



Guide to Local Tree Ordinances for Communities in Massachusetts



Urban and Community Forestry Program
Bureau of Forest Fire Control and Forestry
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Introduction

In Massachusetts, we are fortunate to have a relatively long history of public shade tree protection. The Acts of 1896, Chapter 190, enumerates the powers of tree wardens and authorizes communities to provide for the election of tree wardens, should communities choose to do so. This early act includes provisions protecting public shade trees, including disallowing the cutting of, removal of, or injury to public shade trees, requiring the posting of trees prior to removal, and other elements that are still in the current law today. By 1899 (Chapter 330, Acts of 1899), the law required towns and cities to have tree wardens, something we still see in our current Shade Tree Law, Chapter 87 of the Mass. General Laws. [For an overview of the history of tree protection in Massachusetts, see *The Centennial Year 1913-2013*, Massachusetts Tree Wardens and Foresters Association].

To be sure, we can be proud of this legacy and proud of having the statewide tree protection that the current law, Chapter 87, Mass. General Laws, affords, but there is an opportunity to go beyond the Shade Tree Law, Chapter 87, to tailor regulations to conditions in communities. We are talking, of course, about adopting local tree ordinances.

If you are not familiar with Chapter 87, it consists of 14 sections defining public shade trees, the powers of tree wardens, the cutting and removal of public shade trees, penalties, planting, trees on roads managed by the state, affixing signs to trees, and provisions for working with utilities conducting vegetation management. If you are not familiar with M.G.L. Chapter 87, you can read it online: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter87>.

Using this Guide

This guide is intended to assist communities embarking on the process of developing a local tree ordinance. We have taken examples from ordinances in Massachusetts and guidelines from the International Society of Arboriculture and brought them together to provide relevant examples and advice for communities in Massachusetts.

There is no “one size fits all” approach to adopting a local tree ordinance. A successful ordinance is specific to a community and reflects the goals and values of the community. Some proposed language or concepts in this guide may not be appropriate for your community, but may serve as starting off points for adapting and modifying concepts laid out here.

Contents

Why a Local Ordinance?	3
Types of Ordinances.....	4
Functions of a Local Tree Ordinance.....	5
Sections of a Local Tree Ordinance.....	5
Title	5
Purpose	5
Definitions.....	6
Jurisdiction	6
Administrative Responsibilities.....	6
Provisions for Tree Management / Policies for Management of Shade Trees	7
Planting	7
Setback Trees	7
Maintenance	7
Protection	8
Removal of Healthy Trees	8
Control of High Risk Trees and Trees Infested With a Pest or Pathogen.....	9
Private Trees that Endanger the Public or Public Property	9
Public Trees that Endanger the Public or Public Property	10
Appeals.....	10
Penalties.....	10
Severability.....	10
Resources	11
Sample Definitions	12
Sample Outline.....	14

Why a Local Ordinance?

A local ordinance can help a community achieve its urban forestry goals, whether those are establishing a tree committee, preserving trees during construction projects, protecting significant trees, requiring tree planting in certain situations, or others. It is not uncommon for rules regarding trees to appear in

various sections of municipal code. Tree planting for development projects may appear in planning rules or subdivision regulations, and requirements for tree buffers may appear in zoning rules. Sometimes local rules related to trees may be scattered throughout municipal code. Other times, rules may be lacking entirely. Going through the process of developing a local tree ordinance can unify these provisions and ensure that rules related to trees are straightforward and compatible with the goals of the community.

Some communities have policies regarding public shade tree management. These may be in addition to, or in place of, a formal ordinance. A policy states principles and, perhaps, specific processes that a tree warden or tree program carries out. Sometimes policies are formally adopted or are otherwise implemented in a community. Because of this, they are easier to change than an ordinance, but are also harder to enforce and can be more susceptible to being challenged. For this reason, we recommend developing a formal tree ordinance for your community.

Like many processes, such as developing a management plan or conducting a tree inventory, the process of creating a local tree ordinance begins with some soul-searching and information-gathering. What exactly are the goals of the community? What are the needs? What are the issues that a tree ordinance or clarification of existing rules could mitigate? What resources does the community currently have?

In Massachusetts, it is often a tree committee or tree board that starts the process of developing a tree ordinance, but it can also be initiated by the tree warden or another individual. It is a process that takes dedicated individuals to see the project through, as it can take many months - to years - to complete. The group may include the tree committee, tree warden, representatives from other municipal departments, and community members. Other stakeholders should be involved, as well.

Many communities in Massachusetts have tree ordinances, so a community interested in creating their own does not have to start from scratch. Many ordinances are listed on our [website](#), and communities can start there to see what elements may be applicable locally.

