



Ordinance Amending Chapter 268 - Trees (Mayor Sarno)

Chapter 368: Tree Protection

368-1 Findings

The City of Springfield finds that mature trees provide benefits to its residents, businesses, and visitors, including improved air quality, aesthetics, flood and drainage control, soil stabilization, increased energy efficiency, reduced ambient temperature, wildlife habitat, contribution to the distinct character of neighborhoods, and enhanced property values. Therefore, the City determines that the preservation and protection of publicly-owned trees and certain trees on private property are public purposes that protect public health, enhance environmental quality, mitigate climate change, and improve overall quality of life and welfare.

368-2 Definitions

When used in this Ordinance, the following definitions shall apply:

Caliper - Diameter of a tree trunk (in inches). For trees up to four (4) inches in diameter, Caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, Caliper is measured twelve (12) inches above the existing grade at the base of the tree.

Climate Mitigation – Refers to actions limiting the magnitude and rate of future climate change by reducing greenhouse gas emissions and/or advancing nature-based solutions.

Critical Root Zone (CRZ) – Area of soil around a tree trunk where roots are located that provide stability and uptake of water and minerals required for tree survival.

Diameter at Breast Height (DBH) – The standard measure of tree size for those trees that are at least four (4) inches in diameter at a height of four and one half (4.5) feet from the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

Dripline – Area of ground located under a tree bounded by the extent of the branches.

Person – Any person, firm, partnership, association, corporation, company, or organization of any kind including public utilities.

Public Shade Tree – Any tree described in M.G.L. c. 87 § 1.

Prune – Remove branches or roots from a tree or other plant.

Setback Tree – Any tree planted on adjoining property as described in M.G.L. c. 87 § 7.

Significant Tree - Any tree which is 75 years old or older, or which has a DBH of three feet or more on public or private property.

Tree Belt – Area within the street or roadway right-of-way suitable for growing trees.

Tree Protection Zone – An area to be defined or approved for each individual tree by the City Forester surrounding the trunk of the tree intended to protect branches, roots, and soil, and to ensure the future tree health and stability.

Tree Removal – Any act that causes a tree to die or will cause a tree to die within a three (3) year period as determined in the reasonable opinion of the City Forester. The word “remove” and variations thereof, when capitalized and used in this Ordinance, shall refer to Tree Removal.

Tree Valuation – The value of any tree per Section 368-8 Penalties shall be calculated using the Reproduction Method Truck Formula Technique.

368-3 Applicability

The terms and provisions of this Ordinance shall apply to any proposed activity affecting a Public Shade Tree or Significant Tree as defined by 368-2, an activity affecting a City-owned tree, any activity on City property, and any activity that requires the issuance of a street occupancy permit. No street occupancy permit shall be issued by the City without it being determined that the proposed activity is in conformance with the provisions of this Ordinance.

368-4 City of Springfield Tree Replacement Fund.

Established

There is hereby established a City of Springfield Tree Replacement Revolving Fund which shall be held by the City Treasurer in an account administered by the Department of Parks, Buildings, and Recreation Management, Forestry Division in accordance with applicable provisions of the General Laws. Any fines, fees or other payments collected pursuant to this Ordinance shall be deposited in said Tree Replacement Fund, and shall be used solely for the purpose of buying, planting, and maintaining trees in the City, and administering the provisions of Massachusetts General Laws Chapter 87.

368-5 Regulation of Public Shade Trees

A. **Duties under M.G.L. c. 87:** The Park Commission is hereby designated as the City's tree warden for purposes of M.G.L. c. 87 § 4. The Park Commission may delegate any or all of its duties under chapter 87 to the City Forester.

B. Wires in Contact with Trees

1. No electric wires, cables, guys, poles, cross arms, brackets, insulators or other wires or other fixtures of any type shall be attached to or come in contact with any Public Shade Tree or other tree City-owned tree without the prior consent of the City Forester.
2. All wires, cables, guys and wire fixtures now attached to or in contact with such trees without the City's consent may be ordered removed by the City Forester in his sole discretion; the cost of such removal to be the responsibility of the Person owning such wires, cables or fixtures.

