

# CITY OF SOMERVILLE

## ORDINANCE NO. 2025-

### IN CITY COUNCIL: \_\_\_\_\_, 2025

Be it ordained by the City Council, in session assembled, that Chapter 12, Article VI of the code of ordinances of the City of Somerville is amended as follows by deleting the ~~struckthrough~~ text and adding the underlined text.

#### Sec. 12-102. – Definitions.

*Caliper:* means a measurement of the tree trunk diameter used when purchasing tree plantings measured at 12 inches above the ground.

*City tree:* ~~A tree located on property owned by the City of Somerville, including public shade trees, trees in city parks, and trees on the grounds of city buildings.~~ means a tree located in a public area under the control of the city, including any land owned, leased, or licensed by the city, such as a public park, community garden, playground, school yard, library lawn, cemetery, plaza, triangle, or square. This does not include any tree that fits the definition of a public shade tree under M.G.L. c. 87 § 1.

*DBH (diameter at breast height):* ~~The means the~~ Diameter at breast height (DBH): The means the diameter of a tree trunk measured in inches at a height of four and a half feet above the ground. For multiple trunk trees, DBH is the aggregate diameter of the trunks.

*Invasive plant:* ~~A means a~~ means a plant that is both non-native and able to establish on many sites, grow quickly, and spread to the point of disrupting plant communities or ecosystems, including but not limited to the trees listed on the Massachusetts Prohibited Plant List. ~~However, Norway Maples and other trees larger than 24 inches DBH (diameter at breast height) except for Tree of Heaven (Ailanthus altissima) shall not be considered invasive plants.~~

*Outdoor construction activity* means outdoor construction or site work that requires a permit, including any new construction, major renovations, full demolition of a building, excavations, utility or streetscape work within fifty feet of the trunk of a public shade tree, city tree, or tree on private property, or roof or siding work within ten feet of the trunk of a public shade tree, city tree, or tree on private property.

*Private tree:* ~~A means a~~ means a tree located on private property.

*Public shade tree:* ~~A means a~~ means a tree located in the public way, as defined in M.G.L. c. 87, § 51.

*Removal:* ~~The means the~~ means the intentional cutting down of any tree, including all other acts which cause actual or effective removal through damaging, poisoning, or other direct or indirect actions that result in the death of the tree. This includes, ~~but is not limited to,~~ excessive pruning.

*Replacement caliper:* The replacement caliper for significant trees shall be at least equal to the DBH of the tree removed.

*Significant tree:* ~~Any means any~~ means any living tree that is either: (1) not an invasive plant and is eight inches or more in DBH; or (2) is an invasive plant other than Tree of Heaven (Ailanthus altissima) and is twenty-four inches or more in DBH.

#### Sec. 12-103. – Tree warden.

The tree warden shall be an employee of the city, appointed by the mayor, ~~and~~ and subject to confirmation by the ~~city council~~ City Council, for a term of three years. The tree warden may delegate, subject to their

control and direction, any of the powers and duties conferred upon them as tree warden to any other officer or employee of the city.

- (1) The tree warden shall be qualified for the role as defined in M.G.L. c. 41 § 106, and also according to the standards established and published by the Massachusetts Tree Wardens and Foresters Association.
- (2) The duties and responsibilities of the tree warden shall conform to M.G.L. c. 87 and shall include; ~~but not be limited to;~~ the following:
  - (A) Management of all trees within public rights-of-way and on city property.
  - (B) Granting or denying and attaching reasonable conditions to all permits required under this article.
  - (C) Posting notices and holding public hearings for the removal of public shade trees and city trees as required by this article.
  - (D) Enforcement of this article.
  - (E) Adoption and amendment of rules, regulations, and standards consistent with this article for the purpose of carrying out and enforcing its provisions.

