



Programs & Services Committee Agenda

City of Newton In City Council

Wednesday, September 21, 2022

7:00 PM

The Programs & Services Committee will hold this meeting as a Zoom Meeting on Wednesday, September 21, 2022 at 7pm. To view this meeting using Zoom use this link: <https://us02web.zoom.us/j/86300651963> or call 1-646-558-8656 and use the Meeting ID: 863 0065 1963.

Items Scheduled for Discussion:

#427-22 **Appointment of Petr Chovanec to the Commission on Disability**
HER HONOR THE MAYOR appointing Petr Chovanec, 83 Westland Avenue, Newton as a full member of the Commission on Disability for a term of office to expire on October 3, 2025. (60 Days: 11/06/2022)

#403-22 **Appointment of Shawn Fitzgibbons to the Licensing Board**
HER HONOR THE MAYOR appointing Shawn Fitzgibbons, 300 Homer Street, Newton as a member of the Licensing Board for a term of office to expire on June 2, 2025. (60 Days: 10/07/2022)

Referred to Programs & Services and Finance Committees

#411-22 **Request for Amendment to Chapter 21, Art III Trees to extend tree protection and update permits**
COUNCILORS MALAKIE, NORTON, LEARY, RYAN, WRIGHT, LUCAS, HUMPHREY, BOWMAN, MARKIEWICZ, OLIVER, DOWNS, AND LAREDO requesting revisions and amendments to Chapter 21, Art. III Trees (sec. 21-60 through 21-89) to extend tree protection to all trees 6 inches DBH (diameter at breast height) and greater within the City (with no exempt lots); to update tree removal permits, fees, and compensation; and to strengthen protection for existing and replacement trees.

Referred to Programs & Services and Finance Committees

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the City of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

#412-22 Request for Review and Amendments to Chapter 21, Art. III, Division 3
HER HONOR THE MAYOR requesting review and amendments to Chapter 21, Art. III, Division 3, Tree Preservation to increase replacement requirements for larger trees, add protections for smaller trees, limit removal of trees without replacement, enhance procedures for protecting trees, increasing payment required for trees cut without replacement, protect trees on lots adjacent to construction, provide Tree Warden with additional professional input on trees on private properties.

#405-22 Request for Amendment to Chapter 21 regarding tree protection and proposed one-year moratorium
COUNCILORS MALAKIE, NORTON, LUCAS, HUMPHREY, AND OLIVER requesting revisions and amendments to Chapter 21 to extend tree protection to all trees 6 inches DBH (diameter at breast height) and greater within the City, with no exempt lots, and to suspend tree removal permits effective immediately, for one year, unless sooner repealed or amended by the City Council. This moratorium shall not apply to emergency removal of trees determined by the tree warden to be dead or hazardous, or causing significant disruption of public utility service.

Respectfully Submitted,

Josh Krintzman, Chair



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

Telephone
(617) 796-1100
Fax
(617) 796-1113
TDD/TTY
(617) 796-1089
Email
rfuller@newtonma.gov

August 29, 2022

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

To the Honorable City Councilors:

I am pleased to appoint Petr Chovanec of 83 Westland Avenue, Newton 02465 as a member of the Commission on Disability. His term of office shall expire on October 3, 2025 and his appointment is subject to your confirmation.

Thank you for your attention to this matter.

Warmly,

Ruthanne Fuller
Mayor

RECEIVED
2022 AUG 29 PM 12:08
CITY CLERK
NEWTON, MA, 02459

Application Form

Profile

Petr _____ Chovanec _____
 First Name Middle Initial Last Name

 Email Address

83 Westland Ave _____
 Home Address Suite or Apt

WEST NEWTON _____ MA 02465 _____
 City State Postal Code

What Ward do you live in?

Ward 3

 Primary Phone Alternate Phone

UBS _____ Director, Business Modeling and
 Employer Job Title
 Forecasting

Which Boards would you like to apply for?

Commission on Disability: Submitted

Interests & Experiences

Please tell us about yourself and why you want to serve.

Why are you interested in serving on a board or commission?

I have been a Newton resident for about seven years. One of my kids is in Franklin and the second is too young for the school yet. I am a mathematician by trade, and I work for a bank on the intersection of finance and regulations. I am interested in joining the committee because I am interested in disability in general since my brother is physically disabled (cerebral palsy) and I feel I can add value. I am also my employer's Global DE&I Ambassador, and also on the Steering Committee of Ability Employee Network (network for persons with disabilities and friends). Thank you for your consideration.

[PetrChovanecResumeN227.pdf](#) _____
 Upload a Resume

Petr Chovanec

SUMMARY:

Quantitative and data science professional with broad experience in banking and finance currently leading a team modeling and optimizing balance sheet, treasury function and capital allocation of a specialized wealth management bank. Regularly work with state and federal bank regulators, and is an arbitrator for FINRA, self-regulatory financial organization. Appointed UBS Global DE&I Ambassador, and steering committee member of its Ability Employee Network (an employee network for persons with disability and friends). Teaching at a master's level and a frequent speaker at professional and academic conferences on AI, data science, quant finance and risk management.

WORK EXPERIENCE:

UBS Global Wealth Management (NYSE:UBS, SIX:UBSG) Weehawken, NJ
Director, Business Modeling and Forecasting 2016 - Present

UBS Global Wealth Management, part of UBS Group AG, is the largest wealth manager in the world with an AUM of \$2.6 trillion.

- Lead the development of balance sheet, PPNR, treasury and accounting models, used for planning, strategic optimization, CCAR, DFAST, CECL, ICAAP; leading the team of six quants + ad hoc contractors for modeling and forecasting wealth management banking portfolio of \$200b (deposits, loans, credit cards, mortgages, etc.). From "small" models and dashboards for quick insights to bespoke econometric and machine learning models with big data on cloud platforms in R or Python.
- Implemented innovation projects from internal R/python package development to the ongoing machine learning project (automated multivariate time series predictions for the whole B/S and I/S)
- Involved in all aspects of delivering strategic initiatives from planning, negotiating with other teams across various locations/continents, negotiating budget and consulting contracts (SoWs). CECL, Libor transition, CCAR, business/treasury initiatives, strategic IT solutions, digitalization, DeFi.
- Regularly work and present to stakeholders, senior management (US and divisional C-level), business heads, treasury, business and model risk, internal and external auditors, HR, and regulators (Fed, FDIC).

Columbia University New York, NY
Associate Lecturer (Enterprise Risk Management Program, Company Failures class) 2020-present

Harvard University (Summer School and Extension School) Cambridge, MA (online)
Head TA and TA in Data Science Program, Data Modeling Class 2018 - 2019

Citizens Bank N.A. (NYSE:CFG) (formerly RBS Citizens) Boston, MA
Sr. Quantitative Analyst/VP, Model Development (2015+) and Model Validation 2014 - 2016

Citizens Bank is the 22th largest BHC with \$180b in assets.

- Performed various modeling projects (deposits, auto loans, rate and treasury models) and model validation (fixed income trading systems, macro models)
- Managed the development of the PPNR models analytics system (libraries for development, implementation back-up and model performance monitoring), lead execution and two analysts.

State Street Bank and Trust (NYSE:STT) Boston, MA
Quantitative Analyst/AVP, Model Validation (2013+) and Global Fixed Income 2012 - 2014

State Street is the second biggest asset manager in the world (a manager of SPDR funds) and G-SIB.

- Supported traders, calibrated volatilities and curve models (SABR, LMM)
- Validated various models (securities lending, QRM, credit risk (sovereign, municipal), investment risk, ABS)

ENGiE (Euronext:GSZ) Marlborough, MA and Boston, MA
Structuring Analyst (Trading Dept, Power Plants and Portfolio Management, LNG) 2007 - 2011

Engie is the largest utility company in the world with a large portfolio of physical and trading assets in North America. Euro Stoxx 50 company, \$200b in assets.

- Quantitative support for traders-built tools in VBA/Matlab/C++, calculated profitability and Greeks of trades
- Built econometric tools for volatility trading and portfolio management tools in Matlab and C++.

Academy of Sciences of the Czech Republic Prague, Czech Republic
Junior Researcher in Department of Econometrics 2005 - 2006

Research on portfolio management and optimization and on financial time series (GAMS, CPLEX).

EDUCATION:**Harvard University** Kennedy School of Govt and Faculty of Arts and Sciences (Cont. Ed./Ext) Cambridge, MA

- Master of Liberal Arts, Management/Finance; part-time (GPA: 3.75) 2014
- Graduate Certificate in Legal Studies 2018
- Exec. Certificate in Public Policy (ongoing) exp. 2023

Charles University Faculty of Mathematics and Physics Prague, Czech Republic

- State Doctoral Exam in Econometrics and Operations Research (M.Phil. equiv., ABD) 2006
- M.S. (Magister) in Mathematical Statistics and Econometrics (M.S. GPA: 3.88, research masters) 2004

CERGE-EI Center for Economic Research and Graduate Education - Economic Institute Prague, Czech Republic

- Successfully completed the first year of graduate Economics (with quals) as a cross-registrant 2004-2005

Kansas State University Department of Statistics Manhattan, KS

- Graduate Student Exchange 2003

PROFESSIONAL AND VOLUNTEER SERVICE:

Financial Industry Regulatory Authority (FINRA) New York, NY
Arbitrator (part-time) 2021-present

Professional Risk Managers' International Association (PRMIA, voluntary) 2017 – present
Regional Director for New York (9/18-12/20) and NY Steering Committee Member (1/18-present)
Co-Head of Ethics Committee (1/21-present)

PRMIA is one of the largest risk management organizations in the world having 50 thousand members and 50 chapters around the globe and CROs of World Bank Group or EBRD on its board.

- As a regional director, responsible for operations in New York (4000 members, P/L responsibility), co-negotiated sponsoring contracts (e.g., IBM, Accenture, Bloomberg), lead 15 events per year.

