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1. Preamble:
The City of Pittsfield recognizes that trees are an asset to the community, providing a healthier and more beautiful environment in which to live. Trees and other vegetation provide oxygen; shade; protection from wind, glare and noise; view barriers; water quality protection; wildlife habitat; psychological benefits; and beauty. Public trees and landscaping are economically beneficial in attracting new residents, shoppers, visitors and industry. When grown in the right place and of proper varieties, trees enhance the value of property, promote the economic viability of commercial districts and enhance the desirability and stability of residential neighborhoods.

2. Intent and Purpose:
This by-law is enacted for the purpose of preserving and protecting both Public Shade Trees pursuant to Massachusetts General Law Chapter 87 and certain designated trees on private property. It is also enacted to encourage the planting of more public shade trees than are removed to compensate for tree losses and the length of time required for a tree to reach to maturity.

3. Definitions:

4. Tree Warden:
The Tree Warden shall be appointed by the Mayor, and he/she may appoint and remove Deputy Tree Warden's.

Pursuant to Massachusetts General Law, Chapter 41, Section 106, the Tree Warden or his/her Deputy shall be qualify by training and experience in the field of arboriculture, and shall hold a current arborist certification from either the Massachusetts Arborist Association or the International Association of Arboriculture, and shall have at least three years of supervisory experience in urban forestry or tree care.

The duties or responsibilities of the Tree Warden shall conform to the Massachusetts General Law Chapter 87 and shall include, but not be limited to the following:

- Care, control and management of all trees within public rights-of-way, adjacent to public buildings on public land, and on public commons; and the care, control and management of trees within parks if so requested by Director of Parks;
- Expenditure of funds for public tree planting and maintenance consistent with this bylaw and Massachusetts General Law Chapter 87;
- Enforcement of the provisions of this bylaw and Massachusetts General Law Chapter 87;
- Preparation and maintenance of a current Public Tree Management Plan;
- Coordination with the Departments of Community Development, Parks and Public Works; Conservation Commission; Planning Board; and interested citizen groups on matters related to urban forestry and public tree management; and
- Other responsibilities consistent with this bylaw and Massachusetts General Laws.

The Tree Warden may make regulations for the care and preservation of public trees and establish fines and forfeitures for violation thereof; which, when posted in one or more public places, and, in towns, when approved by the Mayor, shall have the effect of town bylaws.

5. Cutting of Public Trees:

Consistent with Massachusetts General Law Chapter 87, no person except the Tree Warden and his/her Deputy, may cut, trim, prune, damage or remove any part of a public tree, including the roots within the drip line of the tree, without a permit in writing as described in Section 7.

The Tree Warden and his/her Deputy may not remove, permit the removal of, or cause to be destroyed any tree greater than 1.5 inches in caliper without a duly advertised public hearing as specified in Massachusetts General Law Chapter 87, or if objection is given at or prior to the hearing in writing, without the additional approval of the Mayor, unless that tree is determined to be an imminent hazard tree, as described in Section 8.

In all cases, pruning and removal of public trees shall be done in accordance with current ANSI pruning standards.

6. Planting of Public Trees:

No person except the Tree Warden or his/her Deputy may plant a tree on public property without a permit in writing as described in Section 7.

No trees, except those smaller species appropriate for planting under utilities, shall be planted within 10 lateral feet of an overhead electric utility wire.

Consistent with Massachusetts General Law Chapter 87, the Tree Warden and his/her deputy may plant trees within 20 feet of the public right-of-way with the consent of the adjoining land owner.

7. Permits for Planting, Cutting, Pruning or Removal of Non-Hazardous Public Trees
General:

No person other than the Tree Warden or his/her Deputy shall plant, prune, trim, cut above the ground, remove, or conduct any excavation within the drip line of, a public tree without first filing an application and procuring a written permit from the Tree Warden. The Tree Warden may issue the permit, may deny the permit or may issue the permit with conditions.

Applications for permits must be made at the office of the Department of Public Works not less than three business days in advance of the time the work is to commence with the exception that if the work consists of cutting down or removal of a public tree, the application shall be made no less than thirty days in advance. At the time that the application is submitted applicants shall pay a non-refundable fee of five dollars per tree to the Pittsfield Tree Fund. City departments must apply for permits but are exempt from payment of an application fee. The Tree Warden shall waive the application fee for those applicants who are planting public shade trees in accordance with a planting plan previously approved by the Tree Warden. In cases of emergency an applicant may seek and receive oral permission from the Tree Warden or his/her Deputy to trim or excavate within the drip line of a public shade tree without first submitting a written permit application. An emergency is defined as an unforeseen occurrence which requires immediate action to avoid or reduce significant injury or damage to persons or property. Within three (3) business days after oral permission is granted, the applicant must submit a written application for the permit and the permit fee to the Tree Warden who shall note the permit pre-approved due to emergency.

