

# RHODE ISLAND GUIDE FOR DEVELOPING MUNICIPAL STREET TREE ORDINANCES

## Model Ordinance



Division of Forest Environment  
Urban & Community Forestry Program



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### Introduction

The DFE Urban & Community Forestry (U&CF) Program has developed this guide to assist Rhode Island municipalities in assessing or revising their basic street tree ordinances. (Additional information and links to support materials are placed throughout this document.) There are multiple benefits to municipalities revisiting or developing tree ordinances:

- Research and data are showing the importance of trees and green spaces to community residents.
  - Not only for shade and beautification;
  - Not just for environmental benefits like stormwater management or air quality or mitigating the effects of climate change;
  - But for *human health*. More and more research shows a direct impact of the benefits of green spaces on issues such as health outcomes, hospitalizations, and heat stress.
- Increasing concern and awareness of environmental and social justice within our communities.
  - Addressing historical inequities that have resulted in a lack of tree cover in neighborhoods with specific economic and racial demographics.
    - Higher industrial use and increased likelihood of highways, with the concomitant chronic stressors of high levels of noise and pollutants.

Ordinances should be considered a work in progress, assessed and revised to meet the needs of the community and address the changes within that community. Tree ordinances are no different and need to advance in complexity as the community itself does. Green infrastructure does not happen by chance, and cannot survive without deliberate management and protection, or planning and enforcement.

Most Rhode Island communities face many challenges relating to their tree populations:

- Old communities and neighborhoods that have been modernized for utilities, vehicles parking, and traffic movement, leaving little space for trees
- Multiple modern utilities placed underground, conflicting with trees that could possibly survive in that ROW
- And more

This guide is intended to assist communities start the initial steps to having a clear and enforceable ordinance within their organizational limitations. Or provide a starting point to reassess existing tree ordinances and assess the gaps and needs the community faces for environmental and human health response.

As always, U&CF staff are available and more than willing to assist communities with their efforts, providing technical support and grant funds.

## Municipal Tree Ordinances

Tree ordinances establish official policies for how a community maintains and protects its trees. Ordinances set the standards for selection, planting, maintaining, and conserving community trees, and establish a legal means of protecting the public interest.

As stated in the American Public Works Association (APWA) [guide](#) on ordinances, regulations and public policies, the key benefits to adopting a tree ordinance include:

- Provides permanent procedures and legal authority
- Establishes an official policy for the community
- Helps establish new tree management programs
- Identifies standards and regulations for arboricultural practices, such as planting, removal, maintenance, and selection of appropriate tree species for the public trees.
- Makes the community's tree management program more visible
- Establishes a program independent of changing public opinion and finances
- Provides a channel through which governmental departments may interact
- Establishes the nature and degree of public responsibilities to the community's trees according to specific standards
- Provides the means to educate the public about the benefits of the urban forest

Properly applied, ordinances prescribe community tree management to maximize the benefits provided by trees. A community should consider its needs, its ability to enforce an ordinance, and the present and future challenges it faces. The clauses and language should address the specific issues of concern for each individual community.

Different kinds of ordinances can be used to address community forests whether along streets, in parks, around public and commercial buildings, or in neighborhoods. Each type of ordinance targets different aspects of community forest management. While they can be combined into a single, comprehensive ordinance, often they are separate, as many communities develop their management and standards as their community evolves over time.

## Street Tree Ordinances

**Street Tree Ordinances:** typically cover the establishment of authority (such as a tree board or department), planting, maintenance, and removal of trees within public rights-of-way and other public lands such as parks and greenways. They can also contain provisions governing the maintenance or removal of private trees, which pose a potential risk to the public. Ordinances with tree planting requirements, such as those requiring tree planting in public or private parking lots, can fall under this heading.

*This Rhode Island Guide for Developing Street Tree Ordinances focuses on this ordinance type:*

1. the basis for all other community tree management and planning and tree-related ordinances, including tree-related clauses in Zoning, Planning & Development, and Landscaping ordinances;
2. should be periodically reviewed and updated to meet changing community needs.

3. one of the four required elements for becoming a [Tree City USA](#) (street tree ordinance, Arbor Day Observation/Proclamation, Tree Board, spending \$2 per capita on tree management);

At a minimum a Street Tree Ordinance should

- Establish goals for urban and community forestry in the municipality
- Establish and define authority over public trees
- Institute performance standards for planting, maintenance (such as pruning), protection, and removal
- Establish a process for managing trees infested by a recognized tree pest
- Define nuisance conditions for trees
- Address enforcement, fees, appeals, and fines
- Establish a Tree Board/Committee/Commission to meet tree City USA recognition requirements.

### Other Types of Tree-Related Ordinances

With the exception of street tree ordinances, tree regulations typically do not stand alone. Instead, they are generally incorporated within other ordinances. However, where there are stand-alone ordinances, trees may be addressed within:

**Tree Protection Ordinance (also known as a Tree Conservation Ordinance):** Protects or conserves desirable trees, tree canopy, or trees with historic significance on public and private property. Some tree protection ordinances require a permit before protected trees can be removed, encroached upon, or pruned. Various requirements for developers vs landowners may be established for removal and replacement of trees.

**Landscape Ordinance:** Establishes required landscaping provisions, such as number, placement, and types of suitable plants or trees. May require trees or landscaping in parking lots or buffer yards. [Details and specifications](#) should be referenced for the various situations covered, and include approved tree species, nursery specifications and installation.

**Buffer Ordinance:** Protects amenities (views) of adjacent property owners in commercial and residential developments, and protects water quality in streams and other water bodies. Establishes specifications for acceptable noise buffers, visual buffers, and riparian buffers.

### Managing Multiple Ordinances with Tree-Related Clauses

If the provisions of a tree ordinance are to be incorporated into a comprehensive land use regulation ordinance (also referred to as unified development ordinances), all tree provisions should be reviewed, amended, or omitted as may be necessary to ensure consistency, avoid redundancy, retain any provisions specifically related to project review, and to ensure the ordinance is adopted, implemented, and enforced pursuant to appropriate local government authority.

It is important that where various tree regulations are located in different ordinances that:

1. they are also reviewed during ordinance creation or modifications to ensure consistency of standards and language, and avoid conflicting or contradictory information in different ordinances or sections, and

2. they are subsequently organized/consolidated in a document or webpage to allow clarity and accessibility by the public, developers and green industry professionals.

The Center for Watershed Protection has a helpful workbook to review and identify existing clauses and gaps in [Making Your Community Forest Friendly](#).

### Developing or Updating a Tree Ordinance

Before using this ordinance tool, it is important to contemplate where your community is on the continuum from “no tree ordinance” to “fully covered ordinance.”

- Do you currently, or do you plan to, oversee tree care, planting or removal only for public property, or for both public and private properties?
- If your community plans to enact all or portions of this ordinance, are you able to enforce its provisions (development reviews, inspections, fines or mitigations). For example, if trees are required to be planted, are there also funded inspections and penalties or mitigation if requirements are not met?
- If you have a small staff or no staff, are there some functions that can be carried out by a tree board or by a tree warden or a qualified contractor.

The effectiveness of a tree ordinance can be influenced by many factors:

- Do the residents support or oppose various ordinance provisions, or are they even aware of them?
- Is the ordinance enforced adequately?
- Does the ordinance account for environmental limitations that affect tree health, growth, and survival?
- Does the local government have the financial resources to fulfill ordinance requirements?

Since the answers to these questions will vary from place to place, and even very similar ordinances can have quite different outcomes in different communities.

### Reviewing/Revising an Existing Street Tree Ordinance

If a tree ordinance already exists in your community:

- 1) Determine community satisfaction and dissatisfaction with the current ordinance.
- 2) Determine if the stated purpose and goals of the ordinance are consistent with present community standards.
- 3) Determine if the management strategy is working for the community. Is progress being made and standards met that are identified in the current ordinance?
- 4) Compare development in your community to the provisions in your existing tree ordinance. Is the ordinance accomplishing its goal and stated purpose?
- 5) Identify characteristics or issues specific to your community, such as unique species or areas of special interest.
- 6) Modify the ordinance to address any new concerns.
- 7) If a tree ordinance does not exist in your community:
- 8) Determine community interest and sentiment regarding a new ordinance.