Harvard Club of New Jersey 2017 – present
Executive Committee Member and Interviewer for Harvard College

CFA Society of Boston 2012 - 2015
 Committee Member, Quantitative Investing Committee

HONORS AND ACHIEVEMENT:

Core Leadership Fellow, UBS, 2021; **UBS Global Finance Innovation Fellow (fintech and distributed ledgers)**, UBS, 2021; **CREDO Award**, Citizens Bank, 2014; **Invitee**, Crossborders Seminar, McKinsey & Co. 2006; **Barton-Dobenin Scholarship**, Kansas State University, 2003; **Honourable Mentioned**, The Goldman Sachs 8th International Mathematics Competition for University Students, University College, London, 2001

PROFESSIONAL CERTIFICATION (company-sponsored):

Agile Leadership, Coursera/U.Colorado, **Fintech Law and Policy**, Coursera/Duke, 2021; **Deep Learning Specialization**, Coursera/Deeplearning.ai, 2020; **Accelerated Computer Science Fundamentals Specialization**, Coursera/UIUC, 2020; **Principles Of Sustainable Finance**, Coursera/Erasmus University Rotterdam, 2020; **Data Science Specialization**, Coursera/Johns Hopkins University, 2017; **Executive Data Science Specialization**, Coursera/Johns Hopkins University, 2017, **CFA Level 1**, CFA Institute, 2011

SKILLS:

Programming: Matlab, R (RMarkdown, package development), Python (Jupyter Notebook, NumPy, Pandas, scikit-learn, TensorFlow, PyTorch), SAS, SQL, CPLEX, Hadoop/Spark, C/C++, Java, Linux tools.

PUBLICATIONS (selected, over 100 citations):

"A Second-order Stochastic Dominance Portfolio Efficiency Measure." *Kybernetika*. 2008, 243-258 (with Milos Kopa).



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

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(617) 796-1100

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(617) 796-1089

Email
rfuller@newtonma.gov

August 1, 2022

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

To the Honorable City Councilors:

I am pleased to appoint Shawn Fitzgibbons of 300 Homer Street, Newton 02459 as a member of the Licensing Board. His term of office shall expire on June 2, 2025 and his appointment is subject to your confirmation. Mr. Fitzgibbons will complete the remainder of Ms. Kathleen McCarthy's unexpired term which ends on June 2, 2025. Please note, Mr. Fitzgibbons will fill the vacancy which can be held by either a Republican or Democrat.

Thank you for your attention to this matter.

Warmly,

Ruthanne Fuller
Mayor

CITY CLERK
NEWTON, MA. 02459

2022 AUG - 1 PM 1:21

RECEIVED

Application Form

Profile

Shawn

First Name

P.

Middle Initial

Fitzgibbons

Last Name

[Redacted]

Email Address

300 Homer St.

Home Address

Suite or Apt

Newton

City

MA

State

02459

Postal Code

What Ward do you live in?

Ward 6

[Redacted]

Primary Phone

[Redacted]

Alternate Phone

Mass General Hospital

Employer

Senior Director of Principal Gifts

Job Title

Which Boards would you like to apply for?

Licensing Board: Submitted

Interests & Experiences

Please tell us about yourself and why you want to serve.

Why are you interested in serving on a board or commission?

I feel it is important to contribute to my community and its government. Additionally, I greatly enjoy participating actively in civic life because I enjoy working with fellow city residents in a positive way to help our community continue to be a great place to live. Since moving to Newton in 2007, I have been extensively involved with city government, politics and local non-profits. I previously served on the Newton Child Care Commission and greatly enjoyed the experience. I would be honored to serve on the Licensing Board.

[Resume--](#)

[Shawn_Fitzgibbons_2022.pdf](#)

Upload a Resume

Shawn P. Fitzgibbons

300 Homer Street Newton Centre, MA 02459

Skills

Proven fundraising professional with extensive experience working with donors giving seven-, eight- and nine-figure gifts. Thoughtful strategist with responsibility for guiding the work of a large fundraising major gifts team to secure transformational gifts. Collaborative partner with organizational leaders, volunteers and key constituents to achieve fundraising goals.

Experience

Massachusetts General Hospital / June 2007 - Present
Boston, MA

Senior Director of Principal Gifts, April 2016 to Present

Senior Director of Development, January 2012 to May 2016

Director of Development, September 2010 to December 2012

Assistant Director, Major Gifts, June 2007 to August 2010

- Manage relationships with the hospital's top donors who are at the eight- and nine-figure level.
- Responsible for managing giving at over \$100M annually.
- Guide principal and major gifts strategy for a team of front-line fundraisers covering the Departments of Medicine, Neurology, Cardiology, OB/GYN, Radiology and international fundraising.
- Develop office-wide processes to improve prospect identification, cultivation and solicitation.
- Train team members to identify, cultivate and solicit major- and principal-level gifts from individual donors.
- Partner actively with hospital trustees, executives and chiefs of service to advance fundraising priorities.

Cornell University / January 2005 - June 2007

Ithaca, NY

Individual Giving Officer

- Managed portfolio of 275 major donors representing \$20 million in anticipated campaign giving.
- Worked with college and university leaders to advance fundraising efforts for the College of Arts and Sciences.
- Successfully secured six- and seven-figure gifts from individual donors.
- Travelled regularly with college leaders to visit alumni donors and keep them connected to Cornell University.
- Oversaw cultivation events for major donors involving college and university leadership.

Earthwatch Institute / December 2000 - June 2004

Maynard, MA

Director of Corporate Programs

- Launched a comprehensive environmental education program involving an active network of over 30 Fortune-100 corporations.
- Raised funds for environmental science programs from corporate foundations and marketing departments.
- Significantly increased amount of new funding for Earthwatch through new partnerships with Starbucks, Shell, HSBC and Alcoa.

The Brattleboro Reformer / September 1998 - July 1999

Reporter/Photographer

- Researched and authored news articles and took relevant photographs for publication.

CBS Radio 99.1 WHFS / January 1997 - July 1999

Washington, D.C.

Account Executive

- Developed strategic communications and marketing initiatives for an array of large and small CBS clients.
- Sold the station's largest event sponsorship package during the first six months of employment.

Education

School for International Training / Brattleboro, VT / 1999

Master of Arts, Intercultural and International Management

Concentration: Corporate Social Responsibility

American University / Washington, D.C. / 1996

Bachelor of Arts, Communications

Concentration: Journalism

Personal

-
- Chair Emeritus, Newton Democratic City Committee, Newton, MA
 - Member, Board of Directors, FamilyACCESS, Newton, MA
 - Member, Board of Directors, All Newton Music School, Newton, MA
 - Volunteer, Green Decade Coalition, Newton, MA, 2008-2014
 - Board Member, Yellowstone to Yukon Conservation Initiative, Canmore, Canada, 2007-2010
 - Treasurer, Center for Environmental Sustainability, Ithaca, NY 2006-2007
 - Extensive national and international travel, Eagle Scout, fiddle player, long-distance cyclist, active volunteer on many political and issue campaigns.
 - Certified professional photographer.
 - Fluent in Spanish



To: Programs & Services Committee

From: Councilors Malakie & Norton

Date: Sept 16, 2022

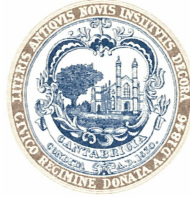
RE: Explanation of Attached Tree Ordinance Items #405-22 and #411-22 for Programs & Services Committee 9/21/22 meeting

Attached you will find several items related to Docket Items #405-22 and #411-22, offered by city councilors for strengthening Newton's current tree ordinance:

1. Letter of support from Quinton Zondervan who led the Cambridge City Council's successful 2021 effort to enact tree protection reforms
2. Letter of support from some environmentally-minded organizations and individuals
3. Proposed language for a temporary moratorium on tree removal (#405-22) offered by Councilors Malakie, Norton, Lucas, Humphrey, and Oliver
4. A five-page chart comparing major provisions of the current ordinance, Mayor Fuller's docket item on the ordinance, the Council's docket item (# 411-22), and the tree protections in the current City of Cambridge ordinance
5. Proposed language for docket item (#411-22) offered by Councilors Malakie, Norton, Leary, Ryan, Wright, Lucas, Humphrey, Bowman, Markiewicz, Oliver, Downs, Laredo, and Grossman
6. A two-page document, "Why Newton Needs a New Tree Ordinance," with links to the pertinent scientific data behind our draft ordinance.

Please also note that at this morning's meeting, the Newton Urban Tree Commission voted to endorse the temporary moratorium.

We appreciate Mayor Fuller expressing her agreement with us that the current tree ordinance needs strengthening, by virtue of her docketed item. The one filed by councilors goes further, however, and contains crucial provisions to protect our tree canopy. We look forward to the committee discussion.



CAMBRIDGE CITY COUNCIL

Quinton Y. Zondervan
City Councillor

To the Honorable, the City Council of Newton:

As you consider updating your tree protection ordinance, I offer you some of my thoughts, having helped successfully lead such an effort in Cambridge, in the hope that you find this information helpful.

Starting in 2016, community members determined that our tree canopy in Cambridge was shrinking. Street trees, particularly newly planted saplings, were being visibly impacted by what was then a severe drought. At the same time, people were noticing lots of trees being cut down on private properties. Cambridge already had a tree protection ordinance in place at that time, which regulated large projects, but it did not prevent any trees from being cut down. It only required developers of large projects to replace trees that were removed, or pay into a tree replacement fund.

In early 2019 the problem became so dire that the Council amended the ordinance to require a permit for the removal of any tree over 8" in diameter (outside of large projects) and that no such permits would be issued, except in emergency situations, for the next year, to give the Council time to make permanent modifications to the ordinance. A key consideration in creating this so-called temporary "moratorium" on tree cutting is that we did not want to create a situation where people would start cutting down trees in anticipation of future restrictions.

The regulations for large projects remained in effect, and so the moratorium did not interfere with approved or planned large developments in the city. Of course in 2020 the COVID pandemic hit and we ended up extending the moratorium twice, and adopting more permanent amendments to the ordinance in 2021. During that time the Urban Forest Master Plan was completed, which also helped inform the final ordinance, as well as tree planting and management practices overall.

Trees are essential infrastructure and I wish you much success in your efforts to protect them for the health and safety of your residents.

Sincerely,

Quinton Zondervan
Cambridge City Councillor

September 16, 2022

To the Newton City Council:

We, the undersigned environmental groups and individuals, are writing to urge the Newton City Council to enact the strongest protections for the most trees in Newton. We urge you, as a best-practice approach, to enact a temporary moratorium while the ordinance changes are being discussed and finalized. And we support the City-Council-proposed ordinance because it will strengthen protections for *all* trees 6-inches DBH (in diameter at breast height) and larger across *all* properties in Newton and it will also include an environmental mitigation payment for cutting healthy, mature trees that are not dangerous.

