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## Chapter 257. TREES

**[HISTORY: Adopted by the Board of Aldermen (now City Council) of the City of Chicopee 6-16-1998 by Ord. No. 98-38. *Editor's Note: This ordinance also repealed former Ch. 257, Trees, adopted 4-17-1979, as amended.* Amendments noted where applicable.]**

### GENERAL REFERENCES

Forestry Department — See Ch. [39](#).

Parks and recreation — See Ch. [206](#).

Streets and sidewalks — See Ch. [243](#).

#### § 257-1. Intent; permits.

- A. It is the intent of these regulations to provide standards for the preservation and protection of trees for the purpose of making the City of Chicopee (hereafter called the "City") a more attractive place to live, protecting the watercourses and ecology, providing a healthy living environment, and better maintaining control of flooding, noise, glare and soil erosion.
- B. Any activity requiring the removal or planting of trees on City property and all clearing operations within the public right-of-way requires a permit before any work begins.

#### § 257-2. Findings.

- A. Trees provide beneficial oxygen while reducing the levels of harmful carbon dioxide. They reduce air pollution, purify water and stabilize the soil. Trees provide wildlife habitat and shade, cool the land, reduce noise and provide an aesthetic value to the land.
- B. The protection of trees throughout this City is vital to the survival of our residents and protection is necessary for every tree in the City.

- C. This chapter also provides for the health, safety and general welfare of the residents by allowing appropriate shade and ornamental trees to be planted within the public right-of-way for the purposes noted above.

### **§ 257-3. Definitions.**

As used in this chapter, the following words shall have their respective meanings:

#### **CITY**

The City of Chicopee.

#### **PROTECTED TREE**

Any tree which has been determined by the Tree Warden to be of high value because of its type, size, age or other professional criteria and which has been so designated.

#### **STREET OCCUPANCY PERMIT**

A permit issued by the Department of Public Works that authorizes activity on City property, including the removal or planting of a tree on City property.

#### **TREE**

Any self-supporting woody perennial plant which has a trunk diameter of 2 inches or greater measured at a point 6 inches above the ground level and which normally obtains a height of at least 10 feet at maturity. Certain species (defined by the City) may also be protected regardless of the size.

#### **TREE WARDEN**

The agent of the City having primary enforcement responsibilities under this chapter and MGL c. 87, and charged with the responsibility for approvals required pursuant to this chapter.

### **§ 257-4. Applicability.**

The terms and provisions of this chapter shall apply to any activity on City property and any activity that requires the issuance of a street occupancy permit. No street occupancy permit shall be issued by the City without it being determined that the proposed activity is in conformance with the provisions of these regulations.

### **§ 257-5. Powers of Tree Warden.**

This chapter shall not abridge the powers of the Tree Warden as provided by MGL c. 87. The Tree Warden may expend all money appropriated by the City for the setting out and maintenance of trees, shrubs and growths within the public way as provided by MGL c. 87.

### **§ 257-6. Planting within public right-of-way; planting on private property.**

#### **A. Planting within public right-of-way.**

- (1) Any property owner may petition the Tree Warden for permission to plant a tree within a public right-of-way. It is understood that some rights-of-way are not suitable for the planting of trees and that some species of trees are not suitable for public rights-of-way. For this reason, it is understood that the permit is discretionary on the part of the Tree Warden and is not to be construed as a right.
- (2) The Tree Warden may grant permission for planting on public property subject to the following:
  - (a) All work in a public right-of-way shall be conducted to the specifications of the Superintendent of the Department of Public Works and the Tree Warden.
  - (b) All costs incurred, including related work, regardless of contractor, shall be the responsibility of the petitioner.

(c) The petitioner shall work with the Tree Warden to select an appropriate tree and location that will not interfere with buried or above ground utilities; will minimize root damage to streets and sidewalks; and will not become a nuisance, i.e., trees that shed branches or form fruit or nuts.

(d) No work can commence within the public right-of-way until a street occupancy permit is approved by the Superintendent of Public Works and the Tree Warden.

**B.** Planting trees on private property. Where the building on the petitioner's property is so located to provide a front yard which can accommodate tree planting, no utilities would be endangered and other limiting conditions do not exist, the street tree may be planted within the yard and no permit would be issued for installation. Every effort should be made to select the proper type and size of tree for the existing condition within the private property.

**§ 257-7. Removal of healthy trees.**

**A.** Trees on public property belong to all residents of Chicopee and provide a service that benefits all residents of Chicopee and may be assigned a monetary value. The first priority of the City is to preserve and protect all trees on City property. Any decision allowing the removal of a healthy public shade tree will provide for equitable replacement to ensure the residents of Chicopee the continuing aesthetic, environmental and economic benefit of that tree. Any tree that is designated a protected tree will not be removed under this process.

**B.** The Tree Warden may consider the removal and subsequent replacement of a healthy tree subject to the following:

- (1) Petitions for the removal and replacement of trees shall be filed with the Tree Warden and acted upon by the Tree Warden and the Planning Board in a public hearing as provided by MGL c. 87.
- (2) Petitions for the removal and tree replacement must demonstrate that the removal and replacement of a tree will be of greater benefit to the inhabitants of the City than the existing tree.
- (3) Trees that are removed in accordance with this § [257-7](#) must be replaced in accordance with the following schedule:

<b>Size of Tree Removed</b>	<b>Replacement Required</b>
Less than 12" diameter	1 tree
Greater than 12" diameter	2 trees

- (4) The petitioner shall work with the Tree Warden to select the appropriate trees and locations that will not interfere with buried or above ground utilities; will minimize root damage to streets and sidewalks; and will not become a nuisance, i.e., trees that shed branches or form fruit or nuts. A replacement tree is not required to be located on the section of public right-of-way from which it was removed. The petitioner shall provide the Planning Board and the Tree Warden with a suitable guaranty that the replacement trees will be provided prior to the removal of the live tree in question.
- (5) All costs incurred, including related work, regardless of contractor, shall be the responsibility of the petitioner unless otherwise stated in a written agreement with the City.
- (6) All work in a public right-of-way shall be conducted to the specifications of the Superintendent of the Department of Public Works and the Tree Warden. A street occupancy permit must be issued prior to the commencement of any work.

**§ 257-8. Removal of unhealthy trees.**

Nothing in this chapter shall abridge the powers of the Tree Warden to act in the interest of public safety regarding the removal of unhealthy trees. The Tree Warden may, without a public hearing, remove a tree which,

because of its condition and location, is deemed to endanger the health and/or safety of the general public. Requests/petitions for removal of unhealthy trees shall be made to the Department of Public Works. The discretion and sound judgment of the Tree Warden alone determines whether a tree shall be removed after such request for removal has been made.

**§ 257-9. Enforcement.**

It shall be the duty of the Tree Warden to enforce this chapter. The Tree Warden or the Superintendent of Public Works shall have the authority to revoke, suspend or void the street occupancy permit and shall have the authority to suspend all work on a site or any portion thereof and levy fines as provided by § [257-10](#).

**§ 257-10. Violation and penalties.**

No person shall remove any wood, trees, bushes or other flora from any City property without the express written consent of the Tree Warden and Superintendent of Public Works. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and subject to a fine of \$300. Each day's continuance of a violation and each tree removed shall be considered a separate offense. Any fines collected pursuant to this chapter shall be used to replace the City tree population.

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