Types of Ordinances

There are a few different types of ordinances. These are from the International Society of Arboriculture, in their [Guidelines for Developing and Evaluating Tree Ordinances](#) and the American Forests Tree Protection Toolkit:

- **Street tree ordinances** primarily cover the planting and removal of trees within public rights-of-way. They often contain provisions governing maintenance or removal of private trees which pose a hazard to the traveling public.
- **Tree protection** ordinances are primarily directed at providing protection for native trees or trees with historical significance. They usually require that a permit be obtained before protected trees can be removed, encroached upon, or in some cases, pruned.
- **View ordinances** are designed to help resolve conflicts between property owners that result when trees block views or sunlight. This type of ordinance is often part of a zoning ordinance.

- **Landscape Ordinance** – These establish required landscaping provisions, such as the placement and number of trees planted, types of suitable plants or trees, and more. This type of ordinance may require trees in parking lots or other sites. This type of ordinance is often found in zoning ordinances.

In Massachusetts, there are a variety of tree ordinances. Some contain tree planting guidelines, pruning guidelines, tree replacement, policies for removal of non-risk trees, and provisions for establishment of shade tree committees or boards. Others contain provisions for protecting healthy private trees during construction or for protecting significant trees on private property. These existing ordinances offer a great opportunity to see what other communities have adopted, but it is important not to simply replicate another ordinance that may not be appropriate for the specific goals of a community.

Functions of a Local Tree Ordinance

- Establish goals for urban and community forestry in the municipality
- Establish and define authority over public trees
- Institute performance standards for planting, maintenance (such as pruning), protection, and removal
- Establish a process for managing trees infested by a recognized tree pest
- Define nuisance conditions for trees
- Address enforcement, fees, appeals, and fines.

Sections of a Local Tree Ordinance

Title: The title should be brief and descriptive.

Tree Protection Ordinance of the City of Cambridge

Regulations for Protection and Preservation of Public Shade Trees during Construction (*Town of Belmont*)

Fall River Tree Ordinance for Regulating the Management of Public Trees

Purpose: The purpose can lay the foundation for the ordinance and lays out the goals and objectives for the ordinance.

The purpose of this bylaw is to promote a diverse, healthy and sustainable community forest in order to provide for the general welfare of Orleans’ citizens. Public trees define public spaces and create a civic identity. This bylaw protects public trees located on public rights of way from removal or preventable damage. (*Town of Orleans*)

Some purpose sections also include information about the benefits of trees and the urban forest, information that may also appear in a “Findings” section, but can easily be combined with the Purpose section.

Section 8.66.020 Statement of Purpose The City Council hereby finds that the preservation of existing trees and the promotion of new tree planting is a public purpose that protects the public health, welfare, environment and aesthetics of the City of Cambridge and its citizens. The urban forest serves a wide variety of functions, which promote the health, safety and welfare of residents. These functions include:

- (a) conserving energy, by providing shade and evaporative cooling through transpiration;
- (b) improving local and global air quality by absorbing carbon dioxide and ozone, absorbing particulate matter, and producing oxygen;
- (c) reducing wind speed and directing air flow;
- (d) reducing noise pollution;
- (e) providing habitat for birds, small mammals, and other wildlife;
- (f) reducing storm runoff and the potential for soil erosion;
- (g) increasing real property values; and
- (h) enhancing visual and aesthetic qualities that attract visitors and businesses.

(City of Cambridge)

Definitions: Mass. General Laws Chapter 87 does not provide definitions of key terms. Doing so in a local tree ordinance will ensure that there is no ambiguity in terms and will enable the adequate enforcement of the ordinance. The definitions section can develop as you create the ordinance and find the need to define certain terms. There are terms to define at a minimum: public shade tree, diameter at breast height (DBH), critical root zone, tree removal, public right-of-way, and tree warden. See Appendix A for sample definitions.

Jurisdiction: Mass. General Laws Chapter 41 requires towns and cities to have a Tree Warden, and Chapter 87 assigns this person the responsibility for managing shade trees along public ways. This section should assign that jurisdiction to a tree warden or describe an alternate process compatible with state law. In some communities the tree warden oversees trees in parks at the request of park commissioners. This jurisdiction can be laid out here.

Administrative Responsibilities: This section designates authority to enact and enforce the ordinance. Will the tree warden be responsible for overseeing the provisions of the ordinance? Will a tree committee? In this section, or in a separate section, provisions for a tree board or committee can be stated. If a tree board or committee is established, details can be outlined here, including terms of office, compensation, duties and responsibilities, operations, and policies.