Cutting healthy, mature trees negatively impacts the local neighborhood, the city, and the region, as well as the global climate emergency. Cutting even a few trees affects the local heat index; neighborhood air pollution, storm water drainage, and road quality; and local public health. A few trees cut on many lots year after year adds up to treeless blocks that become heat islands with less-manageable water run-off and faster deterioration of roads.

These effects cost the City of Newton money and thus the City's taxpayers—not just property owners but also people who rent, work, shop, dine, and do business in Newton. If individual property owners seek to cut mature, healthy, not-dangerous trees on their land, they should have to make a climate mitigation payment to offset the monetary, environmental, and health costs to the community.

Like air and water, whether trees are properly stewarded will make or break a community and the region. We applaud the plan to notify local residents when owners of nearby properties apply to cut healthy, not-dangerous trees and to include their voices in the tree permitting process. We also applaud Newton's leadership in recognizing the urgent need to mitigate the impacts of climate change by protecting and preserving mature, healthy trees. Every mature, healthy tree preserved contributes significantly to carbon capture and energy savings, stormwater and flooding mitigation, cleansing the air, reducing heat, and improving public health—not only for Newton but also for Massachusetts and beyond.

We urge the Newton City Council to enact first a temporary moratorium and then the City-Council-proposed ordinance changes to require an environmental mitigation payment for cutting healthy, not-dangerous trees, to protect trees 6-inch-DBH and larger on all lots, and to give voice to the local people most impacted by tree cutting.

Respectfully,

Climate Crisis Working Group, Our Revolution Massachusetts

Anita Roy Dobbs

Elders Climate Action, Massachusetts Chapter

The Enviro Show (WXO/WMCB/WMNB)

Friends of Melnea Cass Boulevard

Pat Irwin (Newton resident)

Mass Call2Action

Claire A. Novola (Newton resident)

Our Revolution Newton-Waltham-Watertown

Sierra Club, Massachusetts Chapter

Speak for the Trees, Boston

Tree Advocacy Group of Lexington (LexTrees.org)

Trees for Watertown

TreesMedford

Trees-as-a-Public-Good Network

DRAFT: Tree Removal “Moratorium”

INSERT after Sec. 21-90 the following section:

Sec. 21-91 Temporary Limitation of Tree Removals

- (a) Effective [date], no tree having a diameter of six (6) inches or greater shall be removed on land identified in Sec. 21-82(a) nor on any exempt lot for a period of one year unless sooner repealed or amended by the City Council. This limitation shall not apply to tree removal permits issued prior to its effective date, nor to removal of any tree determined by the tree warden to be dead, diseased, in danger of falling, dangerously close to existing structures, causing disruption of public utility service, causing drainage problems or passage problems upon rights-of-way, or posing a threat to pedestrian or vehicular safety. Documentation shall be provided by a Certified Arborist utilizing industry-approved Risk Tree Evaluation method along with any additional forms or documentation required by the Tree Warden. The procedures of Sec. 21-84 shall apply to emergency removal of hazardous trees.
- (b) Regulations for projects with special permits remain in effect.
- (c) Any violation of the provisions of Sec. 21-91 (a) shall be subject to the penalties set forth in Sec. 21-89 and shall be subject to the provisions of Sec. 21-85 and Sec. 21-86.

Compare and Contrast of Proposed Changes to the Newton Tree Ordinance (Chap 21, Art. III, Div. 3) September 12, 2022

	Current Ordinance	Administration Docket Item	City Council Docket Item	Cambridge, MA Ordinance (2021)
Which Trees Are Protected?	<p>Only trees 8" DBH or larger <i>that are not on an exempt lot</i> (most 1-4 family lots are exempt, depending on occupancy) <i>and that do not require a special permit</i></p> <p>See Sec. 21-81, Protected Tree; Sec. 21-82; Sec. 21-90b</p>	<p>Legacy Trees, which are 4 feet, 7 inches in diameter at breast height (55" DBH) or larger, on all lots</p> <p>Protected Trees 6" DBH and larger <i>that are on 3-family or larger residential lots and commercial lots that do not require a special permit</i></p> <p>Protected Trees 6" DBH and larger that are on 1-2 family lots <i>ONLY IF construction is planned within 24 months</i></p> <p>No trees on lots with special permits are protected.</p> <p>See Sec. 21-81, Protected Tree; Sec. 21-82; Sec. 21-90b</p>	<p>All trees 6" DBH or larger on all lots</p> <p>See Sec. 21-81, Protected Tree; Sec. 21-82</p>	<p>Applies to trees 6" DBH or greater on all lots except projects of the Affordable Housing Trust</p> <p>See Sec. 8.66.030, Significant Tree; Sec. 8.66.040</p>
Are there exemptions allowing unregulated cutting of Protected Trees?	<p>Yes</p> <p>A "certificate of exemption" issued if owner occupancy requirements met</p> <p>See Sec. 21-82c</p>	<p>Yes</p> <p>An "exemption permit" issued for cutting all trees under 55" (4 feet 7 inches) DBH on 1-2 family residential lots if no construction is planned for 24 months</p> <p>See Sec. 21-82a</p>	<p>No</p> <p>See Sec. 21-82a</p>	<p>Yes</p> <p>Affordable Housing Projects are exempt</p> <p>See Sec. 8.66.040</p>

What Conditions Remove Properties from Tree Regulation?	<p>If own & occupy 18 months before & after (or 90 days before & 21 months after) cutting trees</p> <p>If require a special permit for construction</p> <p>Sec. 21-82c; Sec. 21-90b</p>	<p>If own 1-2 family lots, no construction planned for 24 months after cutting trees, and cutting trees <i>less than 4 feet 7 inches in diameter at breast height</i> (55" DBH, so-called Legacy Trees)</p> <p>If require a special permit for construction</p> <p>Sec. 21-82a; Sec. 21-90b</p>	<p>Nothing</p> <p>All property owners in Newton must apply for a permit to cut trees</p> <p>Sec. 21-82a; Sec. 21-90b</p>	<p>If building 100% affordable housing</p> <p>Sec. 8.66.040</p>
What protections are there for trees to remain during construction?	<p>Limited</p> <p>Protects area only under the dripline of trees; allows damage to roots extending beyond dripline that can kill trees</p> <p>Sec. 21-83e</p>	<p>Very good</p> <p>Creates a Tree Save Area that protects area under dripline or within radius of 1.5 ft for every inch of DBH, whichever is greater.</p> <p>Sec. 21-81</p>	<p>Very good</p> <p>Creates a Tree Save Area that protects area under dripline or within radius of 1.5 ft for every inch of DBH, whichever is greater.</p> <p>Sec. 21-81</p>	<p>Unclear</p> <p>Creates a Tree Save Area (dimensions not specified in ordinance)</p> <p>Sec. 8.66.030</p>
Are there protections for abutters' trees?	<p>No</p>	<p>Yes</p> <p>Tree Save Area applies to trees on lots abutting construction</p> <p>Sec. 21-81</p>	<p>Yes</p> <p>Tree Save Area applies to trees on lots abutting construction</p> <p>Sec. 21-81</p>	<p>Unclear</p>

<p>Can trees be cut or removed on private property, even if they are not dead or dangerous to people, structures, roadways, or utility projects?</p>	<p>Yes</p> <p><u>On exempt lots:</u> any and all trees without replacement, fee, or mitigation payment</p> <p><u>On non-exempt lots:</u> any and all trees with replacement or payment of fee in lieu of replacement for cutting trees that are healthy and not dangerous</p> <p><u>On special permit lots:</u> any and all trees with no stated requirements</p> <p>Sec. 21-83c; 21-90b</p>	<p>Yes</p> <p><u>With exemption permit:</u> any and all trees less than 4 feet 7 inches (55") DBH <i>without</i> replacement, fee, or mitigation payment</p> <p><u>With tree permit:</u> any and all trees with permit fee and with replacement or payment in lieu of replacement for cutting trees that are healthy and not dangerous</p> <p><u>On special permit lots:</u> any and all trees with no stated requirements</p> <p>Sec. 21-83b & d; Sec. 21-90b</p>	<p>Yes</p> <p><u>With tree permit:</u> any and all trees but <i>only with</i> permit fee, environmental mitigation payment, and replacement (or higher mitigation payment in lieu of replacement) for cutting trees that are healthy and not dangerous</p> <p>All lots are subject to same requirements</p> <p>Sec. 21-83b & d; Sec. 21-90b</p>	<p>Yes</p> <p><u>With tree permit:</u> any and all trees but only with a mitigation payment and/or replacement for cutting trees that are healthy and not dangerous</p> <p>Large (special permit) lots always pay and pay more than regular lots</p> <p>Sec. 8.66.050; Sec. 8.66.060; Sec. 8.66.070</p>
<p>Is notice to abutters about tree cutting required?</p>	<p>No</p>	<p>No</p>	<p>Yes, for all permits</p> <p>Requires notifying abutters of tree permit applications and posting tree permits in public view on site.</p> <p>Sec. 21-83c & e</p>	<p>Yes, for Large projects</p> <p>8.66.060a & b</p>