#### **Sec. 12-104. – Senior urban forestry and landscape planner.**

- (a) The senior urban forestry and landscape planner shall be an employee of the city, appointed by the mayor. The senior urban forestry and landscape planner may delegate, subject to their control and direction, any of the powers and duties conferred upon them as senior urban forestry and landscape planner to any other officer or employee of the city.
  - (1) The senior urban forestry and landscape planner shall be a certified arborist by the Massachusetts Arborist's Association, ~~The~~ International Society of Arboriculture, or ~~any a~~ successor of either organization.
  - (2) The duties and responsibilities of the senior urban forestry and landscape planner shall include; ~~but not be limited to;~~ the following:
    - (A) Seeking grants or other assistance concerning the preservation and maintenance of the city's tree canopy.
    - (B) Developing and publishing policies, regulations, tree inventory, manuals, and other data and documents necessary to carry out the purposes and intent of this article.
    - (C) Supervising the planting and care of city trees to ensure ~~that such planting and care meets these rules, regulations and standards~~ they conform to relevant rules, regulations, and standards.
    - (D) Assisting ~~and working closely with~~ the tree warden to ~~help the tree warden fulfill~~ facilitate the fulfillment of their responsibilities.

#### **Sec. 12-105. – Urban forestry committee.**

- (a) Purpose: The Urban Forestry Committee (~~"the committee"~~) ~~will~~ shall be charged with advising with respect to the management and maintenance of all existing and new trees and shrubs on all public grounds and public ways of the ~~City of Somerville~~ city.
- (b) Duties: The ~~Urban Forestry Committee~~ committee shall:
  - (1) ~~Review~~ Shall review planting policies for trees and shrubs on public grounds and public ways of the ~~City of Somerville~~ city, appraise the appropriateness of ~~such~~ plantings, their placement, and the type of maintenance necessary. The ~~Urban Forestry Committee~~ committee shall also review ~~those~~ planting proposals which it deems significant trees and shrubs on public grounds and public ways of the ~~City of Somerville~~ city.
  - (2) ~~This committee shall have the ability to~~ May comment during ~~any a~~ City of Somerville city permitting review process.

- (3) ~~This committee may~~ May elect to review issues related to the health, effective maintenance, and protection of existing trees and shrubs on public grounds and public ways of the ~~City of Somerville~~ city, recommend solutions to ~~any~~ problems identified with ~~such~~ plantings, update the tree inventory with detailed information, and support ~~all~~ public education and outreach by:
  - (A) promoting knowledge and awareness of the benefits of trees in the city;
  - (B) developing and maintaining a website;
  - (C) developing and maintaining a noteworthy tree program;
  - (D) developing educational materials regarding best management practices for tree care;
  - (E) supporting city staff in establishing a volunteer adopt-a-tree program;
  - (F) supporting city staff during Arbor Day celebrations; and,
  - (G) considering and recommending incentives for tree planting and maintenance.
- (4) ~~Shall. Upon upon~~ request of ~~the an~~ applicant, ~~this committee shall~~ consider and make recommendations to the tree warden on waivers for ~~any~~ required replantings or payments associated with the issuance of a tree permit
- (5) ~~This committee may~~ May keep records of trees planted and removed within the ~~City of Somerville~~ city and may issue regular reports on the overall status of the city's urban canopy.
- (c) Membership: The committee shall consist of the following members:
  - (1) The ~~tree warden and the~~ senior urban forestry and landscape planner shall serve by virtue of their office and may designate another employee or officer of the city to serve temporarily in the event that they are unable to attend a meeting of the committee;
  - (2) ~~The tree warden, and; Nine-Seven~~ members of the public, with at least one member demonstrating expertise in the field of urban forestry, and at least one member demonstrating expertise in the field of landscape design, ~~and two members shall be between the ages of 14 and 17 at the time of their appointment or reappointment;~~ each serving a term of three years, selected-appointed by the mayor; and subject to confirmation by the ~~city council~~ City Council; and,
  - (3) Two members of the public between the ages of fourteen and eighteen at the time of their appointment or reappointment, each serving a term aligned with the city's academic calendar (September through August), appointed by the mayor and subject to confirmation by the City Council.
  - (4) ~~The tree warden and the senior urban forestry and landscape planner may, at their discretion, delegate their ex officio status to another employee or officer of the city in the event that they are unable to attend a meeting of the urban forestry committee.~~

