



## City of Cambridge Department of Public Works

*Owen O'Riordan, Commissioner*

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March 18<sup>th</sup>, 2021

To: Louis DePasquale,  
City Manager

From: Owen O' Riordan  
Commissioner, DPW

**Re: The Tree Protection Ordinance.**

Please find attached proposed amendments to the Tree Protection Ordinance (TPO) drafted based on ideas generated through the Urban Forestry Master Planning (UFMP) process with contributions from members of the Urban Forestry Task Force (Task Force) and interested members of the public. The proposed amendments to the ordinance retain much of the original ordinance (2004) and the recent amendments of 2019 and have been revised to address community concerns about protecting mature trees more broadly across the City and incentivizing the planting of more trees in the City as concerns about canopy loss and urban heat island effect become more significant.

The Urban Forestry Master Planning process began in the June 2018 and resulted in the City of Cambridge Urban Forest Report: **Healthy Forest – Healthy City** being released in November 2020. This report was based on the earlier **Cambridge Urban Forest Master Plan Technical Report** which was released in November 2019. The 18 member Task Force met on 12 different occasions with staff and City consultants, Reed Hilderbrand, to discuss proposals to protect and restore the Cambridge urban forest from the perspectives of policy, design, practice and community engagement and outreach. The proposed amendmnets to the ordinance reflect many of the ideas generated during the policy discussions.

The original ordinance from 2004 was written to address tree removals associated with large development projects. It did not concern itself with other tree removals within the City. In 2019, the City Council enacted amendments to the 2004 ordinance, requiring that all other mature tree removals across the City be required to obtain a permit from the Department of Public Works and that no such permits be issued until after December 2021 unless exceptional circumstances existed, such as, an emergency circumstance or a tree being dead or dangerous, etc. The 2019 amendments have since been extended until April 25<sup>th</sup>, 2021, with the expectation that an amended ordinance will be ordained by that time.

The present revision to the Tree Protection Ordinance includes the following significant proposals:

- (1) Redefines Significant Trees as trees equal to or greater than six (6) inches rather than eight (8) inches.



- (2) Introduces the concept of Exceptional Trees. Exceptional Trees are defined as having a diameter of thirty (30) inches or greater and will require a greater degree of mitigation, if they are proposed to be removed.
- (3) Requires permits for all Significant Trees removed, be they associated with large development projects or removals on smaller lots, not necessarily associated with construction.
- (4) Encourages mitigation by replanting whenever significant trees are being removed. The mitigation requirements for large developments remain as they were, and the City Council is presented with four (4) options from which to choose when it comes to other tree removal projects.
- (5) Provides protections for Replacement Trees for a period of ten (10) years.
- (6) Provides the option to include affordable housing projects within the jurisdiction of the ordinance moving forward. The Applicability section has heretofore excluded affordable housing projects.
- (7) Includes a Duty of Care provision where those working adjacent to Significant Trees are required to adequately protect them from harm.
- (8) Proposes that the Tree Replacement Funds can be used on both public and private property for tree planting and care.
- (9) Continues to recognize that exceptions exist with regard to mitigation – e.g. dead and dangerous trees, exceptional circumstances etc.
- (10) Proposes that mitigation payments be calibrated against the most recent City of Cambridge Tree planting contract and that property owners who qualify for a residential real estate property exemption will be afforded a 90% reduction in that payment and that those who are receiving financial assistance will not be charged when a tree is removed.

Additionally, the Urban Forestry Task Force suggested that two additional proposals should also be put before City Council for its consideration; namely, that the City Arborist should have a signoff on special permits, to ensure that the proponents have met the requirements of their Tree Study and secondly; that in instances where Significant Trees are removed on small lots of less than 4,000 sq.ft. in size, that alternative mitigation strategies to Replacement Trees, such as providing cooling or other environmental benefits, should also be considered.

Regarding the first of these proposals, it was not recommended that such be included in the proposed amendments to the ordinance as providing such a sign-off to the City Arborist could exceed the City's authority under the State Building Code.

It is recommended that consideration of the second proposal should wait until the Climate Resiliency Zoning Task Force has finished its work and that the zoning associated with such is adopted. The Task Force is presently reviewing the Cool Factor strategy and it may be that a modified version of this strategy should be considered for the Tree Protection Ordinance after it is adopted into the Zoning

Ordinance.

Finally, it is important that the following legal and procedural constraints are recognized as the revised ordinance is considered:

- (1) Massachusetts General Laws Chapter 87 provides the City Arborist and the City Manager with authority over the removal of Public Shade Trees in the City of Cambridge. The proposed Tree Protection Ordinance Amendments would not apply to Public Shade Trees.
- (2) The City Arborist does not have the authority to enter onto private property without invitation.
- (3) The City Arborist is not and will not be authorized to provide risk assessments associated with trees on private property.
- (4) If a tree is taken down without a permit, it may not be possible for the City Arborist to verify if the tree was a Significant Tree and what size the tree was.

It is hoped that the above information is helpful in considering the various proposed amendments to the Tree Protection Ordinance.