<p>What are the replacement requirements for cutting health, non-dangerous trees?</p>	<p><u>On exempt lots:</u> none</p> <p><u>On non-exempt lots:</u> inch-for-inch replacement <i>or</i> payment in lieu of replacement</p> <p><u>On special permit lots:</u> none stated</p> <p>Sec. 21-85b; Sec. 21-86b; Sec. 21-90b</p>	<p><u>With exemption permit:</u> none</p> <p><u>With tree permit:</u> either replacement or payment in lieu of replacement</p> <p>Replacement ratio varies by DBH of cut trees</p> <ul style="list-style-type: none"> - for 6-24" (Protected), 1 to 1 - for 25-39" (Significant), 1.5 to 1 - for 40-54" (Landmark), 2 to 1 - for 55"+ (Legacy), 3 to 1 <p><u>With special permit:</u> none stated</p> <p>Sec. 21-85b; 21-86b; 21-90b</p>	<p><u>With tree permit:</u> replacement (or higher mitigation payment in lieu of replacement)</p> <p>Replacement ratio varies by DBH of cut trees</p> <ul style="list-style-type: none"> - for 6-24" (Protected), 1 to 1 - for 25-39" (Significant), 1.5 to 1 - for 40-54" (Landmark), 2 to 1 - for 55"+ (Legacy), 3 to 1 <p>All lots are subject to the same requirements</p> <p>Sec. 21-85b; 21-86b & c; 21-90b</p>	<p><u>With tree permit:</u> replacement (or mitigation payment in lieu of replacement)</p> <p>Replacement ratio varies by DBH of cut trees</p> <ul style="list-style-type: none"> - 6-29", 1 to 1 - 30" +, 1.5 to 1 <p>All lots have same requirements</p> <p>Sec. 8.66.060; Sec. 8.66.070</p>
<p>What are the costs to property owners for cutting healthy, non-dangerous trees?</p>	<p><u>On exempt lots:</u> none</p> <p><u>On non-exempt lots:</u> application fee, permit fee, and payment based on cost of buying & installing new trees (where is unspecified)</p> <p><u>On special permit lots:</u> none stated</p> <p>Sec. 21-82c; 21-83a; 21-86b; Sec. 21-90b</p>	<p><u>With exemption permit:</u> none</p> <p><u>With tree permit:</u> application fee and payment based on cost of buying, installing & maintaining new trees for five years (where is unspecified)</p> <p><u>With special permit:</u> none stated</p> <p>Sec. 21-83b; 21-86b; 21-90b</p>	<p><u>With tree permit:</u> application fee and environmental mitigation payment based on costs to City from tree loss: damages to public health, loss of climate mitigation services, increased energy usage, increased drainage and infrastructure costs</p> <p>All lots are subject to the same requirements</p> <p>Sec. 21-81; 21-83d; 21-86b & c; 21-90b</p>	<p><u>With tree permit:</u> permit fee and sometimes mitigation payment</p> <p>Large projects must pay at least \$5,000</p> <p>Sec. 8.66.050b; 8.66.060d; 8.66.070; 8.66.150</p>

Are replacement trees given special protection?	Required to survive 18 months Sec. 21-85b3	Considered a Significant Tree (only relevant if property owner applies to cut it; no longer required to survive any specified time) Sec. 21-85d	Considered a Significant Tree and protected for 10 years (if owner applies to cut, requires mitigation payment without reduction and higher replacement levels) Sec. 21-85d & e	Protected for 10 years (if owner applies to cut, requires mitigation payment without reduction) Sec. 8.66.050c
Who decides appeals of tree permit decisions and on what basis?	Appeals go to mayor, who must notify the councilors from the ward of appeals No guidance on basis for deciding appeals Sec. 21-83g	Appeals go to mayor, who shall seek input and consult with the Ward Councilor (not at-large councilors from the ward) No guidance on basis for deciding appeals Sec. 21-83h	Appeals go to mayor and all councilors of the ward, who jointly decide Decisions to be guided by reasonable safety and tree wellbeing provisions Sec. 21-83h	None mentioned
Can violations result in an ISD stop-work order?	Yes Tree warden can <i>request</i> that the agency that approved external work stop external work Sec. 21-88b2	Yes Tree warden can <i>request</i> that the agency that approved external work stop external work Sec. 21-88b2	Yes Tree warden can direct ISD to issue a stop work order Sec. 21-83g; Sec. 21-88b2	Yes City arborist can direct ISD to issue a stop work order Sec. 8.66.120b

PROPOSED AMENDMENT TO NEWTON ORDINANCES — PARKS, RECREATION AND CULTURE, PUBLIC GROUNDS AND TREES Chapter 21, Article III, Division 3 Tree Preservation



DIVISION 3. TREE PRESERVATION

Sec. 21-80 Findings, intent, and purpose.

The city council has determined that Newton has lost and continues to lose trees at an alarming rate. Tree loss contributes significantly to the climate emergency that the US Centers for Disease Control creates a public health crisis by producing extreme heat; air pollution; increased allergens; diseases carried by mosquitos, ticks, and rodents; flooding; and more.

Healthy mature trees provide immense public services that cannot be replaced, even by planting saplings. According to Newton’s tree warden, an AVERAGE mature street tree (17" DBH) removes 2600 lbs of carbon per year, conserves 1300 kWh per year, intercepts 1900 lbs of stormwater per year. Moreover, it takes 90 new trees to sequester as much carbon as one mature tree. The city council has determined that replacement alone is not enough. The city council has further determined that the city has insufficient legal vehicles to assure the adequately preservation and protection of mature trees and the provision for mitigating costs to the city of tree loss, both by replacement of trees and by payment of an environmental mitigation fund.

The preservation of Newton’s tree canopy is intended to preserve public health, mitigate climate impacts, and thereby enhance the quality of life and the environment of the city. A mature healthy tree canopy preserves the character of the wooded and natural areas; reduces energy consumption; protects air quality; baffles noise; preserves and enhances habitat for wildlife; reduces topsoil erosion and storm water runoff; protects and increases property values; and enhances the overall appearance of the city. (Ord. No. A-38, 05-05-14)

Sec. 21-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggregate diameter: The combined diameter of a multiple trunk tree measured at breast height.

Building: The term "building" shall be as defined in section 30-1.

Certified arborist: An arborist certified by the Massachusetts Arborists Association or International Society of Arboriculture, or any successor organization.

Diameter breast height (DBH): The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.

Drip line: A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

Environmental Mitigation Payment: A payment that takes into account damages to community public health (including increased pests), loss of carbon sequestration and other climate mitigation services, costs of increased energy usage, loss of stormwater drainage services, and increased city infrastructure costs by utilizing a cross-



sectional area valuation of each tree to be removed: $(DBH)^2 \times 0.785 \times \text{base value}$, where the base value is not less than [AMOUNT].

Exterior work permit: A permit or approval which is required in order to perform work on a vacant lot or to the exterior of a building on a lot, including, but not limited to the following: a building permit; a review of an alteration of contour of land if required pursuant to section 30-5(c)(1); curb cut and street opening permits; an order of conditions; certificates of appropriateness, non-applicability, or hardship; a demolition permit pursuant to section 22-44; site plan approval pursuant to section 30-23; subdivision approval; a special permit pursuant to section 30-24; a comprehensive permit.

Landmark Tree: Any tree having a diameter of 40" DBH to 54" and which is located on land subject to the provisions of section 21-82.

Legacy Tree: Any tree having a diameter of 55" DBH or larger and which is located on land subject to the provisions of [section 21-82](#).

Lot: The real property contained within front, rear and side lot lines, as established by a plan filed in the registry of deeds, which divide the property from adjoining properties.

Occupied Lot: A lot containing a legally constructed, permanent structure, used primarily as a dwelling that is currently being legally occupied and lived in and used as a residence by a person or persons. The dwelling must have a functioning, legally permitted, permanent water service, permanent sanitary service, and permanent electrical service.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to, the person removing a protected tree as well as the owner of the real property from which the tree is removed. The definition of "person" shall not include the City of Newton.

Protected tree: Any tree having a diameter of 6" DBH or larger and which is located on land subject to the provisions of section 21-82.

Pruning standards: Standards for pruning as defined in the most current American National Standard Institute (ANSI) A300 Pruning Standards and as defined by the Tree Warden.

Remove (including removing and removal): The cutting down of any protected tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a protected tree, including, but not limited to, excessive or improper pruning.

Risk Tree Evaluation: The process by which a tree is evaluated to determine the level of risk it poses to the existing property and public at the time of inspection. All risk tree evaluations shall be conducted by a qualified Certified Arborist using a systematic process that identifies, analyzes, and evaluates risk. All tree risk evaluations are to follow the most current ANSI A300 Part 9 Tree Risk Assessment protocol. All tree risk assessments are to be done utilizing industry accepted protocols, forms, and other documentation required by the Tree Warden.

Significant Tree: Any tree having a diameter of 25" DBH to 39" DBH and which is located on land subject to the provisions of section 21-82, or is a replacement tree as described in 21-85 (e).

Tree Plan: A plan showing (1) the location, type, and size of each tree 5" DBH and larger; (2) which tree(s) are to be removed; and (3) the location, type, and size of replacement trees. The tree plan should also show the location,

estimated size, and tree type of any trees that were removed from the lot within the prior 24 months leading up to the application date.

Tree Protection Plan: A plan developed by a Certified Arborist, following the most current version of the ANSI A300 standards including Part 5, management standards for site planning and development. This plan shall set out measures for protecting all trees on the lot during construction as well as trees adjacent to the lot that may be impacted by the construction activity on the applicant's lot.

Tree Save Area: Area within the dripline of a tree or the area within a radius around the tree trunk of 1.5 feet for every inch of DBH, whichever is greater.

Tree Warden: The commissioner of parks, recreation and culture or a designee. (Rev. Ord. 2007, § 20-31; Ord. No. A-38, 05-05-14; Ord. No. B-53, 03-02-20)

Sec. 21-82. Applicability

(a) *Applicability:* The terms and provisions of this article shall apply to any protected tree located on land within the city not owned by the commonwealth, or any independent authority of the commonwealth, or by the federal government.

(b) *Permit:* No person shall remove a protected tree on a lot located on land subject to the provisions of this article, or commence legally permitted exterior work on any lot without first obtaining a tree permit from the tree warden. Applications shall be made in writing on forms specified by the tree warden.

Sec. 21-83. Permit application.

(a) *Contents:* An application for a tree permit shall be submitted to the tree warden and shall include, but not be limited to, the following:

- (1) A plan showing the shape and dimensions of the parcel of real property to be developed, together with the existing and proposed locations of structures and improvements, if any, and showing the limit of work;
- (2) A Tree Plan;
- (3) The proposed relocation of any existing Protected Tree with a statement prepared by a Certified Arborist explaining how each such Protected Tree is to be relocated and maintained;
- (4) The location of existing and proposed underground or overhead utility services, existing and proposed roadways, bikeways, walkways, and parking areas;
- (5) Any proposed grade changes within the Tree Save Area of any Protected Tree with a statement prepared by a Certified Arborist explaining how each such Protected Tree shall be protected and maintained;
- (6) The proposed method of protecting the remaining Protected Trees during the course of the construction.