**Sec. 12-105.1. – Protection of public shade trees and city trees.**

- (a) Public shade trees are protected under M.G.L. c. 87.
- (b) A public shade tree or city tree may not be removed, pruned, or otherwise damaged—above or below ground—without written consent from the tree warden. For the purpose of this article, “damage” shall include unauthorized pruning, improper pruning, breaking or tearing of branches, wounding of the bark, excessive compaction of soil within a tree’s critical root zone, breaking or tearing of roots, or unauthorized root pruning.
- (c) Outdoor construction activity requiring a permit, on public or private property, shall require industry standard tree protection measures as directed by the tree warden or their designee, in accordance with the rules and regulations adopted by the tree warden.
  - (1) In the course of outdoor construction activity, a contractor shall prevent unauthorized, unnecessary, or improper wounding of public shade trees or city trees.
  - (2) Prior to the commencement of outdoor construction activity a contractor shall create a tree protection plan, subject to review, approval, and amendment by the tree warden or their designee.

- (3) Approved tree protection measures shall be installed prior to commencement of outdoor construction activity, shall remain in place throughout, and shall be removed upon completion of outdoor construction activity.
- (4) Tree protection measures deemed insufficient by the tree warden shall be modified as directed.

#### **Sec. 12-105.2 – Pruning of public shade trees and city trees.**

- (a) Permit required: A person may not prune a public shade tree or city tree without a pruning permit from the tree warden.
- (b) Application for a pruning permit:
  - (1) An application must be made in writing on a form specified by the tree warden.
  - (2) The tree warden or their designee shall review an application for a pruning permit and respond no later than thirty business days after submission of a completed application.
  - (3) An application shall include the location, species, and DBH of the tree, an indication of the branches proposed for pruning or removal and their diameter at the point of pruning, and the rough percentage of the live crown area to be removed.
  - (4) There shall be no fee or charge to submit an application for a pruning permit.
- (c) Pruning of a public shade tree or city tree must be carried out by an arborist with a current Massachusetts Arborist Association or International Society of Arboriculture credential and conform to specifications approved by the tree warden.

#### **Sec. 12-106. – Criteria for removal of public shade trees.**

A public hearing may not be initiated under M.G.L. c. 87, § 3 to remove a healthy public shade tree unless the tree warden finds in writing that there is a public health, safety, or welfare basis for removing the public shade tree, including but not limited to hardship to a property owner, economic development, facilitating the development of affordable housing, pedestrian access enhancement, transportation improvement, or public project development. Nothing in this section shall be construed to prevent the cutting, trimming, or removal of trees in accordance with M.G.L. c. 87, § 5.

#### **Sec. 12-107. – Notice requirements for removal of public shade trees.**

In addition to notice under M.G.L. c. 87 § 3 for removal of a public shade tree, notice shall be given by the city by electronic notification when feasible and first-class mail to all property owners located within ~~150~~one hundred fifty feet of the trunk of the public shade tree proposed to be removed at least ~~14~~fourteen days before the public hearing. To the extent feasible, the city shall notify all residents within ~~150~~one hundred fifty feet of the trunk of the public shade tree proposed to be removed by flyering at least ~~14~~fourteen days before the public hearing. Notice shall also be given by placing notice on the city website and cable wheel at least ~~14~~fourteen days before the public hearing. In the event that a public hearing is initiated under M.G.L. c. 87 § 3 at the request of anyone other than the city, the requesting party shall pay for all costs of mailing and advertising, such costs to be determined by the city clerk. The city clerk may waive the costs if the requesting party demonstrates to the city clerk that payment of the fee would cause financial hardship. Guidelines for determining financial hardship shall be established by the city clerk. Applications for financial hardship shall be provided by the city clerk.

