

CITY OF SOMERVILLE
ORDINANCE NO. 20XX-XX
In the City Council: Month XX, 20XX [Adoption date]

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SOMERVILLE, CHAPTER 12 – STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES TO FORMALLY DEDICATE PARKS AND OTHER PUBLIC SPACES TO THE PUBLIC, PRESERVE THE LAND AREA OF PUBLIC SPACE WITHIN THE CITY, AND PROTECT THE ENVIRONMENTAL VALUE PROVIDED BY THE LANDSCAPE WITHIN THE CITY’S PUBLIC SPACES.

WHEREAS, Article 97 of the Amendments to the Massachusetts Constitution provides that "[l]ands and easements taken or acquired for [] park, recreation, or conservation purposes shall not be used for other purposes or otherwise disposed of" without the approval of a two-thirds roll call vote of each branch of the Legislature.; and,

WHEREAS, The Supreme Judicial Court of Massachusetts in *Lowell vs. City of Boston*, 322 Mass. 709 (1948) held that “A municipality may dedicate land owned by it to a particular public purpose,” that “upon completion of the dedication it becomes irrevocable”, and that “the general public for whose benefit a use in the land was established by an owner obtains an interest in the land in the nature of an easement”.; and,

WHEREAS, The Supreme Judicial Court of Massachusetts in *Smith v. Westfield*, 478 Mass 49 (2017) held that parks “may be protected by Article 97 without “a restriction recorded in the registry of deeds that limits its use to conservation or recreational purposes” if the land has been dedicated as a public park “where there is a clear and unequivocal intent to dedicate the land permanently as a public park and where the public accepts such use by actually using the land as a public park.”; and,

WHEREAS, the Executive Office of Energy and Environmental Affairs (EEA), as a matter of policy, will not support any Article 97 land disposition that does not provide replacement land equal to or greater in fair market and resource value to prevent a net loss of sites protected by Article 97; and,

WHEREAS, the Massachusetts General Court has entertained a proposed Public Lands Preservation Act that would require an owner making a disposition or change in use of Article 97 land to acquire or otherwise provide replacement land to prevent a net loss of sites protected by Article 97; and,

WHEREAS, peer-reviewed research has shown that large, mature trees and a healthy urban forest canopy can help to reduce building energy consumption; decrease summertime microclimate temperatures; improve air quality; reduce soil erosion and storm water run-off; preserve and enhance habitat for wildlife; increase property values; combat climate change through carbon sequestration; and enhance the overall appearance of the city; and,

WHEREAS, the Somerville community recognizes the intrinsic value of a mature urban forest as a shared resource; and,

WHEREAS, the landscaped area provides a number of ecosystem service benefits to the community and that any reduction to the landscaped area or tree canopy of sites dedicated to the public would result in lost environmental value to the community; and

THEREFORE, be it ordained by the Somerville City Council, in session assembled, that Chapter 12 – Streets, Sidewalks, and other Public Spaces of the Code of Ordinances of the City of Somerville, Massachusetts, is amended as follows:

ARTICLE IX. – PUBLIC SPACE CONSERVATION

Sec. 12-130 General

Words, phrases, and terms used in this Section are defined as follows:

- Environmental Value: A measure of the benefits freely gained from the natural environment’s ecosystem services such as air purification, carbon sequestration, climate regulation, energy conservation, habitat provision, heat island mitigation, soil formation, storm water interception, or water purification.
- Landscape Area: Land covered by turf grass or other ground covers; planting beds; permeable, pervious, or porous pavements; and inorganic surfacing such as stone, gravel, and other similar materials.
- Planting Bed: A soil area planted with turf grass or other ground covers, trees, bushes, shrubs, vines, flowers, or other horticultural materials with the remaining area covered by mulch during growth.

Sec. 12-131 Dedication of Public Spaces

The following sites are dedicated to the public in perpetuity:

- a) Parks
 - 1) Albion Playground
 - 2) Allen Street Community Garden
 - 3) Argenziano Schoolyard
 - 4) Art Farm
 - 5) Bailey Park
 - 6) Brown Schoolyard
 - 7) Central Hill Park Playground
 - 8) Chuckie Harris Park
 - 9) Conway Park
 - 10) Corbett-McKenna Park
 - 11) Cremin Playground
 - 12) Cummings Schoolyard
 - 13) Dickerman Playground
 - 14) Durell Community Garden
 - 15) East Branch Library Grounds
 - 16) East Somerville Community Schoolyard
 - 17) Edgerly Education Center Schoolyard
 - 18) Florence Playground