C. **Cutting and Injuring Trees:** No Person shall cut down, Remove, Prune, trim branches, injure (including damage by vehicle) or destroy any Public Shade Tree or other City-owned tree unless said Person has obtained a permit or approval to do so in accordance with this Ordinance.

D. **Construction Activities**

1. The City Forester shall be notified of any project impacting or occurring adjacent to a Public Shade Tree or other City-owned tree, such notification shall occur at the time of application for a new construction permit or street occupancy permit by the Building Commissioner's Office or Department of Public Works. See 368-5 § F for mitigation requirements for construction activities.
2. Adequate Tree Protection Zones as determined by the City Forester will be provided by any Person performing construction activities near a Public Shade Tree or other City-owned tree. Tree Protection Zones shall be in place prior to the commencement of work and remain in place until all work is complete. Excavation within the Tree Protection Zone must be reviewed and approved in advance by the City Forester.

E. **Procedures**

1. **Public Shade Tree Removal:** Any Person seeking to Remove a Public Shade Tree shall submit an application to the City Forester. Upon review, the City Forester shall determine if it is necessary to hold a public hearing on the applications at the expense of the applicant, in accordance with the provisions of M.G.L. c. 87. If Removal of the Public Shade Tree will comply with Section 368-5(F) of this Ordinance, the City Forester shall issue a permit for the Removal of such tree. The permit may specify schedules, terms, and conditions of Removal. The Public Shade Tree Removal Permit fee shall be \$25. The Public Shade Tree Removal Hearing fee shall be \$400. Objections to Tree Removal must be submitted in writing to the City Forester who will submit the objection to the Mayor for final approval or rejection of the Tree Removal.
2. **Public Shade Tree Pruning:** Any Person seeking to Prune or trim a Public Shade Tree shall submit an application to the City Forester. Upon review, the City Forester may issue a permit for approved work to be completed. The permit may specify schedules, terms, and conditions. The Public Shade Tree Pruning Permit fee shall be \$25.
3. **Planting of Trees on City-Owned Land:** Any Person seeking to plant a tree on City-owned land shall submit an application to the City Forester. Upon review, the City Forester may issue a permit for approved work to be completed. The permit may specify schedules, terms, and conditions. There shall be no fee for a Public Shade Tree Planting Permit.
4. **Stump Removal on City-Owned Land:** Any person seeking to remove a stump on City-owned land shall submit an application to the City Forester. Upon review, the City Forester may issue a permit for approved work to be completed. The permit may specify schedules, terms, and conditions. There shall be no fee for a Public Stump Removal Permit.

F. **Mitigation:** A City-owned tree that is not a Public Shade Tree or Significant Tree shall not be Removed without prior written approval from the City Forester in consultation with the controlling authority of such City-owned land where the tree is situated. Upon review, the City Forester may condition such approval on the applicant's satisfaction of Section 368-5(F)(1), 368-5(F)(2) or 368-5(F)(3). A Public Shade Tree shall not be Removed unless the procedures outlined in 368-5(E) and at least one of the following provisions are satisfied:

1. Replacement or Replanting of trees: Such replacement or replanting shall be on the basis of one (1) inch Caliper of new trees for each inch of DBH of tree(s) Removed, and each replanted tree must have a minimum Caliper of two (2) inches and be of a quality and variety approved by the City Forester. The replacement or replanting shall occur no later than twelve (12) months after issuance of the permit on public land deemed fit by the City Forester.; or
2. Payment in lieu of planting replacement tree(s): In lieu of planting a replacement tree(s) as provided in Section 368-5(F)(1), a Person who has applied to Remove a Public Shade Tree under Section 368-5(E) shall make a contribution to the City of Springfield Tree Replacement Fund in an amount equal to the cost to replace the tree. Such contribution shall be: \$50 per DBH inch of Public Shade Tree Removed; not already mitigated under Section 368-5(F)(1).; or
3. The applicant demonstrates, to the satisfaction of the City Forester, that the Removal of a Public Shade Tree does not adversely impact the interests identified in Section 368-1.