(7) For any activity requiring an Exterior Work Permit or involving tree removal, where Protected Trees are to remain on the lot, a Tree Protection Plan must be completed by a Certified Arborist following the most current version of the ANSI A300 standards including Part 5, management standards for site planning and development. This plan shall set out measures for protecting all trees on the lot during construction as well as trees adjacent to the lot that may be impacted by the construction activity on the applicant's lot. No Exterior Work or tree removal work shall take place on a lot until all tree protective measures are approved and in place. Tree Permit holder must notify the Tree Warden once all protective measures are in place, at which time the Tree Warden will provide written documentation that Exterior Work may start. This written documentation may also include additional parameters and requirements related to the protection of trees to remain on the lot and trees within a reasonable distance from the lot.


(8) Large projects, which require a special permit, must also include a Tree Protection Plan that shall be submitted to the Tree Warden not less than 21 days prior to submission of the application for a special permit. The Tree Warden shall certify that s/he has reviewed it, indicating whether it is complete and complies with the applicable provisions of this Chapter and regulations promulgated thereunder. The Tree Warden shall refer the Tree Protection Plan with his/her certification and recommendations to the Land Use Committee to guide the establishment of any conditions that may be required as a result of findings of the Tree Protection Plan in connection with the issuance of a special permit.


(b) Fee: The application for a tree permit shall be accompanied by a fee in the amount(s) listed below.

(1) The fee for a tree permit for the removal of a dead or significantly compromised tree(s) that a Certified Arborist has attested to on forms required by the City shall be \$0 if there is no pending or planned Exterior Work on the lot.

(2) The administrative fee for processing a tree permit for all tree removal work or Exterior Work with the exception of (b) (1) shall be \$200.

(c) *Review of permit applications:* The tree warden shall review applications for tree permits in accordance with the provisions of this article. The tree warden shall date stamp or otherwise record the date of filing of each application for a tree permit. The tree warden shall complete the review of each tree permit application no later than twenty (20) business days after the submission of a completed application to the tree warden and shall report to the commissioner of inspectional services within twenty (20) business days of a request with respect to any tree permit application submitted in connection with a building permit as to whether said tree permit has been granted or denied. The commissioner of inspectional services shall not accept an application for a building permit without confirmation of an approved tree permit.

 The City shall use the online permitting system to automatically generate notifications of Tree Permit applications to abutters and neighbors within 500 feet of the lot on which the Protected Tree is located.

 (d) *Standards for grant or denial:* No tree permit shall be issued unless an Environmental Mitigation Payment is made (as outlined in section 21-86) and one of the following conditions exists:

(1) The Protected Tree will be relocated or replaced on site as per section 21-85, Tree Replacement.

(2) The Protected Tree will be replaced by payment in lieu of planting Replacement Trees as outlined in section 21-86.

- (3) The Protected Tree is interfering with existing structures, utilities, streets, sidewalks or other existing improvements. Documentation of the interference and damage being currently caused shall be provided at the request of the Tree Warden.
- (4) The Protected Tree is dead, diseased, in danger of falling, dangerously close to existing structures, causing disruption of public utility service, causing drainage or passage problems upon rights-of way, or posing a threat to pedestrian or vehicular safety. Documentation shall be provided by a Certified Arborist utilizing industry approved Risk Tree Evaluation method and any additional forms or documentation required by the Tree Warden.
- (5) The removal of the Protected Tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified to the Tree Warden by a Certified Arborist.
- (6) No Protected Tree(s) are to be removed from the site and approved Tree Protection measures will be in place where necessary as determined by the tree warden.

(e) *Conditions:* Upon the issuance of a tree permit, the tree warden may prescribe in writing such protective measures for existing protected trees as she/he deems necessary. Before site disturbance may begin, the tree warden shall make a determination that the prescribed protective measures have been adequately provided. Documentation shall be provided by a Certified Arborist on form(s) provided by the Tree Warden that the tree protective measures are in place. Once the tree warden has received confirmation that the tree protection measures are in place, the tree warden will notify ISD that exterior work may commence.

The Tree Permit shall be posted on site, such that it is visible from a public way, for the duration of the permit-related activities.

(f) *Construction:* Except as provided in a Tree Permit, construction activities within the Tree Save Area of a Protected Tree, are prohibited. Activities include, but are not limited to, excavating, trenching, grading, storage of materials or equipment, passage of heavy equipment within the Tree Save Area, and spillage of chemicals or other materials, which are damaging to trees.

(g) *Suspension or revocation:* A tree permit may be suspended or revoked at any time by the tree warden upon written notice to the permit holder that the permit holder has failed to comply with either this article or the conditions of the permit. The written notice shall be sent by certified or registered mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the noncompliance and apply for a renewal of the tree permit upon compliance, where practicable. The suspension or revocation of a tree permit in accordance with this subsection shall affect the validity of a building permit issued in reliance upon the issuance (granting) of such tree permit and shall be cause for the commissioner of inspectional services to issue a stop-work order or to withhold the issuance of a certificate of occupancy until the tree warden confirms that the tree permit suspension or revocation is resolved.

(h) *Appeal:* Any person aggrieved by a decision of the tree warden may file an appeal with the mayor (or the mayor's designee) and the councilors of the ward in which the protected trees are located. Said appeal must be in writing and must be received by the mayor and councilors within five (5) business days of issuance of the tree warden's decision. Upon receipt of such appeal, the mayor or mayor's designee shall provide a copy to the clerk of the city council and to each abutter of the property on which the trees are located. The mayor and councilors shall be guided by reasonable safety and tree wellbeing provisions in granting approval of the removal of healthy mature trees. The mayor and the councilors shall jointly make a final decision on the matter within thirty (30) days from the date of receipt of the appeal (in the case of a tie vote, the tree warden's decision stands). The

mayor shall include in the decision the rationale thereof. Upon issuance of the final decision, the mayor shall provide a copy to the clerk of the city council and to each abutter. There shall be no further appeal of the matter decided by the mayor and councilors. No protected trees shall be removed while an appeal is pending. (Ord. No. V-275, 12-6-99; Ord. No. X-202, 04-03-06; Rev. Ord. 2007, § 20-33; Ord. No. A-38, 05-05-14)

Sec. 21-84. Activities not requiring a permit.

(a) *Pruning:* A permit is not required for the pruning of Protected Trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance of the tree, compliance with ANSI A300 pruning standards is required, and failure to meet these standards is a violation of this Article.

(b) *Emergencies:* If any Protected Tree shall be determined to be in a hazardous condition so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services and require immediate removal without delay, oral authorization may be given by the tree warden to remove such tree, utilizing such professional criteria and technical assistance as the tree warden deems necessary, and the protected tree may be removed without obtaining a written permit as otherwise required by this article. The tree warden shall memorialize in writing each such oral authorization to remove a tree and keep a record of the same.

(c) *Waiver:* The requirements of this article may be waived by the tree warden during the period of an emergency such as a tornado, windstorm, flood or other act of God. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-34; Ord. No. A-38, 05-05-14)

Sec. 21-85. Tree replacement.

(a) *Required:* A Protected Tree shall be replaced in the manner provided in subsection (b) hereof in each instance in which a Protected Tree was removed from land subject to the provisions of section 21-82.

(b) *Standards:* A person who has removed a Protected Tree and is required to replace such tree pursuant to subsection (a) hereof or as a condition of granting a Tree Permit in accordance with section 21-83, shall replace such tree within eighteen (18) months, or prior to transfer of property ownership whichever comes first from the date the tree permit is issued and in accordance with the following standards. In the event that a tree of the same or equivalent size as measured in DBH inches cannot be planted, then multiple smaller Replacement Trees may be planted provided that, wherever practicable, as determined by the tree warden, the total DBH of the replacement trees shall conform to the following:

- 1) For every Protected Tree removed that does not qualify as a Significant, Landmark, or Legacy tree, the total DBH of the replacement trees shall, when added together, equal the total DBH of the protected tree that has been removed.
- 2) For every Protected Tree removed that also meets the Significant Tree definition but is not a Landmark or Legacy Tree, the total DBH of the replacement trees shall, when added together, equal 1.5 times the total DBH of the Significant tree that has been removed.
- 3) For every Protected Tree removed that also meets the Landmark Tree definition but is not a Legacy Tree, the total DBH of the replacement trees shall, when added together, equal 2 times the total DBH of the Landmark tree that has been removed.
- 4) For every Protected Tree removed that also meets the Legacy Tree definition, the total DBH of the replacement trees shall, when added together, equal 3 times the total DBH of the Legacy tree that has been removed

(c) Replacement tree(s) shall be of the same or similar species or such other species as deemed advisable by the tree warden. Trees planted as hedges shall not count as Replacement Trees.

- (d) A Replacement Tree shall be considered a Significant Tree regardless of trunk diameter, health or condition. The Tree Permit holder shall provide documentation as to the date of planting and file the same with the tree warden within fifteen (15) days of the planting of said replacement tree. Documentation shall be provided by a Certified Arborist on form(s) provided by the Tree Warden that the trees are in place.
- (e) No Replacement Tree shall be removed without a Tree Permit. Replacement Tree should survive at least ten years. If a Replacement Tree is to be removed during this time, Tree Permit applicants will be required to meet the replacement requirements of a Significant Tree, will *not* be eligible for any reductions in the new environmental mitigation payment, and must reimburse the replacement reduction for the removed tree(s).
- (f) A Replacement Tree shall be planted on the same lot from which the Protected Tree was removed. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-35, Ord. No. A-38, 05-05-14)

Sec. 21-86. Tree replacement fund.

(a) *Established:* There is hereby established a tree replacement fund that shall be held in a separate identifiable account and administered in accordance with applicable provisions of the General Laws. Any payments into the tree replacement fund required by this article shall be deposited in the tree replacement fund and shall be used in accordance with subsection (d) hereof.

(b) *Environmental Mitigation Payment:* This payment will be required for all Protected Trees removed. The Environmental Mitigation Payment will be waived if Protected Trees are removed because of

- i emergency circumstances,
- ii significant utility infrastructure projects undertaken pursuant to State or Federal regulations or programs,
- iii where a tree poses significant negative impact to an adjacent structure,
- iv for dead or dangerous trees, or
- v where a Lot is of such density with existing trees that the removal of certain Protected Trees is considered beneficial to the health of the tree canopy on the Lot.

