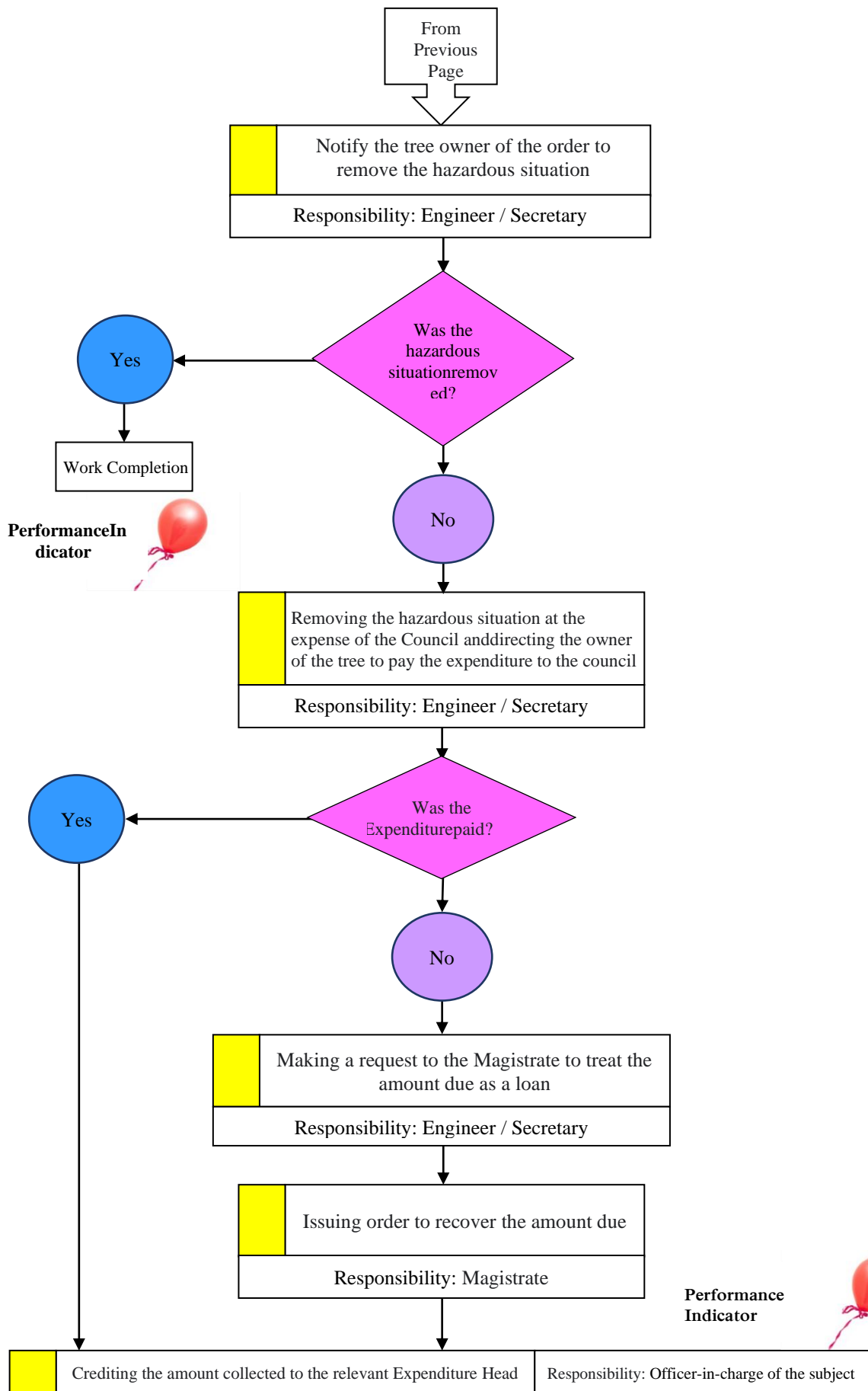


## 16.Removing hazardous situation caused by trees-Flow Chart





## **16.Removing hazardous situation caused by trees**

### **01. Introduction**

- (a) The people's comfort, convenience, welfare and protection of all facilities are significant among the duties assigned to the Local Government Institutions. These matters include prevention of public nuisance. In the event that a certain tree or any part thereof may cause a hazardous situation to an outsider who is not the owner of the tree, the basic law has given authority to the Executive Head of the Local Government Institution to remove that hazard.
- (b) When such a complaint is received, it is essential to carefully check whether the tree in question or any part thereof poses a threat to a person's property or life and is important to ensure that the authority given to the Executive Head of the Local Government is exercised only in such a case.
- (c) Since there may be cases where such requests are submitted to the Local Government Institution in connection with private disputes between certain persons (Among land owners/joint owners/families) and court proceedings have been initiated regarding the land ownership disputes, it is important to draw attention to the matter.
- (d) It is imperative to clearly identify whether the whole tree or any part thereof or a fruit or fruits is likely to cause the hazard in relation to the complaint.
- (e) Where sufficient facts have come to light to warrant the removal of any tree in whole or in part which may cause damage to a property or life of any person in any occasion, before issuing an order to fell down that tree, it is also a legal requirement to ascertain whether felling of that tree has been prohibited by the orders made under the Felling of Trees (Control) Act No.9 of 1956 or not.
- (f) If any tree or part thereof is hazardous to the owner of the tree or any joint owner of a joint owned land, the hazardous situation should be removed by the tree owner or joint owners.

### **02. Legal Authority**

- (a) Principal Statutes:
  - i. Section 136B of the Municipal Councils Ordinance (Chapter 252);
  - ii. Section 127E of the Urban Councils Ordinance (Chapter 255);
  - iii. Section 107 of the Pradeshiya Sabhas Act No. 15 of 1987.
- (b) Other Statutes
  - i. Felling of Trees (Control) Act No.9 of 1956;
  - ii. Orders made under the Felling of Trees (Control) Act No.9 of 1956.

### **03 Eligibility**

If the following conditions are fulfilled, the person is eligible for this relief.

- (a) The hazardous tree must be a tree that is not located on the land owned by him.
- (b) It should be possible to confirm that a hazardous situation or a situation where there is a possibility of endangering from a branch, trunk, fruit of a certain tree or the whole tree, other than the one to whom the tree belongs.