368-6 Regulation of Significant trees

- A. It is unlawful for any Person to cut, trim, Prune or Remove, in whole or in part, any Significant Tree, even if such Person is the owner of the fee in the land on which such tree is situated, except upon a permit in writing from the City Forester, and only to the extent of the terms and conditions of such permit.
- B. The City Forester shall grant such permit only upon a showing by a preponderance of the evidence that the continued present state of such tree endangers persons or property or is diseased or damaged.
- C. Each Person shall be responsible for ascertaining the age and diameter (DBH) of any tree prior to such Person cutting, trimming or Removing same.
- D. A Person who is aggrieved by the provisions of this section may apply directly to the Park Commission for a permit to cut, trim or Remove, in whole or in part, any Significant Tree which is otherwise protected under this section so long as such Commission, in the exercise of its discretion, is satisfied that such applicant would sustain a hardship, financial or otherwise, which outweighs any detriment to the public interest that would result in the application of this section. For the purpose of this section, "hardship" is the loss of an advantage. It may include, but is not limited to, a monetary advantage or the advantage to put property to a particular use.

368-7 Private Trees Impacting the Public Way

A Tree located on private property that has a defect that renders it, whole or in part, unsafe or inconvenient for ordinary travel within the Public Way, as determined by the City Forester, shall be made safe for such use by the owner of such tree within a reasonable time period as ordered by the City Forester. If ordered risk tree mitigation is not performed within allotted time, the City Forester shall order the work to be completed by a pre-approved vendor of the City of Springfield at the cost of the property owner.

368-8 Penalties

- A. Any Person who Removes or Prunes a Public Shade Tree in violation of this Ordinance shall be fined up to \$500 per violation or up to triple damages of the valuation of the tree, as set forth in Massachusetts General Laws Chapter 242, § 7. Any Person with two or more Public Shade Tree violations of this Ordinance shall be subject to triple damages of the value of the tree, as set forth in Massachusetts General Laws Chapter 242, § 7. The Park Commission shall set the amount of the fine after considering the circumstances of the violation(s).
- B. Any Person who violates any other Section of this Ordinance shall be fined up to \$500 per violation or up to triple damages of the valuation of the tree, as set forth in Massachusetts General Laws Chapter 242, § 7. The Park Commission shall set the amount of the fine after considering the circumstances of the violation(s).
- C. Any Person assessed a fine under this Section may appeal the amount or validity of said fine to the Park Commission. Appeals shall be initiated by sending the Park Commission a written statement setting forth the basis of the appeal and the requested relief. Such written statement must be received by the Park Commission or its secretary or designated representative within 30 days of the date of the fine. The Park Commission may, in its discretion, act on the appellant's written appeal or schedule a public hearing on the appeal. The Park Commission may make rules and regulations governing the conduct of public hearings held under this Section, provided that such rules and regulations are consistent with this Ordinance and other applicable law. In disposing of an appeal, the Park Commission may: (1) uphold the fine; (2) alter the amount of the fine; or (3) dismiss the fine.

368-9 Severability

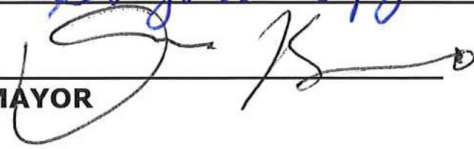
If any section, paragraph, or part of this by-law, is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.

Be it ordained by the City Council of the City of Springfield, in session assembled, that the Code of Ordinances of the City of Springfield, is hereby amended by deleting Chapter 368, in its entirety, and replacing it with the following:

RESULT: **ADOPTED AS AMENDED [10 TO 0]**
AYES: Walsh, Allen, Delgado, Click-Bruce, Govan, Brown, Davila, Santaniello, Edwards, Perez
ABSENT: Sean Curran, Tracye Whitfield, Michael A. Fenton

PRESENTED TO THE MAYOR ON MARCH 19, 2024

CITY CLERK: 

APPROVE:  **DATE: MARCH 19, 2024**
MAYOR