- 9) Survey your community and assess the quality of natural resource conservation.
- 10) Develop a management strategy for natural resource conservation.
- 11) Identify characteristics or issues specific to your community (unique species or areas of special interest) related to natural resource conservation.

### Input into a Street Tree Ordinance

There are valuable benefits to including local stakeholders when developing a tree-related ordinance. While this can add time to the process but make for a more successful outcome, developing buy-in from the community, and identifying resident concerns, as well as the community priorities or goals. It is rare for ordinances to fully predict every possible issue that could arise in the future, but having a structure in place and a way to assess its success is the first step to a successful ordinance over the long term.

Determining the community objectives for its trees and how far to extend the reach of a tree ordinance are key factors that should be considered before drafting an ordinance. It may also be prudent to take a phased approach – adopting some, but not all, possible provisions. Most planners and arborists have witnessed the effects of ordinances that are not enforced. So it may be best to adopt an ordinance that is practical to the community's immediate concerns and then expand the provisions as the community grows.

It will also be important to include a public education effort to ensure that the general public, staff and elected and appointed officials understand the need for and benefits of a robust and effective tree ordinance before changes are proposed, and after the ordinance is enacted.

### How to Use this Guide

This guide presents a starting point for a basic street tree ordinance for RI communities, but additional information and clauses are included in the appendices, should a community choose to address additional tree-related issues. The clauses provided in this guide are the minimum required to meet the standards for recognition as a Tree City USA. Additional clauses or more complex language are noted within the guide and appendices. It can be tempting to want to develop a comprehensive tree ordinance covering all aspects of trees and their management, but that requires support and buy-in from all aspects of the community. Starting with a basic ordinance and reassessing and revising it every 5-10 years will allow a municipality to build support, identify ongoing needs and gaps – consider a tree ordinance as a work-in-progress, that will need changes as the community changes.

This guide is meant to be used in conjunction with the review of other tree ordinance resources and information, such as listed below. Familiarity with the process and the necessary information will help users understand the language and the reasons for including specific sections.

- DCR: [Guide to Local Tree Bylaws for Communities in Massachusetts](#)
- The Arbor Day Foundation: TCUSA Bulletin #9 [How to Write a Municipal Tree Ordinance](#)
- ISA: [Guidelines for Developing and Evaluating Tree Ordinances](#)
- American Public Works Association: [Ordinances, Regulations, & Public Policies](#)
- NCSU: [Developing Successful Tree Ordinances](#)

## HINT #1:

The language within an ordinance should be specific and defensible. For example, the words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature. The use of terms such as “where feasible” or “when possible” are voluntary and are not enforceable, and they typically are not accompanied by specifications or standards. It is recommended to use specific language and include details and specifications as appropriate.

Explanatory Note: Throughout this street tree ordinance guide, comments are set out in boxes such as this. These comments should be removed before the ordinance is adopted; they are not part of the ordinance language itself.

The guide provides provisions that should be incorporated into a BASIC street tree ordinance, with the appropriate modifications to meet the specific needs of each individual community. Where additional or optional clauses are provided, in the body of the guide, or in the appendices, they are intended to address the diverse and differing needs of local governments. These are optional or expanded provisions that should be considered when revising an existing ordinance, or applied carefully to a new ordinance based on consideration of the immediate needs, capacity and support of the community.

Background sections provide instructional information to help better understand the sections which follow.

The [**bold underlined text**] serves as a prompt for local governments to customize the text or insert local government names.

## HINT #2:

Remember that any ordinance can become outdated as circumstances change and a community develops. Ordinances should be reviewed periodically to ensure that they:

1. are being followed and are accomplishing their intended goals,
2. are still relevant to the municipality,
3. do not overlook changes, and
4. are not outdated with fees, fines etc. [specifications and fees are recommended to be held in an external document, referenced in the ordinance to allow professional and financial updates without requiring changes to the ordinance itself].

## Limitations

This model ordinance is provided for educational purposes only and should not be considered as legal advice. It should be modified to meet the needs and circumstances of your community. The standards in this model ordinance can also be modified to create more robust standards than provided here for urban trees. Those using the contents of this model ordinance should consult with their own community’s legal counsel as part of drafting any codes, including the language, organization and structure.

## General Ordinance Provisions

### A. Short Title

This ordinance shall be known as the **[insert municipality name here]**'s Street Tree Ordinance. It is referred to herein as "this ordinance."

### B. Purpose

Explanatory Note: This subsection is designed to help communities identify relevant purposes and goals. The following list is illustrative only and some objectives may be redundant or may not capture the full needs of a particular municipality. The municipality should evaluate all benefits, including secondary benefits, of adopting a street tree ordinance and revise, amend or re-organize this list accordingly.

The Purpose subsection may also include the establishment of a Tree Board, Commission, Committee or Advisory Board. Such a group is necessary to gain and retain recognition as a Tree City USA. A community may choose to have a separate ordinance for such a committee. Further discussion on the role of a Tree Committee accompanies the later section of establishing a tree board.

Other options to the clause below:

- (a) *To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the **[insert municipality name here]** herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.*
- (b) *The purpose of this ordinance is to establish policies, regulations, and standards for the management of [public, private, all] trees within the **[insert municipality name here]** limits. Tree management shall include, but not be limited to, tree establishment, maintenance, protection, and removal.*

It is the purpose of this ordinance to preserve, protect and promote the health, safety, and general welfare of the public by providing for the regulation of the planting, maintenance and removal of trees located on roadways, parks and public areas owned or controlled by **[insert municipality name here]**.

### C. Objectives

Explanatory Note: The following is an optional addition that can be included as part of the purpose instead of its own heading. This section allows the municipality to highlight the concerns and priorities for the community and establish the desired outcomes.

While it may be tempting to include the entire list as shown below, selecting the issues of greatest concern helps focus the list. Items 1-8 are more community management issues and 9-20 are more detailed environmental concerns – 10 is a good limit to set.

Adapting the wording, combining items or creating new objectives are entirely appropriate to refine a list that best represents the municipality.

The objectives of public tree management shall be to maximize the functional benefits of trees while minimizing the costs of management. The objectives of this ordinance shall be as listed below.

1. Maintain the **[insert municipality name here]** tree canopy cover at or above its current level.

2. Maintain and improve community character.
3. Enhance the aesthetic appearance of the landscape.
4. Support environmental functions such as cleansing of the air and water.
5. Provide shade to offset urban heating and reduce energy costs.
6. Provide direction and support for tree management.
7. Reduce risks to public safety and significant property damage from damaged, diseased, weak high risk (or nuisance) trees.
8. Enable the abatement of high risk (or nuisance) trees.
9. Reduce storm water runoff.
10. Moderate temperature and promote energy conservation.
11. Emphasize the importance of trees and vegetation as both visual and physical buffers.
12. Improve air quality.
13. Reduce the harmful effects of wind, heat, noise, and the glare of motor vehicle lights.
14. Improve surface drainage and aquifer recharge.
15. Prevent soil erosion while promoting soil stabilization and enrichment.
16. Provide shade, and energy conservation
17. Improve water quality.
18. Conserve natural resources and maintain tree canopy.
19. Provide wildlife habitat.
20. Protect, facilitate, and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.

### D. Definitions

Explanatory Note: Municipalities should adjust the definitions to suit the needs and purpose of their ordinance. The inclusion of more clauses should include assessing the need for additional definitions to define terminology. For example, if the community recognizes a special status for some trees such as Protected, Heritage, Historic or Significant trees, the term should be specifically defined (*see Appendix A for a discussion of special tree designations*)

As used within this ordinance, the following terms shall have the meanings set forth in this section. The word “shall” as used in this ordinance is mandatory and not merely directory.