Note: When the ownership of the land on which the tree stands is shared by other persons including the applicant, or where legal proceedings are pending over the ownership of the

land on which the tree stands, or in case of dispute over the ownership of land, the Executive Head of the Local Government Institution will not undertake to act on a request related to the hazardous situation caused by the tree. When a case related to land ownership is being heard in the court, the plaintiff should be notified to file a motion to report the facts to the court and take action to obtain relief.

#### **04. Fees**

This function has been assigned to the Local Government Institutions as it pertains to the prevention of persecution under the powers and functions of public health. Since the function of health and sanitation is a responsibility entrusted with the Local Government Institutions, it is not possible to charge fees for the purpose.

#### **05 Documents to be submitted**

The application form prepared as per the Annex hereto should be completed and submitted.

#### **06. Procedure**

<b>Procedure</b>	<b>Duration</b>	<b>Responsibility</b>
Accept the application form submitted through the website of the council or handed over to the front office and notify the applicant of the tracking number and the date of the site inspection.		Officer of the Front Office
Refer the application to the Technical Officer through Officer in-charge of the subject.	Date of receipt of application	Officer of the Front Office
Confirm the date of the site inspection to the applicant.	Date of receipt of application	Technical Officer
Conduct site inspection and forward the observation and recommendation report to Engineer/Secretary.	Dates of the site inspection	Technical Officer
Confirm the recommendation of the Technical Officer and refer the application to the Mayor/Chairman for getting the order.	As soon as the recommendation of the Technical Officer is received	Engineer / Secretary
Giving the order regarding the request.	As soon as the recommendation is received	Mayor / Chairman
Notify the tree owner of the order to remove the hazardous situation(with a copy to the Divisional Secretary in case of a tree prohibited for felling).	As soon as the order of Mayor/Chairman is received	Engineer / Secretary

Note: 1. Delegating the power vested in the Mayor/ Chairman to the Engineer/ Secretary to make this order will avoid delay in this work.

2. If the Mayor/Chairman has ordered to fell down the tree completely and the tree in question is a tree of a prohibited type for felling, a copy of the letter indicating the order of the Mayor/Chairman should also be forwarded to the Divisional Secretary of the relevant division.