#### **Sec. 12-108. – Tree replacement for public shade trees.**

~~Any~~A healthy public shade tree removed at the request of a property owner or their agent ~~thereof must shall~~ be replaced ~~within no later than~~ one year ~~from after~~ the date of removal. ~~These replacement~~Replacement trees ~~must shall~~ be located at or near the location from which the tree was removed, and ~~in no case shall~~ trees planted in a different neighborhood may not qualify as replacements. ~~The replacement~~Replacement trees must conform to the standards for size, species, and planting established by the senior urban forestry and landscape planner.

#### Sec. 12-109. – Street tree stabilization fund.

- (a) Establishment: There shall be ~~established~~ a street tree stabilization fund (“the fund”) which shall be held in a separate identifiable account, and administered in accordance with applicable provisions of General Laws. Any payments required by this article shall be deposited in the ~~street tree~~ fund and shall be used in accordance with subsection ~~(3c)~~ below.
- (b) Payment for planting replacement public shade trees: Where a healthy public shade tree is removed at the request of a property owner or their agent ~~thereof~~, solely for reasons of private financial gain or personal preference, the requesting party shall make a contribution to the ~~street tree~~ fund in an amount sufficient to pay for replacement trees as described in ~~section §~~ 12-108. ~~This~~ The amount ~~will~~ shall be calculated using the schedule of costs established by the senior urban forestry and landscape planner.
- (c) Maintenance of ~~street tree~~the fund: The ~~street tree~~ fund shall be maintained in a separate account in accordance with state law. All sums deposited into ~~such the~~ fund shall be used solely for the purpose of buying, planting, and maintaining trees in the city. The senior urban forestry and landscape planner shall expend these funds for tree planting, transplanting, care, and other tree-related needs.

#### Sec. 12-110. – Compliance with state law.

~~All~~ A public shade tree hearings shall comply with the applicable requirements set forth in M.G.L. c. 87, § 3.

#### Sec. 12-111. – Criteria for removal of city trees.

- (a) Purpose: The purpose of this section is to extend the public notice and public hearing requirements of the Massachusetts Public Shade Tree Law M.G.L. c. 87 to city trees ~~on City of Somerville owned property~~.
- ~~(b) Definitions: The following words, terms, and phrases when used in this Section shall have the following meanings ascribed to them:~~
  - ~~(1) Capital improvement project: A major, non-recurring expenditure that generally meets all of the following criteria: G.L. c 44, §§ 7 and 8 permit the city to issue bonds to finance the expenditure, the expenditure is a facility or object or asset costing more than \$50,000.00, and the expenditure will have a useful life of ten years or more for infrastructure, buildings, and parks.~~
  - ~~(2) Park project: A project involving the renovation and maintenance of existing parks and city-owned open spaces and the development of new parks and open spaces within the City of Somerville. The phrase "city-owned open spaces" includes parks, community gardens, playgrounds, school yards, library lawns, cemeteries, public plazas, triangles, and squares.~~
  - ~~(3) Tree on city-owned property: Any tree located on land owned by the City of Somerville. This does not include any tree that fits the definition of a public shade tree under G.L. c. 87.~~
- (b) Applicability: This section shall apply exclusively to city trees ~~on city-owned property~~ as defined ~~above~~ in ~~section (b) §~~ 12-102. Nothing in this section shall be construed to apply to public shade trees within the ~~City of Somerville~~ city, whose care, maintenance, trimming, planting, and removal are governed by the Public Shade Tree Law, M.G.L. c. 87, and the City of Somerville Code of Ordinances. The public notice and meeting requirements for public shade trees shall remain in full force and effect and are entirely unaffected by the language of this section.
- (c) Cutting down or removal of trees: ~~No~~ A person, including ~~but not limited to a~~ city employees, the tree warden, ~~and or their deputies~~ a deputy tree warden, ~~shall may not~~ cut down or remove ~~any a city tree on city-owned property~~ without the tree warden first holding a public hearing.
  - (1) The tree warden, or ~~his or her~~ their designee, shall post notice of the time and place of the public hearing in two or more public places in the city and upon the tree in question at least seven days prior to the public hearing. ~~This~~ The notice shall identify the size, type, and location of the tree to be

cut down or removed, and include a brief statement of the reason for the proposed action. Notice of ~~this a~~ public hearing shall be sent to each city councilor, ~~all the~~ members of the ~~urban forestry committee~~ Urban Forestry Committee, and published on the city website.