*Certified Arborist* – an individual who has passed the International Society of Arboriculture’s Certified Arborist examination, is designated as a Certified Arborist by said organization, and maintains such designation.

*DBH* – diameter of the tree trunk at breast height, 4.5 feet above the ground. On slopes, DBH is measured on the higher elevation side of the trunk.

*Dripline* – a vertical line that extends down at the point of the greatest extent of the tree’s branches.

*Licensed Arborist* – an individual possessing a current, valid Rhode Island Arborist License as described in [RIGL 2-19](#).

*Maintenance* – routine, periodic, or other activities for maintaining or improving a tree’s health and condition. Maintenance activities include but are not limited to mulching, pruning, irrigation, fertilization, pest control, cabling and bracing, and lightning protection system installation.

*Nuisance Tree* – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety, and welfare.

*Protection* – the active or passive protection of a tree’s roots, trunk, and crown for the purpose of avoiding damage to these living structures and maintaining tree health and structural integrity.

*Pruning* – the deliberate removal of tree branches for a specific purpose, i.e. young tree training, deadwood removal, utility line, traffic, or pedestrian clearance, or correcting structural defects.

*Public Trees* – shall include all ornamental and shade trees now or hereafter growing on any street or on any public land where otherwise indicated.

*Removal* – the cutting of a tree at ground line to remove the tree’s trunk and crown. The tree stump and roots may or may not be removed when removing the trunk and crown.

*Roots* – the below ground portion of a tree that includes large, woody support roots and small, non-woody, fibrous “feeder” roots. Roots are generally located within the top 18 inches of soil and extend out from the trunk two (2) to three (3) times the width of the crown.

*Street Trees* – trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

*Top or Topping* – the non-standard practice of reducing tree height or conflicts by the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Also, may be termed as hat-racking, rounding over, heading, tipping, or shearing.

*Tree* – a woody perennial plant, generally with a single trunk but sometimes with multiple trunks, with the potential to attain a mature size of at least 3 inches in trunk diameter at 4.5 feet above the ground and a height of at least 15 feet.

*Tree Crown* – the upper portion of a tree that contains the leaders, large scaffold limbs, branches, twigs, and leaves.

*Tree Damage* – any injury to or destruction of a tree, including, but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on, or compaction of, surrounding soil; substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

*Tree Warden* – “The tree warden in a town or city has the care and control of all trees and shrubs, in whole or in part within the limits of any public road or grounds and within the limits of his or her town or city, except those on roads under the control of the department of transportation and those in public parks or grounds which are under the jurisdiction and control of the department of environmental management or the park commission of any town or city.” [RIGL Title 2 Chapter 2-14](#)

*Urban Forest* – shall mean the collection of shrubs, trees, vegetation and associated natural features that make up the community tree canopy and its growing zone.

### E. Jurisdiction

Explanatory Note: The role and authority of municipal staff, or the representative of the municipality, to administer or act on the behalf of the community, is stated here. The Tree Warden or the Tree Board may be specified here if appropriate. One method delegates responsibility of operational management of public trees to a department Director and establishes a volunteer tree advisory board to provide input/support.

- (a) Delegation of authority and responsibility. The Director of the \_\_\_\_\_ Department and/or their designee, hereinafter referred to as the “Director”, shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all municipal streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- (b) Interference. No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

Some form of this above section MUST be included to meet the ordinance requirements for the Tree City USA program: “a public tree care ordinance MUST contain a “delegation of authority” by city leadership—either to a named Director, department, or tree advisory board.”

## F. Tree Warden

Explanatory Note: Because of [RIGL § 2-14](#), it is suggested that, at a minimum, communities include this language in their street tree ordinance if it is not elsewhere in the municipal code. A more detailed a description of the qualifications, the authority, and the duties of the position is suggested and listed below.

The town tree warden shall be appointed by the town council in accordance with G.L. 1956, section 2-14-2. The tree warden shall have training and experience in arboriculture and shall have passed the state arborist examination and been issued, and maintains, a state arborist license.

Explanatory Note: Barrington, RI addresses the Tree Warden extensively in Chapter 145 under [Article II: Tree Warden](#), including: appointment and qualifications; term of office; vacancies; powers and duties; authority of Tree Warden. Narragansett, RI also has extensive language in Chapter 66 under [Article III, Division 2](#).

An example of language falling between the brief statement above and the more expansive RI examples:

*(a) Qualifications of the Town Warden*

*The Town Warden shall, where possible, be a person skilled or trained in forestry, horticulture, or other closely related field, and licensed as arborist in Rhode Island.*

*(b) Duties of the Town Warden*

*The Town Warden shall have the duty to make rules governing the planting, maintenance, and removal of trees on the streets or other public sites in the city.*

*(c) Authority of the Town Warden.*

- (1) The Town Warden shall report to the Tree Board on a regular basis and shall be in attendance at all regular and special meetings of the Tree Board, Tree Board Sub-committees or other community meetings as designated by the Chair.*
- (2) The Town Warden shall record all activities of the Tree Board or subcommittees of the Board.*
- (3) The Town Warden shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned properties to ensure safety or preserve the integrity of such public sites by granting permits.*
- (4) The Town Warden shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of the Ordinance.*

### G. Registration of Arborists in Rhode Island

In accordance [RIGL § 2-19](#), the **[insert municipality name here]** requires any person who removes or maintains trees on public or private property as a business to be:

- (a) Registered in the state of Rhode Island as a licensed arborist;

Explanatory Note: While not required by [RIGL § 2-14](#), municipalities may choose to include language regarding insurance coverage by companies doing arboricultural work within the municipal boundary, if clauses addressing required insurance by businesses contracting to the city are not included elsewhere in the municipal code.

- (b) *Covered by Workman's Compensation to the extent required by Rhode Island law and Public Liability and Personal Property Insurance in minimum amounts hereinafter mentioned adequate to cover and save harmless the city and its agents from all suits, claims, or actions of every class and nature, or on persons or property damage caused or claimed to be caused, directly or indirectly, by the conduct of the work.*

## Background to Tree City USA Provisions

[Tree City USA](#) is a national recognition program through the National Arbor Day Foundation. Urban Forestry Programs in each state and territory administers the application and review process, including [Rhode Island](#), which is submitted to The Arbor Day Foundation yearly. Communities which meet the four [standards](#) receive recognition nationally and locally.

One of the standards necessary to be a Tree City USA is a Tree Care Ordinance, the basis for this Guide. In addition, the establishment of a tree board/committee/commission is required to meet the ordinance standards for recognition. Clauses for board title and governance should conform to existing municipal rules for volunteer advisory boards. The establishment of a tree board/committee/commission can be separate from the Street Tree Ordinance itself but must be specifically referenced within another ordinance with the roles and responsibilities identified (for example, a municipality where the volunteer boards have their own establishing ordinance(s)).

The following set of provisions provides language for communities that wish to become a Tree City USA or see it as an added value to their ordinance development. The provisions should also assign the task of crafting and implementing a plan of work or for documenting annual tree care activities. Most boards are advisory to the town, but some have additional authority as the town determines appropriate.

Volunteers in the community provide a link between the municipal staff responsible for the trees and the residents who receive the benefits, as well as being a resource for often overloaded municipal staff. The benefits to having a tree board include may vary, depending on a community's situation, but can include:

- Advocate – for public tree and forest management, and support urban and community forestry
- Get Work Done – help with a tree inventory, an education campaign, a planting program, or tree ordinance
- Bring in Additional Resources – help apply for grants, solicit private donations, organize fundraisers, and advocate for larger budgets
- Reduce Conflicts – help reduce potential conflicts by providing a forum for reviewing complaints, addressing safety issues, and making recommendations to the town
- Help Raise Public Awareness – educate residents about the importance of trees and urban forestry, and raise public awareness of the needs of trees and forests

All these activities result in an improved urban and community forest.