#### **07. Procedure in case of failure to act as ordered**

<b>Procedure</b>	<b>Duration</b>	<b>Responsibility</b>
Reporting by the applicant that the order has not been acted upon.		Applicant
Execution of the relevant order at the expense of the council and directing the owner of the tree to pay the expenses incurred for the same to the council.	As soon as the applicant's report is received	Engineer / Secretary
If the owner of the tree make defaults in the payment of relevant expenditure, making a request to the Magistrate to recover the same.	Immediately after the due date for payment	Engineer / Secretary
Ordering to charge the amount due from the tree owner as a fine.	On the day of trial	Magistrate

**08. Annexures****Annexure**

.....**Council**  
**Request for removal of hazardous tree/trees**

1. Name of Applicant (with initials): .....
2. National Identity Card Number (if any): .....
3. Mobile Number : .....
4. Email Address (if any) : .....
5. Postal address : .....
6. Address of hazardous location: .....
- .....
- (On the last page of this form, clearly indicate how to reach this place)
7. Name of the owner of property where hazardous tree is located (if known): .....
8. Details of the hazardous tree:
  - (a) Type of tree (if known): .....
  - (b) Hazardous situation-
    - i. Part Available: From a branch / few branches / trunk / fruits / whole tree \*
    - ii. Caused to: Boundary wall / part of house / residents / pedestrians\*
9. You as a party to the land where the hazardous tree is located, whether there is a land dispute or a case related to the land or not: Yes / No / Not known
10. If there is a case involving the land, the court and the case number (if known): .....
11. I certify that the above information is true and accurate, and kindly request to remove the hazardous situation caused by the tree.

Date: .....

.....  
Applicant's signature

**For office use**

Technical Officer,

Through the officer in-charge of the subject,

Check the details of the request overleaf and give your observations and recommendations.

Date: .....

.....  
Municipal Engineer / Secretary

-----  
Mayor / Chairman

Through Municipal Engineer/Secretary,

As per the request overleaf, my observations and recommendations are given below.

- (a) \* The Council cannot intervene in the matter as the tree in question is on its own land.

- (b) Since there are no issues that the Local Government Institution cannot intervene in the hazardous tree, my observations and recommendations regarding the hazardous situation that may be caused by the tree are given below.
- (c) The site inspection of the hazardous tree was conducted. A vertical and horizontal sketch of the tree and surrounding properties and/or roads is given below in order to be able to conclude whether the tree declared dangerous by the applicant and the hazardous situation exists in its vicinity.

Wind direction at the time of inspection (Arrows)	<b>Vertical Sketch of the Tree and Surroundings</b>  Date of inspection: .....  Time: A.M. / P.M .....	North Line (Arrows)
If the tree is leaning at any angle, the value of the angle ( $x^0$ ) = ..... <sup>0</sup> Height of the tree - $x^0$  Distance from the root of the tree to hazard spread ( $h = \tan x^0$ ) = Meter . . . . (A)  (Physical distance from the root of the tree to the point of hazard + . . . . (B)  A > B = hazardous  B > A = Nothazardous		
Signature of Technical Officer: .....		

Wind direction at the time of inspection (Arrows)	<b>Horizontal Sketch of the Tree and Surroundings</b>	North Line (Arrows)
<p>If the tree is leaning at any angle, the value of the angle (<math>x^0</math>) = . . . . .<sup>0</sup> Height of the tree (<math>h = \tan \emptyset</math>) = Meter . . . . .</p>		
<p>Signature of Technical Officer: . . . . .</p>		



(d) Based on the above data, my observations are given below: (Please cut off unnecessary words, if any)

- # This tree is a . . . . . tree.
- # This tree belongs / does not belong to a type of tree whose felling is prohibited as per orders made under the Felling of Trees (Control) Act No.9 of 1956.
- # There is no hazard to any property or person from this tree or any part of the tree. I recommend that it is appropriate to notify the applicant.
- # There is a hazardous situation caused by this tree in the following way;
  - \* From the branch/branches of the tree extending towards the . . . . . direction (marked in red in the diagram above),
  - \* From the trunk/trunks of the tree extending towards the . . . . . direction (marked in red in the diagram above),
  - \* From the fruits of the tree bearing in the . . . . . direction/ on the whole tree (marked in red in the diagram above),
  - \* By falling of the tree due to leaning of the tree / by falling of fruits and / or branches of the tree,
- # I recommend that it is opportune to take following actions to remove the hazardous situation.
  - \* To tie the tree with a wire of sufficient strength, facing . . . . . direction (marked in red in the diagram above).
  - \* Pruning out the branch/branches of the tree extending towards the . . . . . direction (marked in red in the diagram above).
  - \* Removing the trunk/trunks of the tree extending towards the . . . . . direction (marked in red in the diagram above).
  - \* Cutting down the entire tree (marked in red in the diagram above).
- # Accordingly, I recommend that it is opportune to order the owner of the tree or the resident under the powers given by sub-section (1) of section 136B of the Municipal Councils Ordinance / sub-section (1) of section 127E of the Urban Councils Ordinance / sub-section (1) of section 107 of the Pradeshiya Sabhas Act \*to act in the manner given in the above recommendation made in respect of the tree.
- # Since the hazardous tree is a type of tree whose felling is prohibited, I further recommend that it is appropriate to refer a copy of the notice to the Divisional Secretary of . . . . . Division.