- (2) ~~No later than~~ A notice on brightly colored paper shall be placed upon a city tree stating the anticipated date on which cutting down or removal is expected to occur at least ~~48 forty-eight~~ hours prior to the cutting down or ~~Removal removal~~ of any tree on city-owned property, a notice on brightly colored paper will be placed upon the tree stating the anticipated date on which the action is expected to occur.
- (3) ~~Nothing in this section shall prohibit~~ Notwithstanding the provisions of this section, the tree warden and his or her or their designee ~~from cutting may cut~~ down or ~~removing remove any a~~ tree which, in their opinion, is dead or dying, or constitutes a threat to public health or safety.
- (d) ~~Exceptions to the public notice and hearing requirements: No public hearing shall be necessary prior to the~~ The tree warden, or his or her their designee, ~~may, without a public hearing, cutting cut~~ down or ~~removing remove a city~~ trees measuring less than one and one-half inches in diameter one foot from the ground ~~on city-owned property~~.
- (e) The following types of public projects, which have undergone a public process that includes public notification and public meetings, shall be exempt from the requirements of ~~subsection (4c)~~ above:
  - (1) Park projects involving the development, renovation, or maintenance of parks and open spaces that are owned, leased, or licensed by the city, such as parks, community gardens, playgrounds, school yards, library lawns, cemeteries, public plazas, triangles, and squares; and,
  - (2) Capital improvement projects, which are major, non-recurring expenditures that generally meet all of the following criteria:
    - (A) M.G.L. c. 44 §§ 7 & 8 permit the city to issue bonds to finance the expenditure;
    - (B) the expenditure is a facility, object, or asset costing more than fifty thousand dollars; and,
    - (C) the expenditure will have a useful life of at least ten years for infrastructure, buildings, and parks.
  - (3) This exemption ~~shall may~~ only apply to a public project ~~of the type listed in (a) and (b) if such the~~ public process ~~included all of meets~~ the following criteria:
    - (A) All public meetings at which cutting down or removal of trees is discussed were duly noticed and advertised including ~~but not limited to~~ notice sent to all members of the ~~urban forestry committee~~ Urban Forestry Committee.
    - (B) The public was provided reasonable opportunity to provide input regarding ~~tree(s) trees~~ to be cut down or removed.
    - (C) Reasonable notice was posted on or around any trees to be cut down or removed at least two weeks prior to ~~such action~~ cutting down or removal taking place.

#### **Sec. 12-111.1. – Protection of private significant trees during construction.**

- (a) Duty of care: Upon issuance of a permit by the Inspectional Services Department, Engineering Department, Department of Public Works, Water and Sewer Department, or Parking Department, the permit holder shall take reasonable precautions to protect significant trees and maintain them free from harm from the work associated with the issued permit.
- (b) Outdoor construction activity requiring a permit shall require industry standard tree protection measures for any significant tree on the associated lot, as directed by the tree warden or their designee, in accordance with the rules and regulations adopted by the tree warden.
  - (1) In the course of an outdoor construction activity, a contractor shall prevent unauthorized, unnecessary, or improper damage to a significant tree.
  - (2) Prior to the commencement of an outdoor construction activity, a contractor shall create a tree protection plan, subject to review, approval, and amendment by the tree warden or their designee.



- (3) Approved tree protection measures shall be installed prior to commencement of an outdoor construction activity, shall remain in place throughout, and shall be removed upon completion of an outdoor construction activity.
- (4) Tree protection measures deemed insufficient by the tree warden shall be modified as directed.

