

HOUSE No. 2195

The Commonwealth of Massachusetts

PRESENTED BY:

Steven C. Owens

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to update the public shade tree law.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven C. Owens</i>	<i>29th Middlesex</i>	<i>2/4/2021</i>
<i>Maria Duaiame Robinson</i>	<i>6th Middlesex</i>	<i>2/25/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/25/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>3/9/2021</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>4/1/2021</i>

HOUSE No. 2195

By Mr. Owens of Watertown, a petition (accompanied by bill, House, No. 2195) of Steven C. Owens and others for legislation to regulate the powers of tree wardens in municipalities in the Commonwealth. Municipalities and Regional Government.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1793 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to update the public shade tree law.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 87 of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

3 Section 2. The tree warden of a town or city may appoint and remove deputy tree
4 wardens. The tree warden and the deputy tree wardens shall receive such compensation as the
5 town or city determines. The tree warden shall have the care and control of all public shade trees,
6 shrubs and growths in the town or city, except those in public parks or open places under the
7 jurisdiction of the park commissioners, unless otherwise designated in writing by the park
8 commissioners, and shall enforce all the provisions of law for the preservation of such trees,
9 shrubs and growths. The tree warden shall expend all money appropriated for the setting out and
10 maintenance of such trees, shrubs and growths. No tree shall be planted within a public way

11 without the approval of the tree warden. The tree warden may propose regulations for the care
12 and preservation of public shade trees to be approved by the local governing body of a town or
13 city selectmen, which shall have the effect of town by-laws, and may establish fines and
14 forfeitures for violations thereof pursuant to rules and regulations promulgated under section 15.

15 SECTION 2. Said chapter 87, as so appearing, is hereby further amended by striking out
16 section 5 and inserting in place thereof the following section:-

17 Section 5. Tree wardens and deputy tree wardens, but no other person, may, without a
18 hearing, trim, cut down or remove trees, less than 4 inches in diameter 1 foot from the ground,
19 and bushes, standing in public ways; and, if ordered by the mayor, selectmen, road
20 commissioners or highway surveyor, shall trim or cut down trees and bushes that, following an
21 inspection based on accepted industry or government arboricultural standards for the
22 determination of hazardous or dangerous trees, are deemed to obstruct, endanger, hinder or
23 incommode persons traveling thereon or to obstruct buildings being moved pursuant to the
24 provisions of section 18 of chapter 85. Nothing in this section shall prevent the promulgation of
25 rules and regulations under section 15 with respect to trimming, cutting or removal of trees
26 planted in accordance with the provisions of section 7. Nothing in this chapter shall prevent the
27 trimming, cutting or removal of any tree which endangers persons traveling on a highway or
28 poses an imminent threat to persons or property by the proper state or municipal authority. In all
29 other instances, the person seeking to trim, cut or remove a tree from the public way shall consult
30 with the tree warden. Nothing herein shall interfere with the suppression of pests declared to be
31 public nuisances pursuant to section 11 of chapter 132, including the Dutch elm disease.

32 SECTION 3. Said chapter 87, as so appearing, is hereby further amended by striking out
33 section 6 and inserting in place thereof the following section:-

34 Section 6. A violation of the provisions in sections 3 to 5, inclusive, shall be punished by
35 forfeiture of not more than the assessed value of the tree or trees pursuant to rules and
36 regulations promulgated under section 15. Such monies shall be collected for use by the city or
37 town.

38 SECTION 4. Section 9 of said chapter 87, as so appearing, is hereby amended by
39 striking out the first sentence and inserting in place thereof the following sentence:-

40 Whoever affixes to a tree in a public way, or places a notice, sign, advertisement or other
41 thing, whether in writing or otherwise, or cuts, paints or marks such tree, except for the purpose
42 of protecting it or the public and under a written permit from the officer having the charge of
43 such trees in a city or from the tree warden in a town, or from the department in the case of a
44 state highway, shall be punished by a fine pursuant to rules and regulations promulgated under
45 section 15.

46 SECTION 5. Section 12 of said chapter 87, as so appearing, is hereby amended by
47 striking out the first sentence and inserting in place thereof the following sentence:-

48 Whoever wantonly injures, defaces or destroys a shrub, plant or tree, or fixture of
49 ornament or utility, in a public way or place or in any public enclosure, or negligently or
50 willfully suffers an animal or vehicle driven by or for him or belonging to him to injure, deface
51 or destroy such shrub, plant, tree or fixture, shall be punished by a fine of not more than 500
52 dollars, and shall be liable to the town, city or any person for all damages relating to their interest
53 in the shrub, plant, tree or fixture caused by such act.

54 SECTION 6. Section 13 of said chapter 87, as so appearing, is hereby amended by
55 inserting at the end thereof the following sentence:-

56 In accordance with section 106 of chapter 41, the tree warden in any city or town which
57 exceeds 10,000 residents shall be qualified by training and experience in the field of
58 arboriculture and licensed with the department of agricultural resources in accordance with the
59 provisions of section 10 of chapter 132B. A qualified tree warden shall be defined as a person
60 who has completed a degree in a forestry or natural resource management field, has attained
61 certification from the International Society of Arboriculture or through the Massachusetts
62 Certified Arborist Program of the Massachusetts Arborists Association or other equivalent
63 professional certification or, for communities with less than 10,000 residents, completed a series
64 of Professional Development courses offered by the Massachusetts Tree Wardens and Foresters
65 Association or equivalent training.

66 SECTION 7. Chapter 87 of the General Laws is hereby amended by inserting after
67 section 14 the following section:-

68 Section 15. The department of conservation and recreation shall promulgate rules and
69 regulations pertaining to this chapter.