Date: . . . . .

. . . . .  
Technical Officer

Mayor / Chairman

The recommendations of the Technical Officer are further recommended and submitted for approval.

Date: .....

.....  
Municipal Engineer / Secretary

Municipal Engineer / Secretary,

Your recommendation above is approved. Please submit the letter of reference containing the relevant order to the owner of the hazardous tree or the resident, for my signature.

Date: .....

.....  
Mayor / Chairman

-----

Officer-in-charge of the subject,

Please forward to me the letter to be addressed to the owner of the hazardous tree as per the above approval, to submit it to the signature of the Mayor/Chairman.

Date: .....

.....  
Municipal Engineer / Secretary

-----

Mayor / Chairman,

Through Municipal Engineer / Secretary,

The letter prepared as per the above order is submitted for signature subject to approval.

(Other: .....)

Date: .....

.....  
Officer-in-charge of the subject

**Powers vested in the Council in respect of hazardous trees, provisions of other laws applicable to the removal of a tree and other matters of which the applicant should be aware and instructions to the applicant**

1. In the event that a building is damaged or is likely to be damaged by any tree or any branch, trunk, fruit or any other part of a tree within the territory of the relevant Local Government Institution or is in a hazardous situation for the safety of a resident of that building or those travelling on a public road, it is the duty of the Local Government Institution to take the most effective action to be taken on that tree or any part of the tree in terms of the Section 107 of the Pradeshiya Sabhas Act No. 15 of 1987 or Section 136B of the Municipal Councils Ordinance (Chapter 252) or Section 127E of the Urban Councils Ordinance (Chapter 255) 255 by which powers have been given to act on hazardous trees.
2. Although the basic law of the Local Government Institutions had given authority to order the cutting down of any hazardous tree, another law has stipulated that before cutting down certain types of trees, it is necessary to obtain prior approval from the Divisional Secretary. The types of trees that have been prohibited to be cut down are coming under this category. (Details of the trees such as Jack and Burutha - that have been prohibited to be cut down can be obtained from the Divisional Secretary). Please note that after the Local Government Institution has concluded that there is a hazardous situation with this type of tree, the relevant Divisional Secretary should be informed about it and his approval should also be obtained.
3. However, please note that the Council will not intervene in the event that a tree within its own land poses a hazard to one's home or a resident of that home.
4. As well, in case of a hazardous situation of a certain tree, if the land where the tree is located is an undivided land and there is a problematic situation regarding the ownership of the tree or if there is a case or a dispute regarding the land, then only the conclusion of the Local Government Institution regarding the hazardous situation of the tree will be issued and you are kindly requested to take further action regarding the tree through civil actions or Mediation Board (Samatha Mandalaya) or Police intervention.
5. You are also kindly requested not to submit requests to the Local Government Institution that a certain tree is in a hazardous situation falsely as a result of a fence boundary issue or any other private dispute.
6. Only when there is a hazardous situation from a particular tree, the Local Government Institution will issue a notification to the owner of the tree or the resident of the land where the tree is located, informing them about how to remove the hazardous situation. As well, when the hazardous tree is any type of tree whose felling has been declared prohibited under the Felling of Trees (Control) Act and/or the Fauna and Flora Protection Ordinance or any other law, a copy of the notification shall also be issued to the relevant Divisional Secretary. A copy of the notification will also be issued to the applicant, and the copy should be submitted to the Grama Niladhari of the division and action should be taken to further inform the Divisional Secretary.