There is hereby created a Public Shade Tree Management Advisory Board which shall serve in an advisory capacity to the Tree Warden on all matters pertaining to tree and landscape planning and maintenance of shade and other public trees in the Town of Grafton. The Board shall review the Annual Work plan for tree maintenance, planting, and removal prior to its implementation. The Board shall consist of six members, appointed by the Board of Selectmen, to be composed of the following: the Tree Warden who shall be an ex-officio non-voting member, one member of the historical commission, two members of the "green industry"; i.e., landscaping, arborists, etc., and two members at large. Board members will serve 3-year terms with appointments to be staggered to ensure board continuity. Board actions shall be governed by Article 7, Section 7-9 of Town Charter (*Town of Grafton*)

Provisions for Tree Management / Policies for Management of Shade Trees:

This section should contain the principles and standards that will guide shade tree management in the community. Provisions for planting, protecting, maintaining, and removing non-hazardous public shade trees should be included, as well as provisions for protecting public shade trees from construction. Designations for significant trees on public or private property could also be included in this section. This section could also address trees infested with a pest or pathogen, though that could also be in its own section.

Planting

Does your community have specifications for planting, such as minimum distance guidelines to intersections, road signs, buildings, etc.? Does your community not plant certain species, such as ash (for EAB) or red maple (because they are overplanted)? Does your community have a procedure for selecting nursery stock?

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 7 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 3 feet; Large Trees 5 feet. (*City of Amesbury*)

If there are requirements for owners of private trees that may impact the public right-of-way, those could be included in this section also.

Setback Trees

Chapter 87, Section 7, allows the planting of public shade trees on private property up to 20 feet from the edge of the right-of-way with the written consent of the property owner. These trees are often referred to as “setback trees” since they are planted in the area “set back” from the right-of-way. Chapter 87 does not specify ownership or responsibility for trees planted in the setback area, and this can lead to confusion later. Upon planting in the setback area, does the town or city retain ownership of the tree or trees in perpetuity, and does it retain responsibility for the tree or trees in perpetuity? For a specified period of time? Upon planting does the responsibility and ownership transfer to the property owner? Lay out provisions for setback trees in this section.

Maintenance

What are the standards for tree maintenance activities? Rather than including a lot of technical information in this section, when discussing tree management practices, it is helpful to refer to published standards, such as the ANSI A300. Because those standards may be updated, referring to them will ensure that the ordinance captures best practices now and in the future.

[...] The Tree Warden shall make every effort to repair and maintain shade trees prior to their removal in accordance with ANSI Standard A300 most current edition. (*Town of Grafton*)

Protection

Are there policies specific to your community that define actions that may harm trees (such as topping)? These may be in addition to practices prohibited in Chapter 87, Section 9.

Tree Topping - It shall be unlawful as a normal practice for any person, firm, or town department to top any Street Tree, Park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. However, trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Board (*City of Amesbury*)

Damage to Public Trees - No person shall, without the consent of the owners in the case of a private tree or shrub or without written permits from the Tree Warden in case of Town owned trees, do or cause to be done by others any of the following acts: (1) Secure, fasten, or run any rope, wire, sign, unprotected electrical installation, or other devices or material to, around, or through a tree or shrub except to secure leaning or newly planted trees. (2) Break, injure, mutilate deface, kill or destroy any tree or shrub. (3) Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space above the base of a public tree or shrub designed to permit access of air, water, and fertilizer. (4) Attach any sign, poster, notice, or other object on any tree, or fasten any guy wire, cable, rope, nails, screws, or other devices to any tree, except that the Town may authorize tying temporary signs to trees when necessary. (5) Cause or encourage any fire or burning near or around any public tree. (*Town of Grafton*)

Removal of Healthy Trees

An issue that arises in municipalities, and for which MGL Chapter 87 provides little guidance in terms of penalties or compensation, is the removal of non-hazardous trees. Chapter 87 does not require a hearing for trees that endanger the public (though it does not define what constitutes a danger), but it is up to the municipality to decide how a municipality can be compensated for the loss of a healthy public shade tree whose removal was approved through the appropriate process. Some municipalities establish a tree fund that people pay into when removing a healthy, public shade tree, often through a formula based on the DBH of the tree. Other communities require that a replacement tree (or trees) be planted to compensate. Chicopee, MA has a section dedicated to this particular action.