Examples of types of tree boards:

- In smaller communities, without a forestry department, a board can coordinate contracts for tree maintenance and planting; visit sites and resident complaints; and manage a tree inventory.
- As a volunteer action group, a board can plan and coordinate volunteer tree plantings, organize training workshops, educational programs, and fundraising.
- As an advisory group to town staff, a board can research and recommend ordinance provisions for new or revised ordinances, develop tree species lists for public planting, develop a tree management plan and associated policy.
- As an official committee, a board can act on behalf of the community to apply for state and national grants, start and manage a tree nursery, and help create parks in town.

## Tree City USA Provisions

### H. Tree City USA

Explanatory Note: This is an optional clause and is not a typical clause, even in most communities which are recognized as a Tree City USA. However, this example establishes the target goal of maintaining Tree City USA status, which helps ensure that, as staff and board members change over time, the yearly application for recognition does not get overlooked and that the 4 standards for Tree City USA recognition are met.

*The [insert municipality name here] shall maintain Tree City USA status and apply for this designation each year by December 15th to the RIDEM Division of Forest Environment and the National Arbor Day Foundation. To maintain eligibility for this program, the Town shall meet the following criteria.*

- (a) Hold an annual Arbor Day Celebration on a date established by the Town as the local Arbor Day, [local date or timing here]. An Arbor Day Proclamation shall be created and included as part of the celebration.*
- (b) Have a tree ordinance. The tree ordinance shall be reviewed, and revised if necessary, at least once every five (5) years.*
- (c) Have an active Tree **Committee**, appointed by the Town, responsible for advising the Town on tree-related matters.*
- (d) Spend at least \$2 per capita on public tree management, including planning, education, tree establishment, maintenance, protection, and removal, and any other approved maintenance or management activities.*

### I. Tree Advisory Board

Explanatory Note: The text example below is the most basic approach, but it is recommended that an expanded version be considered as in the suggested clause below this box. The community should think about the specific local and staff support needs that a tree board could assist with.

The structure and guidance for this committee should be similar to existing committees/boards/commissions in the municipality.

*The duties of the "Tree **Commission**" shall be as follows:*

- (a) To assist the properly constituted officials of the city as well as citizen and community groups, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether they be on private or public property.*
- (b) To study the urban forest including problems involving the city tree population, determine needs, compose and review annually a Tree Plan and seek ways to implement it.*
- (c) To provide regular and special meetings at which the subject of the urban forest may be discussed by the citizens of the town.
  - (1) Within a reasonable amount of time after the appointment of the Tree **Commission**, the **Commission** shall meet and organize by the election of a chair, vice-chair, secretary and standing committee chairs as needed.*
  - (2) A majority of voting members shall constitute a quorum for the transaction of business.**

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- (d) The Tree **Commission** shall provide for the adoption of rules and procedures and for the holding of regular and special meetings as said **Commission** shall deem advisable and necessary in order to perform the duties set forth. A journal of proceedings and activities is to be recorded.
- (e) The Tree **Commission** may engage in any other lawful activity in pursuit of the mission of this **Commission** which may benefit the urban forest including such activities as:
- (1) Apply for Tree City Status with the National Arbor Day Foundation.
  - (2) Conduct seminars and public education programs.
  - (3) Plan and coordinate an annual Arbor Week Observance.
  - (4) Develop a community forest preserve.
  - (5) Organize community tree planting projects.

An even more detailed example of language establishing a tree board follows the suggested text below, in another green comment box.

The City Council hereby creates a “Tree **Advisory Board**,” hereinafter referred to as the “**Board**.”

(a) **Duties.** The **Board** shall act in an advisory capacity to the Director and shall:

- (1) Coordinate and promote Arbor Day activities;
- (2) Develop, review and update a five-year plan to plant and maintain trees on municipal property;
- (3) Support public awareness and education programs relating to trees;
- (4) Review town department concerns relating to tree care;
- (5) Submit an annual report of its activities to the town council;
- (6) Assist with the annual application to renew the Tree City USA designation;
- (7) Recommend a list of tree species for planting on municipal property, and a list of prohibited species; and
- (8) Other duties that may be assigned by Town Council.

(b) **Membership.** The **Board** shall consist of \_\_\_\_\_ members approved by Town Council. Members of the **Board** will serve without compensation.

(c) **Term of office.** **Board** members shall be appointed for three-year staggered terms<sup>1</sup>. If a vacancy shall occur during the term of any member, a successor shall be appointed by City Council.

(d) **Officers.** The **Board** shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.

(e) **Meetings.** The **Board** shall meet a minimum of four times each year.

<sup>1</sup> At the first appointment of Tree **Board** members, Council will appoint all members at once. A staggered **board** can be arranged by giving the initial members different term lengths. For a five-member **board**, two members can be given one-year terms, two members can be given two-year terms, and the remaining member three-year terms. After the initial members’ terms expire, all future members would be given three-year terms.

Explanatory Note: This presents more specific language as a whole, but some clauses can easily be added to the sample text above, without utilizing this entire section.

**(a) Name**

A tree **board** shall be created and shall be known as the “[insert municipality name here] Tree **Board**”.

**(b) Members**

The Tree **Board** shall have five (5) members, citizens and residents of [insert municipality name here], that shall be appointed by the Mayor and approved by the Mayor and Town Council. One (1) advisory, non-voting member shall be appointed in addition to the five (5) members. The Tree **Board** shall include an RI licensed arborist or ISA Certified arborist.<sup>1</sup> An unlimited number of ex-officio members shall be invited by the Tree **Board** to serve in a non-voting capacity.

**(c) Quorum**

A quorum shall consist of three (3) voting members. The Tree **Board** shall take no action in the absence of a quorum.

**(d) Compensation**

Tree **Board** members shall serve without compensation. The [insert municipality name here] upon receipt of appropriate receipts and documentation, shall reimburse reasonable expenses as determined by [insert municipality name here], incurred by members and approved by the Board

**(e) Term of Office**

The term of office for Tree **Board** members shall be at the set term of the Town Council. Terms shall be for a period of **xxx** years, renewable by the Town Council.

**(f) Officers, Regulations, and Proceedings**

The Tree **Board** shall elect a Chair, Vice-Chair, and Secretary. The Tree **Board** shall make its own rules and regulations above and beyond those listed in herein, shall keep minutes of its meetings, shall keep records of its activities through correspondence, photographs, articles, and written summaries.

- (1) Chair: The Chair shall be elected by members of the Tree **Board** and shall serve a term of one (1) year, renewable by the **Board**. The Chair (or selected responsible party) shall be responsible for setting each meeting’s agenda) and for conducting the meetings.
- (2) Vice-Chair: The Vice-Chair shall be elected by the members of the Tree **Board** and shall serve a term of one (1) year. In the absence of the Chair, the Vice-Chair shall carry out the responsibilities of the Chair.
- (3) Secretary: The Secretary shall be elected by the members of the Tree **Board** and shall serve a term of one (1) year, renewable by the Board.

**(g) Responsibilities Generally**

The responsibilities of the Tree **Board** shall include, but not be limited to, the following.