**Sec. 12-112. – Removal of private trees.**

- (a) Permit required: ~~No~~ A person may ~~not~~ remove ~~any~~ a significant tree from private property without ~~first obtaining~~ a tree permit from the tree warden.
- (b) Application for a tree permit:
  - (1) ~~Applications must be made~~ A property owner or their agent may apply for a tree permit in writing ~~on form~~ on a form specified by the tree warden.
  - (2) The tree warden, or ~~his or her~~ their designee, ~~will~~ shall review applications for tree permits in accordance with the provisions of this article. The ~~Tree~~ tree warden, or ~~his or her~~ their designee, shall date stamp or otherwise record the date of filing of ~~each~~ an application for a tree permit ~~and~~ and. ~~The tree warden, or his or her designee, shall complete the review of each~~ an tree permit application no later than ~~30~~ thirty business days after the submission of a completed application. ~~In the event that this~~ If review ~~of an application~~ is not completed within ~~the time required by this article~~ thirty business days; and ~~if~~ the applicant did not request a waiver of fees or replanting, the permit shall be considered issued.
  - (3) ~~The~~ An application shall include a plan showing the location, species, and DBH of each tree on the property, and must indicate clearly which trees are to be removed.
  - (4) If replacement trees are to be planted, the plan shall indicate the planned location, species, and size of ~~any~~ the replacement trees ~~to be planted. In order to~~ To qualify as replacements, trees ~~must~~ shall be planted on the same or adjacent lot, and must conform to species and planting standards for size, species, and planting established as defined by the senior urban forestry and landscape planner. Trees ~~may not qualify as replacement trees if~~ planted in the adjacent right-of-way or otherwise located on public property ~~shall not be considered suitable for consideration as replacement trees.~~
  - (5) There shall be no fee or charge to submit an application for a tree permit.
- (c) Conditions for granting a tree permit:
  - (1) Removal of significant trees: If ~~any~~ a significant trees ~~are~~ is to be removed, the plan must show planting of new replacement trees with a total caliper equal to or greater than the total replacement caliper DBH of those trees the significant tree.
  - (2) Payment instead of replacement: Payment to the street tree stabilization fund may be made in lieu of planting some or all of the replacement trees, according to a cost schedule established by the senior urban forestry and landscape planner. ~~Such fees~~ Fees shall be based on the actual costs associated with purchasing, planting, and maintaining the city's public shade trees. ~~payment must~~ Payment shall be made prior to the issuance of ~~the~~ a permit.
  - (3) Request for waiver: ~~The~~ An application applicant for a tree permit ~~shall allow the applicant to~~ may request a waiver of the requirement for replanting or payment.
  - (4) Hearing of request for waiver: The ~~Tree Warden~~ tree warden, or ~~his or her~~ their designee, shall hear a requests for ~~such~~ waivers of the requirement for replanting or payment ~~within no later than 60~~ sixty days ~~of~~ after the date the application was received. ~~This~~ The hearing may take place at a public meeting of the ~~urban forestry committee~~ Urban Forestry Committee. The applicant shall have the opportunity to speak and to answer questions. The committee may, at the request of the applicant, make a recommendation to approve or deny the waiver. Examples of reasons supporting a waiver include ~~but are not limited to:~~
    - (A) financial hardship associated with the care and upkeep of the trees;
    - (B) unreasonably high requirements for replacement or repayment;

- (C) ongoing or reasonably foreseen damage or risk from the trees; ~~and or~~,
- (D) desire to create a benefit to the public.

The tree warden shall consider ~~such the~~ recommendation of the committee in ~~considering deciding~~ whether ~~or not~~ to grant the waiver. If the waiver is approved, a tree permit ~~will shall~~ be issued within ten business days of the close of the hearing.