The required Environmental Mitigation Payment ($DBH^2 \times 0.785 \times$ base value, where the base value is not less than [AMOUNT]) will be reduced by the cross-sectional valuation of each Replacement Tree.

(c) *Payment in lieu of planting Replacement Tree(s):* In lieu of planting Replacement Trees as provided in section 21-85, a person who has been granted a Tree Permit may choose to pay the Environmental Mitigation Payment in full, without taking the allowed Replacement Tree deduction.

(d) *Maintenance of tree replacement fund:* The tree replacement fund shall be maintained in a separate account in accordance with state law. All sums deposited into such fund shall be used solely for the purpose of buying, planting and maintaining trees in the city. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-36; Ord. No. A-38, 0505-14)

Sec. 21-87. Rule and regulations.

The tree warden is authorized to promulgate reasonable rules and regulations to implement administration of sections 21-80 through 21-90. (Ord. No. A-38, 05-05-14)

Sec. 21-88. Enforcement.

(a) *Notice of violation:* Any person who violates any of the provisions of this article shall be notified by the tree warden of the specific violation by certified mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had. The tree warden shall send notice of violation of section 21-86, which notice shall include the date by which trees were to be replaced or payment was to be made for purposes of computing the "per day" violation fine, as provided in section 21-89.

(b) *Stop work order:*

- (1) Upon notice from the tree warden that work on any Protected Tree, or lot on which a Protected Tree is located, is being performed contrary to the provisions of this article, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.
- (2) The tree warden is also authorized to direct the agency that has granted an exterior work permit to order, to the extent permissible by law, that the owner cease any activity pursuant to the exterior work permit that might affect such protected tree while a stop work order is pending.
- (3) Any person who shall continue any work in or about the protected tree or on the lot on which a protected tree is located after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each such violation. Each day during which a violation exists shall constitute a separate offense.

(c) *Injunctive relief:*

- (1) Whenever there exists reasonable cause to believe that a person is violating this article or any standards adopted pursuant to this article or any term, condition or provision of an approved tree permit, the city may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the city for a mandatory or prohibitory injunction and an order of abatement demanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
- (2) Upon determination of a court that an alleged violation is occurring, it shall enter such order or judgment as is necessary to abate the violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceedings from any civil penalty prescribed for violation of this article. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-37; Ord. No. A-38, 05-05-14)

Sec. 21-89. Penalties.

(a) *Removal without a permit:* Each instance in which a protected tree is removed without a permit shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day until a Permit Application is filed shall constitute a separate offense.

(b) *Failure to replace trees or make payment:* Each failure to replace a tree or make an Environmental Mitigation Payment into the tree replacement fund shall constitute a separate violation of this article which shall

be subject to a fine in the amount of three hundred dollars (\$300.00). Each day such violation continues shall constitute a separate offense.

(c) *Failure to comply with a condition contained in a Tree Permit or stop work order:* Each instance where there is a failure to comply with a condition contained in a tree permit or stop work order shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day such violation continues shall constitute a separate offense.

(d) *City trees:* Nothing herein shall be construed to require the city to make a payment into the tree replacement fund for any tree(s) which it removes. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-38; Ord. No. A-38, 05-0514)

Sec. 21-90. Severability, effect on other laws.

(a) *Severability:* The provisions of this article are severable. If any section, provision, or portion of this article is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this article shall continue to be valid.



(b) *Conflict of laws:* Nothing herein is intended to conflict with the General Laws, Chapter 87 and to the extent that any provision hereof conflicts with said Chapter 87, such provision shall not be valid. This ordinance shall guide requirements for special permits (Chapter 30, Zoning), with regard to tree removal and replacement. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-39; Ord, No. A-38, 05-05-14)

Newton Needs a Revision to its Tree Ordinance: Here's Why

Over last 50 years, Newton has lost 50% of its street tree canopy ([Open Space and Recreation Plan, 2020-2027, Ch 4.](#), p. 60).¹ This loss is attributed to disease, gas leaks, storm damage, and removal for development. The loss of trees on private lots is at least as great, but the city does not keep data on private-land tree loss. However, we know developers often clear cut lots, even residential lots on residential streets, to expedite movement of equipment. The short window of construction should be measured against the thirty years it takes for a tree to reach maturity.

Even with Urban Forestry's current tree planting, Newton continues to lose approximately 1,000 street trees per year.

- In 2014, the Newton City Council enacted a Tree Preservation Ordinance (A-38) to protect mature trees and replace removal of healthy trees, but it has proven insufficient.
- Right now, there are no protections on trees smaller than 8" in diameter (DBH), and on the many exempt lots in the city, there are no protections for any trees. There are also no protections for any trees due to damage caused by activities on abutting lots. For larger trees on non-exempt lots, a fee can be paid into Newton's tree fund or trees with an equivalent number of caliper inches may be planted. But a young tree and mature tree do not provide equal ecosystem benefits (Marc Welch, public presentation, April 21, 2022).²
 - A mature tree sequesters 2600 lbs of carbon vs. a young tree's 60 lbs.
 - A mature tree conserves 1300 kWh per year, a young tree, 150 kWh per year
 - A young tree uses more water for early growth than it saves in stormwater drainage for the first 3 years after planting

Loss of mature trees has critical effects on the climate and public health.

- Mature trees provide [significant carbon capture and energy savings](#)³
- Provide [stormwater mitigation and prevent flooding](#)⁴
- Save money on asphalt resurfacing, street with 20% shade saves the city 60% on resurfacing costs over 30 years ([Center for Urban Forest Research](#), p. 3)⁵
- Clean the air of pollutants
- Prevent heat islands
- Slow vehicular traffic and act as a sound barrier
- Protect against topsoil erosion
- Beautify neighborhoods and increase property values

Newton needs to take action.

Such drastic reductions in Newton's tree canopy mean even more stringent rollbacks in greenhouse gas emissions will be necessary to achieve the carbon neutrality agreed on in [the](#)

¹ <https://www.newtonma.gov/home/showpublisheddocument/72128/637616961801770000>

² https://youtu.be/MWUNFXxSK_w; see especially 31:15 – 33:40.

³ <https://www.fs.usda.gov/ccrc/topics/urban-forests>

⁴ <https://www.cdc.gov/climateandhealth/effects/default.htm>

⁵ https://www.fs.fed.us/psw/topics/urban_forestry/products/cufr_673_WhyShadeStreets_10-06.pdf

[City's Climate Action Plan](#), despite ongoing tree planting (pp. 40, 47, 64, 67, 68).⁶

- Climate change constitutes a public-health emergency, [according to the American Medical Association, the American Public Health Association, and over 70 major medical organizations](#).⁷
- Climate impacts public health via air pollution; allergens; diseases carried by mosquitos, ticks, and rodents; temperature; flooding; and more (according to [the CDC](#)).⁸
- The window to prevent global warming from exceeding 1.5 degrees Celsius closes in 2030 ([IPCC report](#)).⁹
- We need to *save* mature trees in our urban canopy because they provide [significant carbon capture and energy savings](#).¹⁰
 - Planting new trees is inadequate because it takes decades for new trees to provide the same ecosystem services.
 - See the 10-minute presentation (starting at 24:02) by Newton City Forester Marc Welch in this 2022 [webinar on Trees as a Public Good](#).¹¹

These public-health and climate effects are environmental justice issues, even in Newton.

Compare [Tree Equity Scores](#)¹² for different parts of Newton:

- Nonantum: 53/100
- Newtonville: 59/100
- Auburndale, Newton Upper Falls & Newton Corner: 76/100
- Waban & Chestnut Hill: 100/100

How does the ordinance need to change?

- A protected tree's width at breast height (DBH) must be 6" instead of 8".
- There need to be no lots exempted from tree protection.
- There need to be protections for trees abutting lots with damaging activities (such as demolition or construction).
- Protections must be enacted for appropriate species of replacement trees to be planted with oversight of first three years' growth.
- Appeals for removal of healthy mature trees must be restricted to reasonable safety and wellbeing provisions.
- There must be better guidelines to retain perimeter trees during construction.
- Replacement, whether planting new trees or paying a compensation fee, should reflect the current science showing the need for a higher ratio of replacement inches and showing the expensive energy, infrastructure, public health and other costs to the City.

⁶ <https://www.newtonma.gov/home/showpublisheddocument/39649/637335412898900000>

⁷ <https://climatehealthaction.org/cta/climate-health-equity-policy/>

⁸ <https://www.cdc.gov/climateandhealth/effects/default.htm>

⁹ <https://www.climateactionproject.org/blog/2030-or-bust-5-key-takeaways-ipcc-report>

¹⁰ <https://www.fs.usda.gov/ccrc/topics/urban-forests>

¹¹ https://youtu.be/MWUNFXxSK_w

¹² <https://treeequityscore.org/>



Ruthanne Fuller
Mayor

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August 1, 2022

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Honorable City Councilors:

I am pleased to submit this docket item to this Honorable Council requesting updates to the City's Tree Preservation Ordinance. The updates are the result of careful work by City Forester Marc Welch over the past year with the Law Department, City Councilors and Tree Commission members. Marc Welch and I believe this proposal is the right mix and pace of changes that are needed to protect our City's tree canopy.

Enacted over twenty years ago with updates in 2014, the City of Newton's Tree Preservation Ordinance was one of the first such regulations in the Commonwealth. Our Ordinance continues to be one of the most comprehensive tree protection ordinances in Massachusetts, one that other municipalities emulate.

The majority of Newton's tree canopy is made up of private trees, and, when combined with the City's trees, our urban forest enhances the quality of life and the City's environment. The presence of trees on private property reduces energy needs, improves air quality, mitigates the effects of stormwater runoff, and enhances the overall sense of community residents and visitors to Newton experience. It is important that we protect this canopy and ensure responsible stewardship.

The Tree Preservation Ordinance was created to help mitigate the effects of the loss of trees from private property. Our Ordinance has resulted in the protection of many private trees, the planting of thousands of trees, and supported the City's urban forestry program.