The policy of the tree warden for removal of healthy public shade trees requires an inch per inch replacement value based on \$90 per inch Diameter at Breast Height (DBH) of tree removed. (*Town of Amherst*)

A. Trees on public property belong to all residents of Chicopee and provide a service that benefits all residents of Chicopee and may be assigned a monetary value. The first priority of the City is to preserve and protect all trees on City property. Any decision allowing the removal of a healthy public shade tree will provide for equitable replacement to ensure the residents of Chicopee the continuing aesthetic, environmental and economic benefit of that tree. Any tree that is designated a protected tree will not be removed under this process.

B. The Tree Warden may consider the removal and subsequent replacement of a healthy tree subject to the following: (1) Petitions for the removal and replacement of trees shall be filed with the Tree Warden and acted upon by the Tree Warden and the Planning Board in a public hearing as provided by MGL c. 87. (2) Petitions for the removal and tree replacement must demonstrate that the removal and replacement of a tree will be of greater benefit to the inhabitants of the City than the existing tree. (3) Trees that are removed in accordance with this § 257-7 must be replaced in accordance with the following schedule: Size of Tree Removed Replacement Required Less than 12" diameter: 1 tree; Greater than 12" diameter: 2 trees [...]
(City of Chicopee)

Control of High Risk Trees and Trees Infested With a Pest or Pathogen

Forest pests and diseases threaten the safety of our urban forests, and a section in the ordinance can facilitate inspection, removal, and abatement of nuisance trees. A nuisance tree may also include high risk trees that occur on private property and threaten public property or persons in the public way. Emerald ash borer is one nuisance insect that is, or will be, in communities in Massachusetts. It would behoove a community to plan for potential problems this insect can cause when trees on private property die and endanger the public way.

Private Trees that Endanger the Public or Public Property

This section can address private trees that endanger the public or public property. This may include trees that are dead, decayed, or infested. In some instances, the trees may require removal, and, in others, risk can be mitigated by pruning. Who bears the cost for removal or mitigation work? The policies for addressing these nuisance trees can be laid out in this section.

The maintenance of any tree which is so diseased, decayed or infested with insects as to render the tree a hazard to the health and safety of any person or to public trees is declared to be a nuisance which may be abated as set forth herein. (b) The director of lands and natural resources shall have the right to enter upon any lands upon receipt of a written complaint to determine the condition of any tree located thereon. In the event that the director shall determine that maintenance of the tree or trees shall constitute a hazard to the health and safety of any person or is in such condition as to constitute a threat to other trees within the city, he or she may issue a written order to the property owner to remove said tree or trees. The order shall specify the reason the tree or trees are to be removed and a time for compliance which shall not be less than 14 days from the date of issuance of the order. If within 14 days of the date of issuance of the order, the property owner files a written request for a hearing with the director of lands and natural resources, the director shall set a time and place for hearing to determine whether or not the removal order shall be sustained. The director shall issue a written decision upon completion of the hearing which decision shall be final. In the event that the property owner does not, within 14 days of issuance of the order to remove the tree or trees or within 14 days of the issuance of a decision sustaining an initial order, whichever comes later, remove the tree or trees, the City may do so and may charge the reasonable costs incurred in such removal to the property owner to be recovered in an action at law instituted on the City's behalf by the director. *(City of Westfield)*

Public Trees that Endanger the Public or Public Property

Does the municipality have a policy for addressing hazardous or nuisance trees that are public trees? Chapter 87 states that a hearing is not required for trees that the tree warden has deemed “to obstruct, endanger, hinder or incommode persons traveling,” but it does not define what constitutes a tree that “incommodes persons traveling,” and municipalities would benefit from a more formal definition. This may also include trees infested with insects or disease.

Appeals: This section outlines the process for appealing a decision the Tree Warden has made, including what types of decisions can be appealed.

Appeal - Any person who receives any order under this by-law from the Tree Warden and objects to all or any part thereof shall have the right to appeal such order. The Board of Selectmen shall hear such appeal within 30 days of receipt of written notice of the appeal. The Board of Selectmen shall by letter notify the party appealing the order of its decision within ten days after the hearing closes and file written decision with the Town Clerk. (*Town of Grafton*)

Penalties: This section should contain specific penalties for violations and the entity responsible for levying penalties.

Severability: This section states that if any portion of the ordinance is found invalid in court, the rest of the ordinance will still remain valid.

If any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force. (*Town of Lexington*)

Your community may find other sections useful, as well, such as findings, a section for evaluating the performance of the ordinance, interference with tree management activities, and policies. It is also a good idea to consult with legal staff from the municipality throughout the ordinance development process.