- (5) Owner-occupants: The owner-occupant of a lot containing a one, two, or three family dwelling, who resides at that same property as demonstrated by issuance of, or good faith application for, a valid residential exemption shall, at their request, be granted a ~~waiver reduction in the amount of ninety percent~~ of the requirements for replanting or payment with no need for a hearing.
  - (6) Departure of owner-occupant: If ~~at any point a reduction of the requirements for replanting or payment is granted and an owner ceases to reside at the address~~ during the ~~18 consecutive~~ eighteen months following the issuance of a tree permit ~~the owner no longer resides at that address; and if the requirements for replanting or payment were waived based on said owner occupancy status as described in section (c) above; said, the waiver reduction~~ shall be revoked. ~~In this case, the~~ The owner ~~or, if the property has been sold, the new owner, shall be required to obtain submit a tree permit either for a replanting plan or to make full payment of the fees that were waived no later than within 30 thirty days after ceasing to reside at the address. If the property has been sold, the new owner shall be subject to the requirements for replanting or payment of the fees that were waived, unless such new owner is~~ eligible for an owner-occupant waiver under ~~section (c) above~~ paragraph (5).
- (d) Standards for replacement trees:
- (1) Replacement trees must be planted ~~within 18~~ no later than eighteen months ~~from after~~ the date ~~the a~~ tree permit is issued, or prior to transfer of property ownership, whichever comes first.
  - (2) Replacement trees ~~must shall~~ be of the same or similar species and size as described in the application for the tree permit, and ~~must shall~~ be planted according to standards for size, species, and planting established by the senior urban forestry and landscape planner.
  - (3) ~~In the event that~~ If trees of the size and species ~~that were~~ described in ~~the an~~ application for ~~the a~~ tree permit cannot be obtained at the time of planting, multiple smaller replacement trees may be planted with the authorization of the tree warden.
  - (4) If a replacement tree dies within ~~18 eighteen~~ months ~~from after~~ the date of planting, it ~~must shall~~ be replaced. The person planting the tree shall provide documentation ~~as to of~~ the date of the planting ~~and file the same with to~~ the tree warden ~~within 15~~ no later than fifteen days ~~of after~~ the planting of ~~said a~~ replacement tree.
- (e) Exceptions to the tree permit requirement:
- (1) Emergencies: If ~~any a~~ tree ~~shall be is~~ determined to be in a hazardous condition so as to immediately endanger the public health, safety, or welfare, ~~or cause an immediate disruption of public services and require immediate removal without delay, verbal authorization may be given by the tree warden to remove~~ ~~such tree, and the tree may be removed~~ the tree without obtaining a written permit as otherwise required by this ~~article~~ section. The tree warden shall record a verbal authorization in writing ~~each such verbal authorization, and shall present these the~~ written notes at the next meeting of the ~~urban forestry committee~~ Urban Forestry Committee.
  - (2) Waiver: The requirements of this ~~article~~ section may be waived by the tree warden during the period of an emergency such as a hurricane, tornado, windstorm, flood, or similar threat to life and property.
- ~~(f) Enforcement:~~
- ~~(1) If a significant tree is removed without a tree permit, the property owner must apply for a tree permit within 30 days of the removal. Each business day thereafter, until an application is filed, shall constitute a separate violation of this section.~~



- ~~(2) Stop work order: Upon notice that trees are being removed without a tree permit, such work shall be immediately stopped by the director of inspectional services or designee. The stop work order shall be in writing and shall be mailed to the owner of record of the property and posted at the front of the property in a conspicuous location, and if possible, given to the owner of the lot involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.~~
- ~~(3) Injunctive relief: Whenever there exists reasonable cause to believe that a person is violating any applicable provision of this article, the city may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition or to cease the unlawful use of the property.~~
- ~~(g) Penalties:~~
- ~~(1) For each offense under this article the person in violation shall be subject to a fine as established in section 1-11 of the Somerville Code of Ordinances.~~
- ~~(2) Failure to make payment of any fines may result in the revocation, suspension, or denial of any local license or permit, including renewals and transfers, pursuant to section 8-3 of the Code of Ordinances and/or a municipal charges lien being placed on the violator's property located within the city pursuant to the authority and provisions of Chapter 252 of the Acts of 1996.~~
- ~~(h)(f) Safety of life and property: Nothing in this article shall be construed to prevent~~Notwithstanding the provisions of this section, a property owner ~~from acting to~~may remove ~~any a~~ significant tree, with written ~~or oral~~ authorization from the tree warden, that is an immediate and pressing health or safety hazard; ~~or that is dead or dying; or that is damaging existing structures or property; or could do so if it were to fall. In such cases, the~~The tree warden may authorize immediate removal in writing ~~or verbally~~, with written record to the ~~urban forestry committee~~Urban Forestry Committee as soon as practicable.