The changes presented in this draft revised ordinance represent the next evolution of the Tree Preservation Ordinance. Building on the existing ordinance language, the key areas where improvements have been made are:

- Increases replacement requirements for larger trees to address their greater environmental importance
- Adds protections for smaller trees
- Limits significantly the removal of trees without replacement
- Adds effective language that enhances procedures for protecting trees
- Increases the payment required for trees cut without replacement
- Provides the Tree Warden with additional professional input on trees on private property
- Protects trees on lots adjacent to construction

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Newton City Clerk
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The City Forester will also be coming forward with a Street Tree Master Plan in the next few months to address how the City can further advance the management of our own trees.

Please see the attached memo from Mr. Welch, a one-page summary of proposed changes, and a red-line strike-out version of the ordinance with margin comments.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "Ruthanne Fuller". The signature is written in a cursive style with a large initial "R".

Mayor Ruthanne Fuller

Newton Parks, Recreation & Culture Department
246 Dudley Road, Newton, MA 02459
Office: (617) 796-1500
parks@newtonma.gov
Nicole Banks, Commissioner



July 22, 2022

Honorable Mayor Ruthanne Fuller
Newton City Hall
1000 Commonwealth Ave
Newton, MA 02459-1449

Dear Honorable Mayor Fuller:

Attached please find for your consideration an update to the City's Tree Preservation Ordinance. Included is a summary review of the major and notable changes as well as the proposed ordinance language in red line format.

Enacted over twenty years ago with updates in 2014, the City of Newton's Tree Preservation Ordinance was one of the first such regulations in the Commonwealth. Our Ordinance continues to be one of the most comprehensive tree protection ordinances in Massachusetts, one that other municipalities emulate.

The majority of Newton's tree canopy is made up of private trees, and, when combined with the City's trees, our urban forest enhances the quality of life and the City's environment. The presence of trees on private property reduces energy needs, improves air quality, mitigates the effects of stormwater runoff, and enhances the overall sense of community residents and visitors to Newton experience. It is important that we protect this canopy and insure responsible stewardship.

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- Adds effective language that enhances procedures for protecting trees
- Increases the payment required for trees cut without replacement
- Provides the Tree Warden with additional professional input on trees on private property
- Protects trees on lots adjacent to construction

I have been working with the Law Department, City Councilors and members of the Tree Commission over the past year on this ordinance update. I have also been consulting with staff from other City departments such as Conservation. I believe this is the right mix and pace of changes that are needed at this time to protect our City's tree canopy. As you know, I will also be coming forward with a Street Tree Master Plan in the next few months to address how the City can further advance the management of our own trees.

Please reach out to me if you have questions and thank you for our consideration.

Respectfully,

A handwritten signature in blue ink that reads "Marc R. Welch".

Marc R. Welch
Deputy Commissioner
City Forester
Newton Parks, Recreation & Culture

Cc: Nicole Banks, PRC Commissioner

Major and Notable proposed changes to Tree Preservation Ordinance (7-22-2022)

Change	Sec.	Purpose of Change	Consequence of Change
Removed Exempt Lot and Occupied Lot	21-81	To better insure trees are protected regardless of who owns property and the intent of the property. It will trigger the need for anyone removing protected trees to seek a permit.	Will require all property owners in the City to file for a tree permit, including average residential properties that are having trees removed. Will dramatically increase the number of tree permits reviewed by the City.
Expanded protected tree classes. Added Significant, Landmark & Legacy Tree	21-81	Expanding the classifications of Protected Trees allows for increased value to be attributed to large trees. The replacement requirements of these larger trees is greater than before.	Will require applicants to plant larger number of trees or pay for larger number of replacement inches. This will increase the cost to applicants.
Reduced size of Protected Tree from 8" to 6"	21-81	Increase the number of trees protected by the Ordinance.	Increases the number of trees applicants will need to note on their plans and if removed will increase the number of replacement plantings.
Created Tree Save Area	21-81	Increases the area around a protected tree that construction can not take place in. This will allow trees to have a better chance at survival.	Applicants will need to take additional measures to insure trees are protected during construction. More scrutiny will be placed to protect trees along with added cost of protecting trees.
Allows some tree removal without replacement under limited specific circumstances	21-82, (a)	Reduce the number of trees removed and not replaced during construction by eliminating the current exemptions.	Trees on single family and two family lots can be removed without replacement, ONLY when there is no exterior construction planned for 24 months, the trees fall below the Legacy Tree designation, and a permit has been issued.
Add method for determining a tree's risk to the property	21-82, 21-83 (c)(4)	Insures industry standards are being used to determine if a tree is currently a high risk and would therefore determine if replacement is required. Allows uniformity when reviewing trees and removes subjectiveness.	Requires applicants to hire qualified individuals to review trees on the property. Some applicants don't presently do this and would increase their costs due to hiring a professional.
Strengthened Tree Protection language	21-83 (a)(6) (e)	Improved language more clearly defines the required steps to protect trees during construction on the lot AND trees adjacent to the lot where work is to take place. Adds layer of insurance that protective measures are in place.	Applicants will need to work with qualified people to insure tree protection is properly done. Many applicants do not currently do this. The addition of this step will likely increase costs for the applicant.
Updated appeal language	21-83 (g)	Language added that guides the Mayor to seek input from Ward Councilor during appeal.	Will add an extra step in the appeal process, however few appeals are received.
Increase and improved tree replacement requirements	21-85	Increase in replacement requirements. Protected Trees require inch for inch replacement as before. Significant Trees require a replacement rate of 1.5 times the inches removed, Landmark Trees require a replacement rate of 2 times the inches removed. Legacy Trees require a replacement Protections have been put in place to protect replacement trees after planting. Fees paid in lieu of planting will increase to more accurately reflect costs. Cost will include the first five years of maintenance. Cost will also be based on required replacement inches. (i.e. if a Significant Tree is removed payment is 1.5 times the per inch replacement cost, if a Landmark Tree is removed payment is 3 times the per inch replacement cost.	The increase in required replacement inches will encourage applicants to consider not removing existing trees. If they are removed the increase number of require plantings will better mitigate the environmental impacts. Where trees are not replaced an increase in replacement costs will require higher payments for individuals that choose to make a payment in lieu of planting.

DRAFT 7/22/2022

PROPOSED AMENDMENT TO NEWTON ORDINANCES — PARKS, RECREATION AND CULTURE, PUBLIC GROUNDS AND TREES Chapter 21, Article III, Division 3 Tree Preservation

DIVISION 3. TREE PRESERVATION

Sec. 21-80 Findings, intent, and purpose.

The city council has determined that many trees are being lost without replacement incident to demolition of existing buildings in order to construct new buildings and lot clearing in connection with the construction of new buildings on previously undeveloped land. The city council has further determined that trees have been lost, severely damaged or disfigured through excessive or improper pruning or other than natural causes. The result is a net loss of the tree population in the city. The city council has further determined that the city has insufficient legal vehicles to assure that such development adequately preserves, protects and provides for replacement of trees.

The preservation of the private tree canopy and the planting of replacement trees is intended to enhance the quality of life and the environment of the city; to preserve the character of the wooded and natural areas; to reduce energy consumption; to protect air quality; to baffle noise; to preserve and enhance habitat for wildlife; to reduce topsoil erosion and storm water runoff; to protect and increase property values; and to enhance the overall appearance of the city. (Ord. No. A-38, 05-05-14)

Sec. 21-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggregate diameter: The combined diameter of a multiple trunk tree measured at breast height.

Building: The term "building" shall be as defined in section 30-1.

Certified arborist: An arborist certified by the Massachusetts Arborists Association or International Society of Arboriculture, or any successor organization.

Diameter breast height (DBH): The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.

Drip line: A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

~~*Exempt lot:* A lot which meets all of the following criteria:~~

- ~~(1) The lot is occupied and used primarily as a dwelling for up to four families at the time any protected tree(s) are removed.~~
- ~~(2) The lot owner at the time of protected tree removal has owned the lot continuously for a minimum of ninety (90) days prior to the removal of any protected tree(s).~~
- ~~(3) The existing structure on the lot remains occupied as a dwelling with a person or persons living in it for eighteen consecutive months from the date any protected tree(s) are removed.~~

Commented [MW1]: Removed Exempt Lots from Ordinance. Essentially requiring all tree removal (of trees 6" in trunk diameter and larger) work to be done after filing for a permit.

~~(4) The lot remains owned by the same person for eighteen consecutive months from the date any protected tree(s) are removed.~~

Exterior work permit: A permit or approval which is required in order to perform work on a vacant lot or to the exterior of a building on a lot, including, but not limited to the following: a building permit; a review of an alteration of contour of land if required pursuant to section 30-5(c)(1); curb cut and street opening permits; an order of conditions; certificates of appropriateness, nonapplicability, or hardship; a demolition permit pursuant to section 22-44; site plan approval pursuant to section 30-23; subdivision approval; a special permit pursuant to section 30-24; a comprehensive permit.

~~Landmark Tree:~~ Any tree having a diameter of 40" DBH to 54" and which is located on land subject to the provisions of section 21-82.

Commented [MW2]: Added definitions for different size trees (Significant, Landmark, and Legacy). These definitions connect with replacement requirements cited elsewhere.

~~Legacy Tree:~~ Any tree having a diameter of 55" DBH or larger and which is located on land subject to the provisions of section 21-82.

Commented [MW3]: Added definitions for different size trees (Significant, Landmark, and Legacy). These definitions connect with replacement requirements cited elsewhere.

Lot: The real property contained within front, rear and side lot lines, as established by a plan filed in the registry of deeds, which divide the property from adjoining properties.

Occupied Lot: A lot containing a legally constructed, permanent structure, used primarily as a dwelling that is currently being legally occupied and lived in and used as a residence by a person or persons. The dwelling must have a functioning, legally permitted, permanent water service, permanent sanitary service, and permanent electrical service.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to, the person removing a protected tree as well as the owner of the real property from which the tree is removed. The definition of "person" shall not include the City of Newton.

~~Protected tree:~~ Any tree having a diameter of 8" DBH or larger or having an aggregate diameter of fifteen inches (15") 6" DBH or larger and which is located on land subject to the provisions of section 21-82.

Commented [MW4]: Reduce the size of trees covered by the ordinance to better capture the losses of established trees.

