

**CITY OF SOMERVILLE  
ORDINANCE NO. 20XX-XX**

**In the Board of Aldermen: Month XX, 20XX [Adoption date]**

**AN ORDINANCE AMENDING THE SOMERVILLE ZONING ORDINANCE ARTICLE 2 DEFINITIONS AND ARTICLE 10 LANDSCAPING AND SCREENING REGARDING THE PROTECTION OF SIGNIFICANT TREES.**

*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,

*THEREFORE*, be it ordained by the Somerville Board of Aldermen, in session assembled, that the Somerville Zoning Ordinance is amended as follows:

**Sec. 2.2 Definitions**

[Section 2.2 Definitions is located at the beginning of the Somerville Zoning Ordinance and includes defined terms used throughout the document. When adding new definitions, existing words must be renumbered. For this reason, the terms civic space, dog park, residential high-rise, upper level maximum floorplate, and upper level step back are amended, but not specifically used in this legislation.]

2.2.28.a City Arborist. An arborist employed by the City of Somerville, certified by the Massachusetts Arborist's Association or the International Society of Arboriculture, or any successor or either organization, and designated by the Executive Director of OSPCD.

2.2.28.*ab*. Civic Space. An outdoor space designed for social and recreational activities. [numbering edited only]

2.2.37.a Diameter at Breast Height. The diameter of a tree trunk measured four and one-half (4.5) feet above ground. Diameter at breast height is abbreviated as DBH.

2.2.37.*ab*. Dog Park. A civic space type designed for the recreation of dogs and their owners. [numbering edited only]

2.2.84.a Lookback Period. The eighteen (18) months prior to the submission of an application for a Special Permit, but in no case applying any earlier than the effective date of this amendment.

2.2.136.a Removal. Any act causing the actual or effective removal of a significant tree through cutting, damaging, poisoning, pruning, or other direct or indirect action resulting in death.

2.2.136.b Replacement Caliper. Two (2) times the DBH of any trees that are Removed.

2.2.136.~~bc~~. *Residential High-Rise*. A high-rise building type limited to residential uses on the upper floors. [numbering edited only]

2.2.44.a. *Significant Tree*. Any living tree with a trunk that is six (6) inches or more in diameter at breast height (DBH), which is presently on a lot or which has been Removed from the lot within the Lookback Period.

2.2.167.a. *Tree Replacement Fund*. A separate, identifiable account of the City administered in accordance with state law. All sums deposited into such fund shall be used solely for the purpose of buying, planting, and maintaining trees in the city.

2.2.167.b. *Tree Warden*. The city Tree Warden as designated for purposes of G. L. c. 87, s. 5.

2.2.167.~~ac~~. *Upper Level Maximum Floorplate*. The maximum area (in gross square feet) of any floor above a building's Tapering Height, expressed as a percentage of the lot area. [numbering edited only]

2.2.167.~~bd~~. *Upper Level Setback*. The distance that the upper stories of a building (above a designated Tapering Height) must be recessed from the property line. [numbering edited only]

2.2.167.d. *Urban Forestry Committee*. A committee of the City established under the City of Somerville Code of Ordinances Article VI, Sec. 12-100.

### **Section 10.1. - Purpose.**

The preservation of the private tree canopy and the planting of replacement trees is intended to enhance the quality of life and the environment of the city; to reduce energy consumption; to protect air quality; to provide protection from glare and heat; to baffle noise; to reduce topsoil erosion and storm water runoff; to preserve and enhance habitat for wildlife; to protect and increase property values; to combat climate change through carbon sequestration; to provide natural privacy for neighbors; to enhance the overall appearance of the city; and to acknowledge the intrinsic value of the mature trees held by the community.

### **Section 10.3. General Landscaped Area Requirements.**

In every instance where there is a required percentage of lot area devoted to landscaping, stipulated as the minimum landscaped area under Article 8 of this Ordinance, there shall be a minimum of two (2) kinds of landscape cover, using some combination of trees, shrubs, and/or ground cover. On each such lot, there shall be a minimum of one (1) tree for each one thousand (1,000) square feet of such space or fraction thereof. The required minimum landscaped area may be located on the development lot ~~or in the immediately adjacent street right of way when street tree plantings are utilized~~ or on an immediately abutting lot under the same ownership.

### **Section 10.6. - Landscaping Specifications.**

10.6.2 Trees. All trees required by this Ordinance shall be nursery grown and indigenous or naturalized to the area where planted and be at least three (3) inches in caliper when planted or when the Ordinance becomes applicable thereto. In the alternative, and with the approval of the Superintendent, a required tree may be of two (2) inches in caliper provided that for each case where a two (2) inch tree is substituted another required tree planted elsewhere on the lot is of four (4) inches or more in caliper.

