



Braintree Town Council

ORDER NO: 22 037

DATE FILED: APRIL 26, 2022

REQUEST OF: COUNCIL PRESIDENT BOERICKE

UPON THE REQUEST OF HIS HONOR, THE MAYOR, THE TOWN OF BRAINTREE, THROUGH THE BRAINTREE TOWN COUNCIL, IT IS SO ORDERED:

To approve Order 22 037 Council President: Tree Protection Ordinance as submitted.

YEAS: Boericke, Flaherty, Hume, Maglio, O'Brien, Reynolds, Ringius, Ryan

NAYS: NONE

ABSENT: Mackin

PASSED IN COUNCIL: APRIL 25, 2023

PRESENTED TO MAYOR: APRIL 26, 2023

A True Record, Attest:

4-26-2023

Date Approved

James M. Casey
James M. Casey, Town Clerk

Charles C. Kokoros
Charles C. Kokoros, Mayor

Chapter 2.800 Tree Committee

2.8010 Establishment

There is hereby established the Tree Committee which shall act advisory committee to the Tree Warden on all matters concerning jurisdictional trees including but not limited to the selection of trees for plantings, planting and pruning of trees, treatment of disease and preservation and regular maintenance of trees. The Tree Committee shall serve without compensation and be appointed by Mayor. The Tree Committee shall be composed of seven (7) members, consisting of a certified arborist, the Conservation Planner or designee, the Tree Warden's designee, a member of the Electric Light Board, and three (3) knowledgeable residents.

2.8020 Term of Office

Two of the initial appointees shall serve for one (1) year, two for two (2) years, and three for three (3) years. Thereafter, the Committee Members shall serve for three year (3) terms.

2.8030 Powers, in general

- A. Develop a Tree Maintenance Plan that sets forth standards for planting and maintenance of Jurisdictional Trees;
- B. In conjunction with the Tree Warden, develop and promulgate rules and regulations necessary to implement Chapter 12.30 of the Braintree Ordinances and the Tree Maintenance Plan.
- C. Coordinate Braintree's Arbor Day and other educational forestry programs, as determined by the Mayor's Office
- D. Disseminate information regarding the benefits of trees.
- E. Oversee expenditures from the Tree Replacement Fund.
- F. Annually review and revise the Tree Maintenance Plan.
- G. Act as an advisory committee to the Tree Warden.
- H. Work with the Tree Warden to seek grants or other assistance concerning the preservation and maintenance of trees.
- I. Set and adjust fines for violation of Chapter 12.30.
- J. Annually set and adjust rates for payment in lieu of replacement.
- K. Annually Review the preferred tree replacement species list.

Chapter 12.30 Public Tree Protection Ordinance

12.30.010 Purpose

Healthy trees and a robust tree canopy are essential for human and environmental health. They reduce air and noise pollution, prevent adverse climate effects such as the heat island effect, and reduce flooding. They also provide energy-saving shade and cooling, furnish

habitat for wildlife, enhance aesthetics and property values, and are an important contributor to community image, pride, and quality of life.

As such, this ordinance is intended to complement and strengthen G.L. c. 87 §§1-14 "Shade Trees" by preserving and protecting the shade and street trees presently existing along Braintree's Accepted Public Ways through the public hearing process set forth in that statute, and by having a formal mechanism for replacement of those trees that are removed due to injury, disease, or otherwise pursuant to section 3 of chapter 87 of the General Laws.

12.30.020 **Definitions**

Accepted Public Way: Streets or roads, by whatever term so-called, laid out by the Town of Braintree but excluding state highways, streets and roads under the jurisdiction of Massachusetts Department of Transportation.

Diameter at Breast Height (DBH) – The standard measure of tree size for those trees existing on a site that are at least eight (8") inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

Invasive Species – Species are characterized as "Invasive" or "Likely Invasive" by the [Massachusetts Invasive Plant](#) Advisory Group, including but not limited to
Amur cork-tree (*Phellodendron amurense*)
Black locust (*Robinia pseudoacacia*)
Norway maple (*Acer platanoides*)
Sycamore Maple (*Acer pseudoplatanus*)
Tree of Heaven (*Ailanthus altissima*)

Jurisdictional Tree – shall consist of Protected Trees and Public Shade Trees.