**Sec. 12-113. – ~~Effective date~~Enforcement.**

- ~~(a) This article shall take effect on August 1, 2019. The provisions of this article may be enforced by the tree warden or a deputy tree warden by a noncriminal disposition pursuant to M.G.L. c. 40 § 21D. Each violation shall be deemed a separate offense and, in a case of a continuing violation, each day that a violation continues shall constitute a separate offense. Violation of any provision of this article shall be punished in accordance with § 1-11. The city may institute other remedies to abate violations of this article, as permitted by law, in addition to the imposition of the penalties prescribed by § 1-11.~~
- ~~(1) Failure to make payment of a fine may result in the revocation, suspension, or denial of any local license or permit, including renewals and transfers, pursuant to § 8-3, or a municipal charges lien being placed on the violator's property located within the city pursuant to the authority and provisions of Chapter 252 of the Acts of 1996.~~
- ~~(b) The following shall constitute a violation of this article:~~
- ~~(1) unauthorized pruning or removal of a public shade tree or city tree~~
- ~~(2) failure to comply with a condition contained in a tree or pruning permit;~~
- ~~(3) failure to implement, install, or comply with tree protection measures or follow a tree protection plan as directed by the tree warden;~~
- ~~(4) failure to protect a public shade tree, city tree, or private significant tree from harm from outdoor construction activity which results in a public shade tree, city tree, or private significant tree being damaged or removed;~~
- ~~(5) failure to replace a private significant tree; or,~~
- ~~(6) failure to make a payment into the street tree stabilization fund.~~
- ~~(c) If a private significant tree is removed without a permit for removal, each business day after removal shall constitute a separate violation until a complete permit application is filed. Upon the first violation of this~~

section, an offender shall have thirty days from the date of the violation to submit a complete application for a tree permit before fines begin to accrue.

(d) When a private significant tree is removed without a tree permit and the tree cannot be measured at the standard four and one-half feet above the ground, other evidence may be used to determine whether it was a significant tree and to estimate the diameter. Evidence may include the diameter of the remaining stump, photographs, videos, orthoimagery, schematic drawings, or witness testimony. It shall be a rebuttable presumption that every private significant tree verified to have been removed for which neither the tree nor the stump remain shall be considered to be twenty-four inches in diameter.

(e) Stop work order: Upon notice from the tree warden or their designee that a person is removing or pruning a tree without a tree permit, that person shall immediately stop removal or pruning work. A stop work order shall be in writing and shall be mailed to the owner of record of the property and posted at the front of the property in a conspicuous location, and, if possible, hand delivered to the owner of the property, to the owner's agent, or to the person doing the work. A stop work order shall state the conditions under which work may resume.

(f) Suspension or revocation: The tree warden may suspend or revoke a tree permit upon written notice to the permit holder that the permit holder failed to comply with this article or the conditions of the permit. Written notice shall be sent by certified or registered mail, return receipt requested, or hand delivered. The tree warden shall provide an opportunity for the permit holder to correct noncompliance and apply for a renewal of the tree permit or exemption permit upon compliance, where practicable.

(g) Injunctive relief: Whenever there exists reasonable cause to believe that a person is violating any applicable provision of this article, the city may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition or to cease the unlawful use of the property.

Approved:

---

President

Approved:

---

Mayor