

SENATE No. 1323

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>7/14/2021</i>

SENATE No. 1323

By Ms. Creem, a petition (accompanied by bill, Senate, No. 1323) of Cynthia Stone Creem 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 SENATE, NO. 1172 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 2016 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

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

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

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

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

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

36 SECTION 4. Section 9 of said chapter 87, as so appearing, is hereby amended by striking
37 out the first sentence and inserting in place thereof the following sentence:- Whoever affixes to a
38 tree in a public way, or places a notice, sign, advertisement or other thing, whether in writing or
39 otherwise, or cuts, paints or marks such tree, except for the purpose of protecting it or the public
40 and under a written permit from the officer having the charge of such trees in a city or from the
41 tree warden in a town, or from the department in the case of a state highway, shall be punished
42 by a fine pursuant to rules and regulations promulgated under section 15.

43 SECTION 5. Section 12 of said chapter 87, as so appearing, is hereby amended by
44 striking out the first sentence and inserting in place thereof the following sentence:- Whoever
45 wantonly injures, defaces or destroys a shrub, plant or tree, or fixture of ornament or utility, in a
46 public way or place or in any public enclosure, or negligently or wilfully suffers an animal or
47 vehicle driven by or for him or belonging to him to injure, deface or destroy such shrub, plant,
48 tree or fixture, shall be punished by a fine of not more than 500 dollars, and shall be liable to the
49 town, city or any person for all damages relating to their interest in the shrub, plant, tree or
50 fixture caused by such act.

51 SECTION 6. Section 13 of said chapter 87, as so appearing, is hereby amended by
52 inserting at the end thereof the following sentence:- In accordance with section 106 of chapter
53 41, the tree warden in any city or town which exceeds 10,000 residents shall be qualified by

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

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

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