Upon completion of the work the permit holder shall promptly notify the Tree Warden of the need to inspect the work. Within five business days after said notification, the Tree Warden or his/her Deputy may inspect the work and either approve it or reject it. If rejected, the director shall provide written notice stating the basis of the rejection and setting a reasonable date for re-inspection. Failure on re-inspection shall be grounds for issuance of a fine as set forth below.

Removal:

An applicant who wishes to remove a non-hazardous public shade tree is responsible for the following expenses:

- Cost of advertising a hearing as specified in Massachusetts General Law Chapter 87;
- Cost of removal of tree and stump, including hauling away of all debris, and proper filling of stump hole;

- Planting of sufficient replacement trees as described below;
- Cost of police traffic details, repair of street surface and road shoulder, protection and restoration of utility structures; and
- All other costs related to the removal and replanting.

Public shade trees shall not be removed for a private purpose without suitable compensation to the City for replacements. The value of existing shade trees is to be calculated on an inch-by-inch replacement basis. Replacements shall be at least two inch diameter, nursery grown stock. The Tree Warden may, at his option, require larger replacements. For example, if an 18" diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the Town to provide for the purchase and planting of nine, two inch diameter replacements.

At the discretion of the Tree Warden, the applicant shall either:

- A. Arrange to plant suitable replacements using his/her own contractor, working to the City's specifications, or
- B. Make a cash contribution to the Pittsfield Tree Fund to be used exclusively for the purchase and planting of replacements, and related expenses.

If the applicant proposes to trim or prune a public shade tree, and if, in the opinion of the Tree Warden the proposed work will drastically affect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of the tree. In these cases, the Tree Warden may either order the removal of the tree, or allow the tree to remain, provided that it does not present an imminent hazard. In either case, appropriate replacement plantings must be provided by the applicant.

Nothing contained in this bylaw shall prohibit the Tree Warden from refusing to permit the cutting, trimming or removal of non-hazardous trees.

8. Removal of Hazard Trees

The Tree Warden or his/her Deputy may remove, without a public hearing, a tree that is determined, by the Tree Warden or his/her Deputy, to be an imminent hazard to persons or property.

As stated in Section 4, the Tree Warden or Deputy making the hazard determination shall be qualified by training and experience in the field of Arboriculture. The hazard determination shall be made based on an objective risk tree rating system such as the USDA Forest Service 12-point Risk Tree Rating system or the International Society of Arboriculture Hazard Tree Evaluation system.

Hazard trees shall be prioritized for pruning, removal, moving of the target or otherwise minimizing the risk based on those objectively presenting the most risk.

9. Fines:

Any person who removes or causes to be destroyed a non-hazard public tree without a duly advertised hearing, a permit from the Tree Warden, and the approval of the Mayor if an objection is made to the removal, shall pay a fine of up to \$500 or the appraised value of the tree, whichever is greater, to the Pittsfield Tree Fund.

Any person who cuts, trims, prunes, damages or removes any part of a public tree, including the roots within the drip line of the tree, without a permit, or who fails to comply with the conditions of any permit shall pay a fine of up to \$100 per tree to the Pittsfield Tree Fund.

10. Public Hazard and Abatement

A. Upon a determination by the Tree Warden or his/her Deputy that a private tree constitutes a public hazard, either automatically as in Section B below, or otherwise, he/she shall give written notice to the owner of the property upon which said hazard exists to remove, or otherwise control such tree in such a manner as will abate such hazard. Failure to comply with such written notice within fifteen (15) days thereafter is a violation of this section, and the Arborist may then remove or trim such tree and assess the cost thereof against the property.

B. The following shall automatically constitute a public hazard: Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm Disease fungus, *Ceratocystis ulmi* (Buisman) Moreau; or which harbors any of the elm bark beetles, *Scolytus multistriatus* (Marsh.) or *Hylurgopinus rufipes* (Eich.); Any dead elm tree or dead part of any elm tree, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed.

11. Severability:

Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part held to be invalid.