- (1) Advise the Town in all **Board** decision tree-related matters.
- (2) Serve as a source of information about proper tree maintenance techniques and community tree management policies.
- (3) Make recommendations for public tree establishment, maintenance, protection, and removal.
- (4) Provide input to the \_\_\_\_\_ Department for the development of annual work plans and long-range planning. The work plan shall contain the following plans and schedules.
  - i) Tree planting
  - ii) New tree maintenance including mulching, irrigation, and young tree training pruning
  - iii) Tree pruning
  - iv) Tree mulching
  - v) Tree removal

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- (5) Investigate and apply for donations and grant funding from public and private sources for community forestry related projects.*
- (6) Provide regular community tree care educational programs and information about the value of trees and proper tree maintenance to Town staff and citizens.*
- (7) Review the Tree Ordinance and provide recommendations for changes to the Planning Commission and Zoning Board and in turn to the Town Council at least every two (2) years.*
- (8) Recommend/develop plans for new tree planting projects.*
- (9) Advise Tree Warden on tree removal requests of “Grand” or “Heritage” trees on private properties.*
- (10) Promote and support the Tree City USA program.*
- (11) Prepare an annual report to the City Council that includes the past year’s accomplishments and planned activities.*

**(h) Meetings**

*The Tree **Board** shall meet at least quarterly. Special meetings may be held in addition to the regular quarterly meetings. At least seven (7) days public notice shall be given in the local newspaper and/or on the Town social media outlets and website pages prior to each regularly scheduled or special meeting. Members absent for more than three (3) consecutive meetings or more than one-third (1/3) of the regularly scheduled meetings per year may be replaced by recommendation of the Tree **Board** to the Mayor and Town Council. The Secretary shall advise the Mayor and Town Council of any members recommended to be replaced or any member that has resigned and ask the Mayor and Town Council to appoint a new member to fill the un-expired term of the vacating member.*

**(i) Sub-committees**

*The Tree **Board** may, at its discretion, create sub-committees of no more than two members to assist in conducting its business. The members of these committees may or may not be members of the Tree **Board**.*

## Background to Public Tree Provisions

A tree ordinance should provide clear guidance for planting, maintaining and/or removing trees from streets, parks, and other public spaces, as well as activities that are required or prohibited. Establishing standards, and including specifications and design, can be included here, especially if they are not discussed in zoning, landscaping or buffering, or other ordinances or clauses. Communities may include clauses regarding:

- protection standards and specifications for trees in construction areas [Some communities may choose to exempt municipal construction and roadwork from these requirements, but it presents a bad example and makes the ordinance provisions harder to justify and enforce.]
- tree care and maintenance standards
- clearance heights and visibility of public trees
- concerns regarding public property or public access, such as private liability/public nuisance issues
- penalties for damage to public trees
- the use of permits or other procedures relating to public trees
- responsibility and standards for trees planted in public rights-of-way in front of or set back onto private property

Beyond that, the ordinance should be flexible enough to fit the needs and circumstances of the particular community.

Some of the items listed above may already be addressed in other ordinances or clauses. In such a case, it is recommended to compile all tree-management related clauses into a single document to inform/educate residents, developers and arborists about how the municipality addresses trees (see the [Seattle Street Tree Manual](#)). At the least, other ordinances should be reviewed to ensure that a new or revised tree ordinance does not result in conflicting clauses.

Specifications and design, species lists, as well as fees and fines, should be referenced in the ordinance but should be held in a separate document(s) such as a technical manual, administrative standards, Tree Manual, Master Tree Plan, etc., or a fee schedule. By referencing a separate document in the ordinance, any technical changes that are necessary over time can be addressed separately and should not require a full ordinance revision. This allows the ordinance to reference the most recent “[American Standards for Nursery Stock](#)” or best management practices from the International Society of Arboriculture (specify [planting](#), [pruning](#), [risk assessment](#), [utility pruning](#), [construction and tree protection](#), [soil management](#), etc.).

- Palo Alto, CA: [Tree Technical Manual](#)
- Smyrna, GA: [Technical Standards and Best Management Practices](#)
- Tigard, OR: [Urban Forestry Manual](#)
- Jersey City, NJ: [Forestry Standards](#)
- Open source specification details that meet best management practices are [available](#)

*For a smaller community that is developing a tree ordinance, the following clauses are the basic essential elements that should be included, and must be included, to meet the Tree City USA standard.*

## Public Tree Provisions

### J. Tree Planting & Care Standards

Explanatory Note: Communicating the professional standards used for tree planning and management efforts by and within the municipality establishes the standards to be enforced by the ordinance.

Basic provisions include planting, protecting, maintaining, and removing public shade trees; protecting public shade trees from construction; and addressing “significant” trees on public or private property if that definition exists in the municipality.

It is recommended that specific details and specifications should be held in an external document referenced in the ordinance. This separate document can be maintained and updated without requiring revisions to the ordinance, and allow flexibility as conditions or capacity of the municipality change. Several examples of these external documents are provided in previous section “Background to Public Tree Provisions”.

The clauses below do not include a reference to a separate municipal document, and are provided as a basic example for a community without an external document for specifications. The clauses should be considered as a starting point while the community develops its policies and processes.

The **[insert municipality name here]** shall have the right and responsibility to establish, maintain, protect, and remove trees located on public property that is owned and/or maintained by the **[insert municipality name here]**. Public tree maintenance standards for tree establishment, maintenance (including pruning, mulching, fertilization, irrigation, and pest control), protection, and removal, shall incorporate the current version of the following professional standards from the American National Standards Institute (ANZI Z60.1, Z133.1 and A300) and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(a) **Tree Maintenance.** Tree work, including planting, maintenance, protection and removal, contracted by the **[insert municipality name here]** shall be carried out under the supervision of an Rhode Island licensed arborist.

(1) **Topping.** It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Director.

(2) **Removal of Stumps.** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(3) **Planting trees under electric utility lines.** Unless otherwise approved by the Tree Warden, only trees with a mature height of twenty (20) feet may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

**(b) Prohibition against harming public trees.**

(1) No person, firm or city department may top, damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

- (2) No person, firm or city department may attach any wire, rope, advertisements, nails, posters or other apparatus to any street, park, or public tree, or allow any gaseous
- (3) liquid or solid substance which is deemed harmful to trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree.

**(c) Protection of trees in construction areas.** All public trees shall be protected during construction.

- (1) All trees within town public rights-of-way that are within thirty (30) feet of any excavation or construction of any building/structure or non-public safety related street work, whether by person, firm or city department, shall be guarded through the length of the project with good substantial fence, frame or box not less than four (4) feet high and eight (8) feet square or at a distance in feet from the tree trunk equal to the diameter of the trunk at breast height (D.B.H.) in inches, whichever being the greater. The owner(s) of the property where the excavation or construction occurs shall be responsible for compliance with this provision. The tree protection shall be approved by the tree warden prior to the commencement of any such work and shall be in accordance with the professional standards for tree protection.
- (2) No person, firm or city department shall change natural drainage or attempt to excavate any ditches, tunnels, trenches or lay any drive within the dripline of any public tree without first obtaining written approval of the Director stating the required standards for approved work.

**(d) Placing Materials on Public Property.** No person, firm or city department shall place, deposit, store or maintain upon any public place, any stone, sand, concrete, brick or other material which may impede the passage of water, air or fertilizer within the dripline of any public tree.

Explanatory Note: Some communities establish a permit system to formalize requests for actions that could affect a public tree. This has the benefit of directing requests to the appropriate municipal department and ensuring the municipality is aware of such actions. Permitting can include fees for permits and fines.

The clauses above could be expanded to clarify the situations and conditions requiring a permit from the municipality. Reference to an external document with the specifications, the permit application form, and any instructions for application and documentation is recommended.

The following clauses do not include a reference to municipal departments due to the fact that a municipality would not typically require internal permits. So a specific statement that establishes that the municipality is subject to the ordinance protection provisions is advised.

