

HOUSE No. 4732

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 10, 2024.

The committee on Municipalities and Regional Government, to whom were referred the petition (accompanied by bill, Senate, No. 1280) of Cynthia Stone Creem, Steven Owens, James K. Hawkins and Patricia D. Jehlen for legislation to regulate the powers of tree wardens in municipalities in the Commonwealth and the petition (accompanied by bill, House, No. 2094) of Steven Owens and others for legislation to regulate the powers of tree wardens in municipalities in the Commonwealth, reports recommending that the accompanying bill (House, No. 4732) ought to pass.

For the committee,

CAROLE A. FIOLA.

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 2020 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, which shall have the effect of town by-laws, and may establish fines and forfeitures for
14 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 chapter shall prevent the trimming, cutting
25 or removal of any tree which endangers persons traveling on a highway or poses an imminent
26 threat to persons or property by the proper state or municipal authority. In all other instances, the
27 person seeking to trim, cut or remove a tree from the public way shall consult with the tree
28 warden. Nothing herein shall interfere with the suppression of pests declared to be public
29 nuisances pursuant to section 11 of chapter 132, including the Dutch elm disease.

30 SECTION 3. Said chapter 87, as so appearing, is hereby further amended by striking out
31 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
37 striking out the first sentence and inserting in place thereof the following sentence:-

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

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

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

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

54 In accordance with section 106 of chapter 41, the tree warden in any city or town which
55 exceeds 10,000 residents shall be qualified by training and experience in the field of
56 arboriculture and licensed with the department of agricultural resources in accordance with the
57 provisions of section 10 of chapter 132B. A qualified tree warden shall be defined as a person

58 with training and experience in the field of arboriculture, which shall include but not be limited
59 to an accredited degree in a forestry or natural resource management field, attained certification
60 from the International Society of Arboriculture, the Massachusetts Certified Arborist Program of
61 the Massachusetts Arborists Association, or other equivalent professional certification,
62 professional development courses offered by the Massachusetts Tree Wardens and Foresters
63 Association, or equivalent training.

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

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

68 SECTION 8. Section 106 of chapter 41 of the General Laws, as appearing in the
69 2022 Official Edition, is hereby amended by striking out the words “food and agriculture” and
70 inserting in place thereof the following: “agricultural resources”. Said section 106, as so
71 appearing, is hereby further amended by striking out “arboriculture” and inserting in place thereof
72 the following: “arboriculture”.