~~Trees may be planted in landscaped areas on the lot or as street trees in the immediately adjacent street right of way. When street trees are planted, the normal number of trees required may be reduced provided that the total aggregate tree caliper inches meets the normal requirement.~~

~~EXAMPLE: If two thousand (2,000) s.f. of landscaped area is required on a site, there would normally be a requirement for two (2) trees of three (3) inch caliper each (that is 1 tree per one thousand (1,000) s.f. — Sec. 10.3). As an alternative, the developer may plant one (1) street tree of a minimum six (6) inches caliper — this is equal in caliper inches to two (2), three inch caliper trees.~~

#### 10.6.4 Tree Protection.

- a) Applicability. Real property owned by the City of Somerville, the Commonwealth of Massachusetts, any independent authority of the Commonwealth of Massachusetts, or The Federal Government of the United States is exempt from the provisions of this section. The Superintendent may not interpret this section as preventing the cutting, trimming, or removal of trees in accordance with M.G. L. c. 87, s. 5.
- b) Significant Trees. The City Arborist may declare a tree not Significant if they find that it is either hazardous or undesirable. In addition, the City Arborist may designate trees as Significant based on age, species, health, meaning within the community, historical importance, and similar factors that are substantially equivalent.
- c) Procedures. Removal of a Significant Tree requires a Special Permit. When applying for a Special Permit to Remove a Significant Tree, the applicant shall submit a plan drawn and stamped by a registered land surveyor or landscape architect showing all existing Significant Trees on the property, including the species and DBH of each Significant Tree. The submitted plan should clearly indicate the following:
  1. which trees are to be removed and which trees are to be retained;
  2. protective measures to be taken for any retained trees in accordance with species and planting standards as defined by the City Arborist and Urban Forestry Committee; and
  3. the location, species, and planting plan for any proposed new trees.

In its discretion to approve or deny a Special Permit, the SPGA shall make findings considering the following:

1. That the preservation of existing, mature trees is preferred to the planting of new trees
2. The health of the trees as it relates to damage, disease, or as a threat to public health or safety.
3. The pace of tree removal and replanting with the neighborhood and citywide.
4. Any written input from the Urban Forestry Committee, the City Arborist, or the Tree Warden.

As a condition of any Special Permit authorizing the Removal of a Significant Tree, the SPGA shall require the following:

1. Replacement. The plan showing the planting of new trees equal the Replacement Caliper. Trees must be planted on the same or adjacent lot and must conform to species and planting standards as defined by the City Arborist and Urban Forestry Committee. Planting of replacement trees must be completed prior to final inspection and is required prior to issuance of a Certificate of Occupancy.
2. Payment. Payment may be made in lieu of planting some or all of the replacement trees. The amount of the payment shall be determined based on a quote from a local greenhouse that includes the trees, the planting costs, and maintenance of the trees for five years. The quote shall be for a quantity of trees sufficient to make up the difference between what is shown on the plan and the Replacement Caliper. Payment shall be made prior to issuance of the Special Permit.

In case of damage that constitutes Removal of any Significant Tree, the tree must be replaced or a payment made as described above.

- d) Enforcement. Upon notice that work on any lot on which a Significant Tree is located is being performed without a Special 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 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.

Whenever there exists reasonable cause to believe that a person is violating any applicable provision of this section, 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.

- e) Penalties. Each instance in which any and each Significant Tree is improperly removed is a separate violation of this section. Failure to appropriately protect any and each Significant Tree is a separate violation of this section. Each day a violation continues is a separate offense.

All fines described in this section must be credited to the Tree Replacement Fund.

If a Significant Tree is found to have been improperly removed, The SPGA shall not issue any Special Permits for the lot from which the Significant Tree was removed for a duration equal to the Lookback Period. In addition, the property owner will be subject to a fine, the amount of which will be determined according to Section 10.6.4.d of this ordinance under "Replacement."

Any contractor or arborist who improperly removes a Significant Tree absent a Special Permit will be subject to a fine in the amount of \$100 per inch DBH of the removal.

**Section 2. (Uncodified)**

New language is identified with underlined **red text**. Existing language to be stricken is identified with strike-through ~~red text~~. Language identified with bracketed **[blue text]** is intended only for informative purposes.

**Ordinance ordained by the Board of Aldermen 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.**

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*Katjana Ballantyne*  
President  
Board of Aldermen