- (a) *No person or firm shall spray, fertilize, remove, destroy, cut, top, or otherwise severely prune, including the root system, or treat any tree or shrub having all or any portion of its trunk in or upon any public property without first obtaining a written permit from the city and without complying with the provisions of the permit.*

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- (b) No person or firm shall plant any tree or shrub on any public street right-of-way or public property without and approved permit from the city and without complying strictly with the provisions of the permit and the provisions of the permit.*
- (c) No person for firm shall damage, cut, or carve any tree or shrub having all or any portion of its trunk in or upon any public property; attach any object, including, but not limited to, rope, wire, nail, chain or sign, to any such tree or shrub or attach any such object to the guard or stake intended for the protection of such tree.*
- (d) No person or firm shall place, store, deposit, or maintain, upon the ground in any public street or public place, any compacted stone, cement, brick, sand or other materials which may impede or obstruct the free passage of air, water and fertilizer to the roots of any tree or shrub growing in any such street or place without written authorization from the city.*
- (e) No person or firm shall change the natural drainage; excavate any ditches, tunnels, or trenches; or lay any drive within the root protection zone of any tree having all or any portion of its trunk in or upon any public property without obtaining a permit from the city and without strictly complying with the provisions of the permit.*
- (f) No person or firm shall perform, or contract with another to perform, excavation or construction work within the drip line of any tree having all or any portion of its trunk in or upon any public property without first installing a fence, frame or box in a manner and of a type and size as specified, inspected and approved by the city to protect the tree during the excavation or construction work. All building materials, equipment, dirt or other debris shall be kept outside the root protection zone. The tree protection fence, frame or box shall not be removed unless or until the city authorizes it to be removed.*

#### **K. Utilities**

Any public or private utility companies, maintaining overhead wires or underground pipes, shall comply with all aspects of this chapter. Said public utility shall in no way injure, deface or prune any tree until their plans and procedures have been approved by the Tree Warden.

## Background to Private Tree Provisions

In the most basic tree ordinance, private trees are generally not addressed. However, there are several situations where they should be:

- Licensed arborist requirements for working on private trees. (*see G. Registration of Arborists in Rhode Island*)
- Other issues relating to tree ownership, including
  - The definition of protected, heritage, specimen or “champion” trees, where a community has an established program recognizing private trees of value to the community. (*Appendix A*)
  - Shared public/private ownership or delegation of public tree ownership (*Appendix B*)
- Permits for any maintenance, planting or removal in the municipal ROW by a landowner, where permits are established. (*see explanatory note under J. Tree Planting and Care Standards*)
- Maintenance responsibilities for trees are planted by the municipality within the municipal right-of-way (ROW), which subsequently becomes a private tree. (*see L. Set-back tree planting*)
- Tree species selection, where a municipality has approved or has banned the planting of certain invasive or disease-prone species on public and private property. (*Appendix C*)
- Permitting process established for tree removal or damage on private property. (*Appendix D*)
- Private liability/public nuisance trees which present a threat to public property (e.g. dead or dying, or structurally unsound trees), impede use of public spaces (e.g. impinging on sidewalks), obstruct visibility (e.g. street or stop signs), or sanitation (e.g. have a pest or disease that could affect other trees in the community).
- Set-back, or “back of side walk” tree planting policies or programs

Not addressed in a basic ordinance are the issues of tree removals, planting, and permitting trees on private property and on development or redevelopment (infill) sites. These issues are typically addressed in a tree protection, preservation or conservation ordinance and provide municipalities with standards and a process to manage the character of their urban forest. A Tree Protection Ordinance allows a community to define its own priorities for mixing growth and development with the conservation of forested areas and trees, as well as establishing protection standards and specifications, permitting, fines and mitigation. A specific discussion regarding infill development is well covered by the NC Forest Service document, [The Policy and Practice of Tree Protection During Infill Development](#).

It is worth exploring such a process and ordinance where a community is dealing with new construction or with infill development in existing neighborhoods, particularly where a community lacks standards and specifications in their zoning and landscaping ordinances. More information about tree protection/preservation ordinances and clauses are discussed in *Appendix D*. In RI, the community of Smithfield has a woodland conservation ordinance. <https://ecode360.com/8257231>

For specific information about on mitigation and “protected trees” refer to [Guidelines for Developing and Evaluating Tree Ordinances](#). Specifically, [Mitigating for Tree Loss](#).

## Private Tree Provisions

### L. Public Nuisance

Explanatory Note: Establishing the standards that private tree owners must maintain for public safety should be established within the municipal code. The language may be simple, but it is always better to ensure that the expectations, enforcement and penalties are clearly stated. The typical concerns include: interference with public access such as impeding a sidewalk or street; obscuring visibility, whether signage or traffic movement; and identified tree risk due to failure concerns, such as dead limbs over the street or decay in a living or dead tree. Clarity is needed to ensure a clear understanding of what constitutes a dangerous tree.

Providence uses this language to address the pruning of obstructions to public thoroughfares (Sec. 23½-42):

*It shall be the duty of any person or persons owning or occupying real property bordering on any street, upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be eight (8) feet (2.4 m) over sidewalks, and twelve (12) feet (3.66 M) over all streets except truck thoroughfares, which shall have a clearance of eighteen (18) feet (5.49 m) and/or at the discretion of the city forester.*

- (a) **Notice to prune.** Should any person or persons owning real property bordering on any street fail to prune trees as herein above provided, the city forester shall order such person or persons, within three (3) weeks after receipt of written notice, to so prune such trees.*
- (b) **Order required.** The order required herein shall be served by certified mail to the last known address of the property owner.*
- (c) **Failure to comply.** When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the city to prune such trees and assess the property owner for the cost of services rendered.*

The language below is also local, from Central Falls, however, defining “dangerous”, and how and who determines when a tree is a hazard to life and property should be clearly identified within the ordinance.

**(a) Visibility and clearance on private property.** Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the sidewalk and twelve (12) feet above the surface of the street. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

**(b) Dead or diseased tree removal on private property.** The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such

provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice or to file a lien against the property.

Explanatory Note: The following text provides very specific definitions regarding what is considered a public nuisance. Some form of this within the definitions section, or within the clauses addressing nuisance trees, is recommended.

*Public nuisance—Any tree or shrub which, by reason of its condition, interferes with the use of any public place; is infected with an injurious plant disease; is infested with an injurious insect or other pest; is detrimental to the construction of public improvements; or endangers the life, health, safety or welfare of the public or its property.*

(a) *Definition: The following are hereby declared public nuisances under this ordinance:*

- (1) *Any dead or dying tree or shrub, whether located on city-owned property or on private property;*
- (2) *Any otherwise healthy tree or shrub, whether located on city-owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree or shrub.*
- (3) *Any tree or shrub or portion thereof, whether located on city-owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public;*
- (4) *Any tree or shrub or portion thereof whether located on city-owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a streetlight;*
- (5) *Any tree or shrub or portion thereof whether located on city-owned property or on private property which obstructs the view of any vehicular traffic in or approaching an intersection.*

### M. Set-back tree planting

Explanatory Note: Some municipalities in Rhode Island have a “set-back” or “back of sidewalk” tree planting program, where the municipality plants trees on private property adjacent to the municipal ROW (with [landowner agreement](#)). The purpose of this is to plant trees where the ROW is not suitable to be planted and to provide the trees with sufficient root and growing space to survive and contribute to the community forest. Some communities also choose to include this effort into their tree ordinance:

Cranston formally established its “[Back of Sidewalk](#)” program in its ordinance code in 2017.

Newport includes a brief clause establishing the [planting of trees on private property](#) as a general policy.

WARWICK has also utilized set-back tree planting in 2018, funding it through their [Tree Trust](#) funds.

The [Rhode Island Tree Council](#) is a valuable partner in implementation such municipal programs and has been working with other RI communities.

A simplified version is below, but establishing an active program should include program details:

***Planting trees on private property.*** *At the discretion of the tree warden, municipal resources may be utilized to plant shade trees upon private land adjoining public rights-of-way, at a distance not exceeding the maximum number of feet permitted from said public ways, provided that the written consent of the owner of such adjoining land shall first be obtained. Trees planted under this provision are the property of the landowner with all the rights and responsibilities that entails.*

## Administration

### N. Fees

Explanatory Note: Although not specifically relevant to a basic street tree ordinance, if a municipality has tree permit or development requirements in place with respect to trees, fees should be referenced within the municipal code of ordinances. The fee schedule should be maintained outside of any ordinance, so that it may be updated as needed by the community. Fees are commonly included in Tree Protection Ordinances or within Zoning or Landscaping ordinances. As an example:

*The [insert local government name here] shall establish permit review fees as well as policies regarding refund of fees upon withdrawal of an application and may amend and update the fees and policies from time to time.*

### O. Penalties

Explanatory Note: Penalties are best assessed by civil penalties, as opposed to legal charges which can be costly and time-consuming to pursue. Or a municipality may choose to require tree replacement according to a specific replacement ratio, or a combination of fines and replacement. If a local government chooses to use civil penalties, the penalties can be set as a flat fine or tied to the diameter of the tree on a sliding scale. For an example of this approach, see the City of Raleigh’s Unified Development Ordinance (Raleigh, North Carolina, [Unified Development Ordinance § 9.1.7](#)), which includes a flat civil penalty of \$1000 but increases it by \$100 for each diameter inch above three (3) inches diameter.