Native Species – Native plants with origins east of the Mississippi River per the USDA plant database, with a preference for species from the US Environmental Protection Agency Ecoregion Level III Northeastern Coastal Zone (#59), and secondary preference for Northeastern Highlands (#58) and the Atlantic Coastal Pine Barrens (#84)

Public Shade Tree – Pursuant to G.L. c. 87, all trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of G.L. c.87 section 7 shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

Protected Tree – Any non-invasive tree, having a diameter of eight inches (8") DBH or larger, along or within an Accepted Public Way, or located upon any Town owned land, excepting land owned and controlled by the Town of Braintree Conservation Commission.

Tree Committee – A seven (7) member body, appointed by the Mayor, consisting of a certified arborist, the Conservation Planner or designee, the Tree Warden's designee, a member of the Electric Light Board, and three (3) knowledgeable residents.

Tree Plan - Shall include the location, species, and DBH of each tree where work is to be performed, and shall designate the trees to be removed, specify which trees are to remain, if any, and the proposed location, species and DBH of replacement trees, if applicable.

12.30.030 Tree permit

- a. Cutting, Trimming or Removal of a Jurisdictional Tree, as defined, by any person or entity other than the Tree Warden or the Deputy Tree Warden, shall require a Public Hearing and Tree Permit.
- b. The application for a permit to cut, trim or remove a jurisdictional tree shall be submitted in writing to the Tree Warden, and include a brief description of the work to be performed and a Tree Plan showing the location, species, and DBH of each tree along the impacted segment of the Public Way, and shall indicate clearly which trees are to be removed. If replacement trees are to be planted, the Plan shall indicate the replacement location and species, and DBH.
- c. A Public Hearing on the cutting, trimming or removal of a jurisdictional tree shall be noticed of the time and place of such hearing thereof, which shall identify the size, type and location of the shade tree or trees to be cut down or removed, to be posted in two or more public places in the town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing, and notice shall be provided to the Tree Committee and District Councilor not less than seven days before the hearing.
- d. If no written objections are produced either at or before the Public Hearing, the Tree Warden shall issue the written Tree Permit dependent on a sufficient Tree Plan and determination of replacement or payment in lieu of replacement. The Tree Permit shall specify the authorized work to be performed and whether replacement trees or payment in lieu of replacement has been authorized.
- e. Cutting, Trimming or Removal of either a Public Shade Tree or Protected Tree, as defined, by the Tree Warden or the Deputy Tree Warden, shall not require a permit, but shall require a public hearing and notice compliant with section 12.30.030(c) above. If more than one tree is to be removed in any one location, a Tree Plan shall be prepared and submitted with the written notice.

12.03.040 Emergencies

- a. Emergencies: If the Tree Warden determines, pursuant to Section 5 of Chapter 87 of the General Laws that a jurisdictional tree must be trimmed, cut or removed due to hazardous condition, the requirements of section 2(e) of this Ordinance shall not be applicable. Written notice after the fact of the trimming, cutting or removal shall be provided within 14 days to both the Tree Committee and the District Councilor.
- b. Tree Committee shall review any removal under this section and determine if a replacement tree shall be planted, and the location thereof.

12.30.050 Tree replacement guidelines and standards for replacement

A replacement tree shall be planted within eighteen (18) months of the removal of the jurisdictional tree, but as soon as possible based on the ideal growing conditions.

- a. A replacement tree shall be a non-cultivar, native species, or chosen from the preferred species list referenced in appendix A or as set forth by the Tree Committee, and replacement shall be at a one to one ratio. A replacement tree shall be required to survive for a minimum of eighteen (18) months from the date it is planted. If a replacement tree dies within eighteen (18) months from the date of planting, it must be replaced.
- b. A replacement tree shall be planted in close proximity to the location of removal.