- 19) Glen Park McCarthy/Capuano Field
 - 20) Glen Park/Capuano Playground
 - 21) Grimmons Park
 - 22) Hansen Park
 - 23) Harris Playground
 - 24) Healy Community Schoolyard
 - 25) Hodgkins-Curtain Park
 - 26) Hoyt-Sullivan Park
 - 27) Kennedy Schoolyard
 - 28) Kenney Park
 - 29) Leathers Community Park
 - 30) Lexington Park
 - 31) Lincoln Park
 - 32) Marshall Street Playground
 - 33) Milk Row Cemetery
 - 34) Morse-Kelley Playground
 - 35) Mystic Housing Grounds
 - 36) Nathan Tufts Park
 - 37) North Street Veterans Playground
 - 38) Nunziato Field
 - 39) Osgood Park
 - 40) Palmacci Playground
 - 41) Perkins Playground
 - 42) Perry Park
 - 43) Powderhouse Circle
 - 44) Powderhouse School Community Park
 - 45) Prospect Hill Park
 - 46) Quincy Street Park
 - 47) Seven Hills Park
 - 48) Somerville Community Growing Center
 - 49) Somerville Junction Park
 - 50) South Street Farm
 - 51) Stone Place Park
 - 52) Symphony Park
 - 53) Trum Field
 - 54) Trum Playground
 - 55) Veterans Memorial Cemetery
 - 56) Walnut Street Park
 - 57) West Somerville Neighborhood Schoolyard
 - 58) Winter Hill Community Innovation Schoolyard
 - 59) Woodstock Playground
 - 60) Zero New Washington Street Park
- b) Commons
- 1) Central Hill Library Grounds
 - 2) Concord Square
 - 3) Gilman Square
 - 4) Powderhouse Circle
- c) Plazas
- 1) Paul Revere Park
 - 2) Statue Park
 - 3) Union Square Plaza
 - 4) Union Square Triangle

Any site taken, acquired, or constructed by the City of Somerville for any type of park, common, or plaza after the effective date of this Section must be dedicated to the public in perpetuity by a covenant or other deed restriction.

Any site developed as any type of park, common, or plaza in accordance with the Somerville Zoning Ordinance or as a condition of a Special Permit must be dedicated to the public in perpetuity by a covenant or other deed restriction.

Sites dedicated to the public must be used in accordance with the purpose of Article 97 of the Massachusetts Constitution and are not permitted to be used for other purposes or otherwise disposed except in accordance with the provisions of Article 97.

Sec. 12-132 Public Space Inventory

- a) The Mayor shall maintain a publicly available inventory of all sites within the City of Somerville that are dedicated to the public. The inventory must include, but may not be limited to, the following:
 1. Official Name
 2. Property Owner
 3. Civic Space Type and Subtype
 4. Primary Use
 5. Recreation Type
 6. Land Area
 7. Landscape Area
 8. Number of Trees
- b) The land area, landscaped area, and the number of trees of any site on the public space inventory shall be equal to the total land area, landscape area, and number of trees existing at each site on the effective date of this Section, inclusive of any increases in land area, landscaped area, and number of trees made to each site after the effective date of this Section.
- c) Any increase in the land area of any site dedicated to the public after the effective date of this Section is considered the minimum land area of each site in perpetuity.
- d) Any increase in the landscaped area of any site dedicated to the public after the effective date of this Section is considered the minimum landscaped area of each site in perpetuity.

Sec. 12-132 Replacement Land

- a) Any property owner disposing of or changing the use of any site dedicated to the public must provide replacement land that meets all of the following:
 - 1) Equal to or greater in land area;
 - 2) Equal to or greater in landscape area;
 - 3) Equal to or greater than the combined DBH of any trees removed in total caliper of replacement trees;
 - 4) Comparable or better in natural resource value;
 - 5) Located within the City of Somerville; and
 - 6) Not less than the equivalent kind of real property interest being replaced.
- b) Replacement land must be dedicated to the public in perpetuity by a covenant or other deed restriction.

Sec. 12-133 Replacement Landscaping

- a) Any property owner that decreases the landscape area or removes a tree of any site dedicated to the public must provide replacement landscape area or new trees that meets all of the following:
- 1) Equal to or greater in landscape area;
 - 2) Equal to or greater in area of ground covers and planting beds;
 - 3) Equal to or greater than the combined DBH of any trees removed in total caliper of replacement trees;
 - 4) Installed or planted by the last day of the next full fiscal year following any decrease in landscape area or removal of a tree;
 - 5) Comparable or better in environmental value; and
 - 6) Located within the City of Somerville.

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Section 2. (Uncodified)

New language is identified with underlined **red text**. Existing language to be stricken is identified with strike-through **red-text**.

Ordinance ordained by the City Council of the City of Somerville at a regular meeting on the **XX day of **Month, 20XX** by a vote of **XX** ayes, **XX** nays, with **XX** abstentions.**

Katjana Ballantyne
President
Somerville City Council

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