Resources

There are a lot of resources to help you through the process of drafting a tree ordinance:

International Society of Arboriculture: Guidelines for Developing and Evaluating Tree Ordinances:

http://www.isa-arbor.com/education/resources/educ_TreeOrdinanceGuidelines.pdf

Developing Successful Tree Ordinances, North Carolina State University:

<http://content.ces.ncsu.edu/developing-successful-tree-ordinances.pdf>

Pennsylvania Land Trust Association: <http://conservationtools.org/guides/show/37-Tree-Ordinance>

Listing of Tree Ordinances in Massachusetts:

<http://mass.gov/dcr/urban-and-community-forestry>

(Click [Urban and Community FAQs, Resources, and Fact Sheets](#) and then select [Community Tree Ordinances and Bylaws for Massachusetts](#))

DCR Urban and Community Forestry Staff

Sample Definitions

Caliper – Diameter of a tree trunk (in inches) measured six inches above the ground for trees up to and including four-inch diameter, and 12 inches above the ground for larger trees. (*Town of Lexington*)

Certified Arborist – An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization. (*City of Cambridge*)

Critical Root Zone (CRZ) - The minimum area beneath the canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a concentric circle centering on the tree's trunk and extending outward towards the tree's dripline. The minimum area of the CRZ shall be dependent on the required minimum radius of the CRZ; the required minimum radius of the CRZ shall be determined by multiplying a tree's DBH (in inches) by eighteen (18) inches, with the resulting product constituting the minimum radius of the CRZ. EXAMPLE: A tree with a DBH of twenty (20) inches shall have a CRZ with a minimum radius of 360 inches or 30 feet (20" x 18" = 360" or 30'). (*Town of Wellesley*)

Diameter at Breast Height (DBH) – The standard measure of tree size for those trees existing on a site that are at least four (4) inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split. (*Town of Wellesley*)

Drip line – A vertical line running through the outermost portion of the crown (outer branch tips) of a tree and extending to the ground. (*Town of Orleans*)

Drip Line – A vertical line running through the outermost portion of the crown of a tree and extending to the ground. (*Town of Newton*)

Park Trees – "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the Town, or to which the public has free access as a park. (*City of Amesbury*)

Person – Any person, firm, partnership, association, corporation, company, or organization of any kind including public or private utility and municipal department (*Town of Lexington*)

Protected Tree – Any tree on private land, with a DBH of eight inches or greater (or any multiple trunk tree with a DBH of 15 inches or greater), located in the setback area (or which, as determined by the Tree Warden, has any portion of the stem between six inches and 4 1/2 feet above grade actively growing into the setback area), provided that tree is not hazardous or undesirable as defined in the Tree Manual. (*Town of Lexington*)

Pruning – The selective removal of plant parts to meet specific goals and objectives.

Public Right-of-Way –The boundaries of the public right-of-way as set forth in an order of the City or of the County 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 treebelt. (*City of Westfield*)

Public Shade Tree – Any tree within or on the boundaries of a public way other than a State Highway, and as further defined in Massachusetts General Laws Chapter 87, §1. (*Town of Belmont*)

Public Way – Streets or roads, by whatever term so-called, laid out as public ways by order of the City or, within the boundaries of the City or the County, over which the public has the right of travel, but excluding state highways and Massachusetts Turnpike Authority property. (*City of Westfield*)

Remove (including removing and removal) – The cutting down of any protected tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning, or other direct or indirect actions resulting in the death of a protected tree, including, but not limited to, excessive or improper pruning. (*Town of Newton*)

Significant Tree – Any tree which is seventy-five (75) years or older, or which is three (3) feet in diameter or more.

Specifications – A document stating a detailed, measurable plan, or proposal for provision of a product of service. (ANSI A300 Part 1)

Standard, ANSI A300 – The performance parameters established by industry consensus as a rule for the measure of extent, quality, quantity, value, or weight used to write specifications. (ANSI A300 Part 1)

Street Trees –"Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Town. (*City of Amesbury*)

Tree Removal – Any act that will cause a tree to die within a three-year period. (*Town of Lexington*)

Topping –The severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. (*City of Worcester*)

Tree Warden – The agent of the City having primary enforcement responsibilities under this chapter and MGL c. 87 and charged with the responsibility for approvals required pursuant to this chapter. (*City of Chicopee*)

Sample Outline

Section 1: Title

Section 3: Definitions

Section 4: Jurisdiction

Section 5: Administrative Responsibilities

Section 6: Provisions for the Management of Community Trees

Section 7: Control of Hazardous Trees and Trees Infested With a Pest or Pathogen

Section 8: Appeals

Section 9: Penalties

Section 10: Severability

The Department of Conservation and Recreation prohibits discrimination in employment on the basis of race, color, creed, religion, national origin, ethnicity, gender, gender identity or expression, age, sexual orientation, Vietnam Era Veteran status, or disability.