12.30.060 Payment in lieu of replacement

In lieu of planting a replacement tree, a payment may be made to the tree replacement fund in an amount equivalent to the cost of purchasing, planting, watering and maintaining said Replacement Trees for a period of not less than eighteen (18) months. Rates shall be established annually by the Tree Committee. This section shall not be applicable to the Tree Warden or Deputy Tree Warden.

12.30.070 Tree Replacement Fund

The Tree Replacement Fund has been established pursuant G.L. c. 44 §53E1/2. *See Braintree Ordinance c. 3.140 "Authorized Revolving Funds" section J, "Tree Committee Revolving Fund."* Any payments into the Tree Replacement Fund shall be deposited in said Fund, and shall be used for tree related needs, which shall include but not be limited to buying, planting and maintaining trees in the town.

The Tree Committee with input from the Conservation Commission and the Tree Warden, shall expend these funds for tree planting, transplanting, care, and other tree-related needs as requested by the Town or as determined by the Tree Committee, with planting preference to areas with the lowest percentage of tree canopy cover, designated heat islands or neighborhoods with an Environmental Justice Block Group Population.

12.30.080 Enforcement

The Tree Warden, or designee, shall be authorized to enforce the provisions of this ordinance.

12.30.090 Penalties

Violations of the proceeding sections shall be punishable by a fine of five hundred dollars (\$500.00).

Appendix A

Recommended native species

<u>Scientific Name</u>	<u>Common Name</u>
Abies balsamea	balsam fir
Acer pensylvanicum	striped maple
Acer saccharinum	striped maple
Acer saccharum	Sugar maple
Acer spicatum	mountain maple
Alnus incana ssp. rugosa	speckled alder
Amelanchier arborea	downy serviceberry
Amelanchier canadensis	Canada serviceberry
Amelanchier laevis	Allegheny serviceberry
Baccharis halimifolia	eastern false willow
Benthamidia florida	flowering big-bracted dogwood
Benthamidia florida "Rubra"	pink-bracted dogwood
Betula alleghaniensis	yellow birch

Betula lenta	black birch
Betula nigra	river birch
Betula papyrifera	paper birch
Betula populifolia	gray birch
Carpinus caroliniana	American hornbeam
Carinus caroliniana var. virginiana	musclewood
Carya ovata	shagbark hickory
Castanea dentata	American chestnut
Celtis occidentalis	hackberry
Chamaecyparis thyoides	Atlantic white cedar
Crataegus crus-galla	cockspur hawthorn
Diospyros virginiana	common persimmon
Fagus grandifolia	American beech
Fraxinus americana	white ash
Fraxinus nigra	black ash
Fraxinus pennsylvanica	green ash
Ilex opaca	American holly
Jugians cinerea	butternut

<i>Juniperus virginiana</i>	black walnut
<i>Larix laricina</i>	tamarack
<i>Liquidambar styraciflua</i>	sweetgum
<i>Liriodendron tulipifera</i>	tulip tree
<i>Magnolia virginiana</i> <i>Ssp. virginiana</i>	sweet bay
<i>Morus rubra</i>	red mulberry
<i>Nyssa sylvatica</i>	black gum, tupelo
<i>Ostrya virginiana</i>	Ironwood, hophornbeam
<i>Picea glauca</i>	white spruce
<i>Picea mariana</i>	black spruce
<i>Picea rubens</i>	red spruce
<i>Pinus rigida</i>	pitch pine
<i>Pinus strobus</i>	white pine
<i>Platanus occidentalis</i>	American sycamore
<i>Populus tremuloides</i>	quaking aspen
<i>Prunus americana</i>	American plum
<i>Prunus maritima</i>	beach plum
<i>Prunus pensylvanica</i>	pin cherry

Prunus serotina	black cherry
Prunus virginiana	chokecherry
Quercus alba	white oak
Quercus bicolor	swamp white oak
Quercus coccinea	scarlet oak
Quercus rubra	red oak
Swida alternifolia	pagoda dogwood
Tilia americana	basswood, linden
Tsuga canadensis	hemlock