While specifically applicable to Tree Protection Ordinances, establishing basic penalties for damage to public trees is appropriate for a street tree ordinance. The clause suggested is from [Elizabeth, IL](#). The Village also has a clause for cost of repair:

*b. Cost of Repair or Replacement: If, as the result of the violation of a provision of this Chapter, the injury, mutilation or death of a tree, shrub or other plant located on Village owned property is caused, the cost of repair or replacement of such tree, shrub other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of “A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens” as published by the International Society of Arboriculture.*

Cost of repair or assessment is an option that may be used where the injury or damage is substantial. In some places it is a useful tool part of tree protection and permitting as it can be an approach for development permit violations etc. However, in Rhode Island, ordinances incorporated within the municipal zoning ordinance are subject to [RIGL § 45-24-60](#), which states “The penalty for the violation must reasonably relate to the seriousness of the offense, and not exceed five hundred dollars (\$500) for each violation...”. In the case, [Mike’s Professional Tree Service, Inc. v. City of Providence Zoning Board of Review](#): “The Rhode Island legislature delegated to the cities and towns only limited power to impose penalties for violation local zoning ordinances. See § 45-24-60. That power is limited to \$500 per violation.”

Any Penalties clauses should re reviewed by the municipality’s legal council to assess the most suitable and affective approach to administering penalties.

**Fine.** Any person who violates any provision of this Chapter or who fails to comply with any notice issued pursuant to the provisions hereof, upon being found guilty of violation, shall be subject to penalty as provided in **[insert relevant code reference for municipality]** of this Code for each separate offense. Each day during which any violation of the provisions of this Chapter shall occur or continue shall be a separate offense.

## P. Appeals

Explanatory Note: Establishing an appeal process to tree-related decisions is beneficial to the public, municipal council and staff. Lack of an appeal process or vague language such as: “Appeals to decisions by the Director, the Tree Advisory Board, or penalties imposed after violations of this ordinance, shall be heard by City Council” can result in time consuming efforts of multiple council members, council meetings and staff.

Because of the specific nature of such clauses for communities, and their existing processes and procedures, specific clause language is not provided here.

An example where the Tree Board is designated by the municipality:

*The Tree Board shall serve as the Appeals Board for the administration of this ordinance. Requests for an appeal shall be sent to the Tree Board at least ten (10) days prior to a regularly scheduled meeting of the Board. The party requesting the Appeal shall be notified within three (3) days of the Tree Board’s ruling. Actions of the Tree Board may be appealed through the Board of Zoning Appeals or the Designated Appropriate Entity for Appeals for a final ruling. In the case of high risk or imminent risk trees the appeal process may need to be superseded for public safety reasons.*

The process should be specific to the municipal structure and processes, as in this PA example: *Any person aggrieved by any action or decision of the Commission may appeal to the Code Hearing Board by filing an appeal within 30 days from the action or decision appealed from on forms to be supplied by the Town Secretary. The fee for filing such an appeal shall be the fee established, from time to time, for code appeals by resolution of the Council of the Town of Bloomsburg.*

Or Oak Park, IL: *If any person is dissatisfied with a decision of the city forester, or his authorized agent, such person shall have the right to appeal such decision within ten days, as provided in this section. Such person may make a written request to the city forester within ten days of the date of his decision, and the city forester, together with the city manager and assistant city manager, shall hear any such appeals. Upon completion of the hearing, the appeal board shall render its written opinion, affirming, overruling or modifying the order.*

## Q. Conflicts & Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance are adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

## APPENDIX A

### Protected/Heritage/Historic/Significant trees

Many communities have programs that recognize trees of value or interest within the community, private and public. Where a community has a program recognizing individual private trees by size or species as a heritage tree, the municipality should include the definition and standards for that recognition. Typically, such recognition does not establish any legal protection and does not limit how the owner may manage or dispose of the tree, nor their ability to develop the property.

Some of the terms used for such programs include:

- **Champion** – based on the [national](#) and [state recognition](#) programs, but on a local level: the largest tree of each species in the community.
- **Heritage/Historic** – may consider any or all of these: historical, cultural, and/or aesthetic value because of its age, size, character, species, or an association with a special person or event. For example: *The Newport Tree and Open Space Commission, with the assistance of the tree warden, shall establish and maintain a record of "historic" and "protected" trees of Newport, which shall be made a permanent part of the "inventory of existing trees".*

However, a community may wish to establish some degree of legal protection for public and private trees. Typically, this also requires that the municipality have a permitting or application/approval process for tree maintenance and removal of such trees, whether public or private. While any of these terms may be used interchangeably, additional terms commonly used:

- **Significant** – is a similar term to the ones listed above but the definition can be narrowed to a specific characteristic. Providence, RI, includes significant trees in its [Zoning Ordinance](#), based solely on diameter size, and requires prior approval from the City for removal of public or private trees.
- **Protected** – is the broadest term with less opportunity for misunderstanding the intent or target of the program. While it can be as narrowly applied as the terms above, it actually allows a municipality to include a variety of specific scenarios, for example:
  - preserved or planted trees as a requirement of development, regardless of size
  - trees of various species with different minimum diameter or size, such as valuable, rare or endangered species may be protected at a smaller size than other species
  - other parameters as identified by the municipality, whether on property being developed or not

Protected trees are most often identified in tree protection ordinances or where tree removal permits are required for private property and for development. In such cases, the protected tree definition is specific to the municipal priorities, most commonly by size or species. Different standards can be applied to different species, and exemptions established. For example, where tree protection is based on size, trees planted to fulfill approved landscaping requirements for developments may be defined as being a protected tree, regardless of tree size. Or where a protected tree can be shown to present a risk of failure, or limit the owner's use of the property for its intended purpose, the tree may be exempted from coverage by the clause.

In the Guidelines for Developing and Evaluating Tree Ordinances, protected trees are discussed under [Defining special trees: heritage, historic, and landmark trees](#). It has an example of a protected tree

definition and below is another example of how the definition of a protected tree can be extended to cover a variety of local priorities:

1. On properties subject to a development application, any tree 20 cm (8 inches) or greater in diameter.
2. On properties NOT subject to a development application:
  - a. Any conifer tree 18 inches or greater in diameter, and
  - b. Any deciduous tree 12 inches or greater in diameter.
3. A tree within a streamside protection and enhancement area as defined in \_\_\_\_\_
4. A tree on a lot designated as Cemetery District under the Zoning Ordinance.
5. A tree planted according to a landscaping plan forming part of an approved development application under the Zoning Ordinance or as a condition of subdivision approval.
6. A Replacement Tree: tree planted as a replacement for a tree that has been cut, removed or damaged.
7. A Retained Tree: an existing tree that has to be retained and protected during construction as identified in the development permit.

Remember: It is important to use the same terminology in the definitions and in the clauses, when referring to such trees, and to ensure that there are definitions for each term being used to refer to protected trees.

## APPENDIX B

### Tree Ownership

The private tree clause, *L. Set-back Tree Planting*, is an example of a municipality transferring ownership of a tree purchased and planted by the city. Where the tree is planted on private property (as agreed in advance by the landowner) is clearly stated as to where the responsibility lies for future maintenance of the tree. Some municipalities have been known to delegate street trees planted on the city right-of-way as being the responsibility of the adjacent landowner as well, in the same way as sidewalk clearance and/or replacement.

But there are other situations where the responsibility/ownership is less clear or understood.

#### **BOUNDARY TREES**

A tree whose branches extend over a property line is considered to belong to the property owner where the trunk of the tree resides, but any limbs and roots crossing the property line belong to the owner of that adjacent property. The adjacent owner may prune or remove limbs and roots on their side of the property line but may not do so in a way that would cause the tree to die or to create a hazardous situation.

But trees which have some part of their base or trunk flare on more than one property are considered boundary trees or as having shared ownership. Most often, this situation arises when a tree is planted close to or on the property line and, as the tree grows, the growth at base of the tree expands into the adjacent property. These trees are common property to both private landowners and responsibility is shared, and no owner may damage or remove the tree without the approval of another.

An example of this understanding of boundary trees can be found in a [Massachusetts's legal case in 2014](#) (Bassin vs. Fairley):

*Where a healthy tree straddles the property line, the property owners "each hold title to a portion of [the tree], and thus neither can take any action against their portion of [the tree] that would injure [the tree] as a whole."*

Where the boundary tree is falls on public and private property, unless stated otherwise, the private landowner is still limited in their actions, but can request a response from the municipality regarding the tree, its condition or status. However, the municipality does not need permission from a landowner to prune or remove a boundary tree. In most cases, unless explicitly stated otherwise, a municipality considers a boundary tree to belong to the municipality and is managed as such. Municipal ownership of a boundary tree means that it falls within all other requirements and standards regarding public or defined "protected" trees.

The specific laws and legal decisions in each state may vary, but these are generally accepted concepts. This issue may need to be discussed with the legal counsel for the municipality to ensure that any actions/decisions or polices/procedures align with Rhode Island jurisprudence. In addition, communicating clearly with shared owners of boundary trees when the municipality intends to carry out maintenance or removal of a shared tree is recommended.

## APPENDIX C

### Approved Tree Species

As referenced in this guide, maintaining a list of approved species for planting (on public or private property) as well as a list for trees which are considered nuisance or invasive or pest/disease prone, is recommended.

The development of these lists is something that a community should work on with its partners, tree boards, RI Tree Council and/or RIDEM-DFE Urban & Community Forestry Program Coordinator. The lists do not have to be comprehensive or lengthy to cover every possible option but are meant to provide guidance and clarity to private landowners and developers, and to direct the species selection choices within the municipality itself. Maintaining such lists externally to an ordinance allows the lists to be updated as circumstances change to address a new pest or to add a new species or cultivar that would be suitable for local conditions.

Benefits include:

- Ensuring developers plant quality trees, suitable for the site and local growing conditions and for future maintenance by the owner or the municipality
- Guide homeowners to suitable trees as some homeowners are drawn to fast-growing trees without understanding the other issues that can occur, such as root conflicts or invasiveness
- Promoting larger trees where there is space above and below ground, for increased and longer-term environmental and aesthetic benefits

Portland, OR has a useful [webpage](#) to provide such information and answer questions and concerns by the public. The webpage also includes the City's permitting for another example of how a municipality can use and deliver a permitting process.

Even in a more basic format, an accessible species list, is beneficial, such as [Champaign, IL](#).

In RI, species to be discouraged include:

- Norway maple, which is considered invasive
- any ash species, due to the increasing presence of emerald ash borer
- Callery pear, now known to be invasive
- [Other invasive species](#)

Address "right tree, right place" by having the lists broken into small, medium and large trees; or even a list specific to planting under powerlines. The [City of Providence](#) maintains a list with this breakdown.

Even if the above issues are not a concern to the municipality, it may be helpful for internal planning to maintain a list of species suitable for planting in tree pits and on sidewalks, which are tough and have narrow crowns, as well as maintain the nursery standards for reference. Some guidance can be found on the U&CF webpage [Tree Care & Maintenance](#). An example of a targeted tree list can be found for [NC Street Trees](#).

## APPENDIX D

### Tree Protection Ordinances

A municipality with beautiful and well-maintained trees does not happen by accident. A codified set of guidelines, management practices, rules and regulations in an ordinance is a key to success in maintaining tree cover along streets, in parks, parking lots and other areas in a municipality.

*Tree protection ordinances* are focused on providing protection for individual and stands of trees, often on private and developing properties. Addressing trees on private and developing property, they usually require that a permit be obtained before protected trees can be removed, encroached upon, or in some cases, pruned. Trees falling within this requirement will have a prescribed set of characteristics. The degree of documentation prior to removal and replacement after removal are defined. They may also be called Tree Conservation Ordinances.

This kind of ordinance:

- Strengthens the environmental, economic, and social benefits derived from community trees.
- Creates a framework for a municipality to monitor tree loss and institute a planning and permitting process to protect and replace trees.
- Can create an income stream to help finance tree planting, tree maintenance and staff.
- Helps educate residents and developers about trees and the practices that affect them.

#### Permitting

Many municipalities across the US, like [Cambridge, MA](#), regulate tree removal and tree protection on all property, whether under development or not, in order to manage/maintain the character of the community. Whether:

- using a number of different types of permits, ensuring standardized decisions and reassured residents ([Lake Oswego, OR](#))
- developing a written standard for interpretation of the ordinance ([Delmar, CA](#))
- using the permit application itself to communicate the standards ([Tacoma Park, MD](#), [Shelby, MI](#))
- using graphics to spell out the standards ([Austin, TX](#))

#### Tree protection/preservation/conservation

For effective tree protection, the municipality must first determine:

- whether the requirements will be by area protected or by percent canopy cover of the area, which can be based on zoning or land-use, or be a single, community-wide percentage.
  - the mapping and protection of individual or clusters of trees
  - minimum canopy requirements to ensure retention of larger undisturbed areas
  - standards for replacement trees
- a standard for calculating the number of trees, species, and minimum size, that must be planted to replace a tree that must be removed
  - tree density method – establishes the number of trees required for the type or size of property developed.
  - canopy replacement – requires replacement of the canopy being lost with new trees on a 1:1 basis which ensures a zero net-loss of canopy into the future.

### **Individual Tree Replacement**

Tree replacements requirements and standard should be included in within an ordinance for any municipality that has clauses regarding the removal of protected trees, and has defined “protected tree” within that ordinance (UDO, landscape or tree ordinance). It is also needed by municipalities with infill development or that require tree removal permits by residents. Permitted tree removals should be appropriately replaced by species and sizes that benefit the community.

Therefore, it is advisable for municipalities to establish standards that address the various situations that the ordinance addresses in a way that meets the needs of their community and is appropriate to the circumstances.

- The number of trees required to be replanted (or mitigated by payment in lieu) should correlate to the DBH of the protected tree.
- The acceptable species to replant should be based on the tree species list created by the municipality.
- Establishing a minimum diameter that is acceptable to be planted (typically varies from 2.5”-3”).

### **Incentive, Mitigation, Penalties**

Even where a municipality has tree protection/retention/conservation measures, where the costs and inconvenience of protecting trees exists, many developers may choose to plant or make payment-in-lieu of planting. Having substantial incentives, as well as mitigation requirements, for retaining appropriate existing trees can contribute to finding solutions to preserve trees on-site. There are numerous approaches to tree retention incentives, as well as mitigation and penalties.

### **Exemptions**

Where tree protection and permitting is established, it is necessary to include a clause for the situations where an exemption would apply. This can include, municipal and governmental business and development; farming or other practices; emergency and other risk mitigations; minimum property size; etc. Exemptions will be specific to the local municipal circumstances and tree removal priorities and concerns.

For more information, resources and examples of different approaches to tree protection processes go to: [NC Guide to Developing Tree Protection Ordinances](#)

Additional resources for model ordinances:

- [Model Ordinances for Tree Protection, Weed Management, and Native Plant Encouragement](#)
- [CRTI Tree Preservation Ordinance Templates](#)

For specific information about on mitigation and “protected trees” refer [to Guidelines for Developing and Evaluating Tree Ordinances](#). Specifically, [Mitigating for Tree Loss](#).