~~Pruning standards:~~ Standards for pruning as defined in the City of Newton Tree Management Manual, 1995 and any future amendments or revisions to the same. ~~most current American National Standard Institute (ANSI) A300 Pruning Standards and as defined by the Tree Warden.~~

Commented [MW5]: Replaced mention of Newton Tree Manual with language that references industry standards to more accurately reflect the most professional approach and current research

Remove (including removing and removal): The cutting down of any protected tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a protected tree, including, but not limited to, excessive or improper pruning.

~~*Tree Manual:* The City of Newton Tree Management Manual, 1995, and any future amendments and revisions to the same. (Ord. No. V-275, 12-6-99)~~

~~Risk Tree Evaluation:~~ The process by which a tree is evaluated to determine the level of risk it poses to the existing property and public at the time of inspection. All risk tree evaluations shall be conducted by a qualified Certified Arborist using a systematic process that identifies, analyzes, and evaluates risk. All tree risk evaluations are to follow the most current ANSI A300 Part 9 Tree Risk Assessment protocol. All tree risk assessments are to be done utilizing industry accepted protocols, forms, and other documentation required by the Tree Warden.

Commented [MW6]: Added details on how the level of risk will be assessed in trees. By referencing industry standards better insures that all applicants are on the same page.

Significant Tree: Any tree having a diameter of 25" DBH to 39" DBH and which is located on land subject to the provisions of section 21-82. Or is a replacement tree as described in 21-85 (e).

Commented [MW7]: Added definitions for different size trees (Significant, Landmark, and Legacy). These definitions connect with replacement requirements cited elsewhere

Tree Plan: A plan showing (1) the location, type, and size of each tree 5" DBH and larger; (2) which tree(s) are to be removed, and (3) the location, type, and size of replacement trees. The tree plan should also show the location, estimated size, and tree type of any trees that were removed from the lot within the prior 24 months leading up to the application date.

Commented [MW8]: Clearly defines the documentation expected from the applicant and helps insure uniformity from applicants

Tree Protection Plan: A plan developed by a Certified Arborist, following the most current version of the ANSI A300 standards including Part 5, management standards for site planning and development. This plan shall set out measures for protecting all trees on the lot during construction as well as trees adjacent to the lot that may be impacted by the construction activity on the applicant's lot.

Commented [MW9]: Defines what is expected from a tree protection plan and uses industry standards to insure uniformity for all applicants.

Tree Save Area: Area within the dripline of a tree or the area within a radius around the tree trunk of 1.5 feet for every inch of DBH, whichever is greater.

Commented [MW10]: Enhanced language to create larger areas around a tree that is to remain that is to be protected.

Tree Warden: The commissioner of parks, recreation and culture or his designee. (Rev. Ord. 2007, § 20-31; Ord. No. A-38, 05-05-14; Ord. No. B-53, 03-02-20)

Sec. 21-82. Applicability, ~~permit or certificate of exemption required.~~

(a) *Applicability*: The terms and provisions of this article shall apply to any protected tree located on land within the city not owned by the city, the commonwealth, or any independent authority of the commonwealth, or by the federal government ~~except protected tree(s) located on an exempt lot pursuant to paragraphs (c) and (d) below.~~ except on single or two family residential occupied lots where no exterior construction is presently underway or planned to take place during the 24 months following the removal of trees, the trees to be removed do not meet the Legacy tree designation, and the owner obtains an exemption permit from the tree warden.

Commented [MW11]: Removes discussion of blanket exemptions. Requires anyone wishing to remove a tree to file for a permit from the Tree Warden. Requires replacement plantings for all construction related work. Non construction related tree removals on single and two family lots may not require replacement trees provided they meet specific criteria.

(b) *Permit, ~~certificate of exemption~~*: No person shall remove a protected tree on a ~~non-exempt~~ lot located on land subject to the provisions of this article, or commence legally permitted exterior work on any lot without first obtaining a tree permit ~~or a certificate of exemption~~ from the tree warden. Applications shall be made in writing on forms specified by the tree warden.

~~(c) *Exempt lot, certificate of exemption*: The owner of an exempt lot shall not be required to apply for a tree permit, provided however, that an owner of an exempt lot who seeks an exterior work permit must certify to the tree warden on form(s) provided by the tree warden, that as of the date on the form(s) the lot qualifies as an exempt lot and will remain an exempt lot for eighteen months following tree removal. There shall be no fee for filing a certificate of exemption.~~

Commented [MW12]: Exempt Lot designation removed completely and associated language.

~~(1) The tree warden shall determine whether a property is an occupied lot for the purposes of establishing exempt lot status. The property owner shall, if requested by the tree warden provide proof of ownership as well as a written statement confirming ownership and that a person or persons are living in the property.~~

~~(2) If lot ownership changes during the eighteen consecutive months following the removal of any protected tree(s) on an exempt lot, the new owner must apply for a tree permit and shall be required to replace any protected tree(s) that were removed. If, however, a change of ownership occurs on a lot for which an extension of exempt lot status for non-occupancy during construction has been issued within the eighteen months prior to the change in ownership, the person issued such extension shall apply for a tree permit and shall be required to replace any protected tree(s) that were removed.~~

~~(d) Extension of exempt lot status: If at any point during the eighteen consecutive months following the removal of any protected tree(s) the property is no longer an occupied lot, the current owner of the lot must apply for a tree permit. If the non-occupancy is due to legally permitted construction, the tree warden may grant an extension of exempt lot status for the duration of the construction, provided:~~

- ~~(1) The owner intends to own the lot for eighteen consecutive months from the date a certificate of occupancy is issued for the construction for which the extension was issued; and~~
- ~~(2) The property remains an occupied lot for eighteen consecutive months from the date a certificate of occupancy is issued for the construction for which the extension was issued.~~
- ~~(3) Upon request of an applicant for exempt lot status extension, the tree warden may also waive the requirement that the lot be continuously owned by the same owner for ninety (90) days prior to protected tree removal provided the owner intends to own the lot for twenty-one months from the date a certificate of occupancy is issued for the construction for which the extension is granted.~~
- ~~(4) If at any time during the applicable eighteen or twenty-one month period the lot ownership changes or the lot is not occupied, the tree warden shall revoke the tree permit and exempt lot status extension. The person issued the extension shall file a new tree permit application and shall replace any protected trees that were removed.~~
- ~~(5) Any person issued an extension of exempt lot status must report to the tree warden any change of ownership and any change of occupancy status within fifteen (15) days of the change if that change takes place during the applicable eighteen (18) month or twenty-one (21) month period following the date the certificate of occupancy issued. (Ord. No. A-38, 05-05-14)~~

~~(c) In the case where tree(s) were removed from a single or two family residential occupied lot where no exterior construction was planned but construction did take place within the 24 months following the removal of tree(s) the current property owner will be required to file for a tree permit and will be required to comply with the replacement requirements of sec. 21-85~~

Commented [MW13]: Requires that in the cases where tree removal is to take place not associated with construction, on one and two family lots, that a permit application be filed.

Sec. 21-83. Permit application.

~~(a) Contents-fee: An application for a tree permit shall be submitted to the tree warden. The application for a tree permit shall be accompanied by a fee in the amount of one hundred fifty dollars (\$150.00) and shall include, but not be limited to, the following:~~

- ~~(1) A plan showing the shape and dimensions of the parcel of real property to be developed, together with the existing and proposed locations of structures and improvements, if any, and showing the limit of work;~~
- ~~(2) A tree plan showing the location, type and size of each protected tree 5" in DBH and larger indicating which protected tree(s) are to be removed, and the location, type and size of replacement trees. The tree plan should also show the location, estimated size, and tree type of any trees that were removed from the lot within the prior 24 months leading up to the application date;~~

Commented [MW14]: Improved language regarding what is to be contained in application.

Commented [MW15]: Improved language regarding what is to be contained in application.

- (3) The proposed relocation of any existing protected tree with a statement prepared by a certified arborist explaining how each such protected tree is to be relocated and maintained;
- (4) The location of existing and proposed underground or overhead utility services, existing and proposed roadways, bikeways, walkways and parking areas;
- (5) Any proposed grade changes which might adversely affect or endanger any protected tree ~~with or within~~ the Tree Save Area requires a statement prepared by a certified arborist explaining how each such protected tree shall be protected and maintained;
- (6) The proposed method of protecting the remaining protected trees during the course of the construction.

For any project where exterior work is to take place, and Protected Trees are to remain on the lot a Tree Protection Plan must be completed by a Certified Arborist following the most current version of the ANSI A300 standards including Part 5, management standards for site planning and development. This plan shall set out measures for protecting all trees on the lot during construction as well as trees adjacent to the lot that may be impacted by the construction activity on the applicant's lot. No Exterior work or tree removal work shall take place on a lot until all tree protective measures are approved and in place. Tree Permit holder must notify the Tree Warden once all protective measures are in place, at which time the Tree Warden will provide written documentation that Exterior Work may start. This written documentation may also include additional parameters and requirements related to the protection of trees to remain on the lot and trees within a reasonable distance from the lot.

Commented [MW16]: Enhanced language and requirements for tree protection plan. Language standardizes the materials provided by applicants and is based on industry standards. It will also require that tree protection be in place prior to any work commencing.

(7) The Tree Warden may waive the above listed requirements when an applicant is seeking to remove a protected tree but no exterior work is planned. The Tree Warden shall still require a tree permit application be filed and supporting documentation provided.

Commented [MW17]: Provides some leeway for non construction

(b) Fee: The application for a tree permit shall be accompanied by a fee in the amount(s) listed below.

Commented [MW18]: Fee structure for permits slightly revised. Made fee for the removal of a dead or dangerous tree, not associated with construction, \$0. Increased the other tree permit fee by \$50. Fee was last updated in 2014.

- (1) The fee for an exemption permit or tree permit for the removal of a dead or significantly compromised tree(s) that a certified arborist has attested to on forms required by the City shall be \$0 if there is no pending or planned Exterior Work on the lot.
- (2) The administrative fee for processing a tree permit for all tree removal work or Exterior work with the exception of (b) (1) shall be \$200.

(c) Review of permit applications: The tree warden shall review applications for tree permits in accordance with the provisions of this article. The tree warden shall date stamp or otherwise record the date of filing of each application for a tree permit. The tree warden shall complete the review of each tree permit application no later than ten (10) business days after the submission of a completed application to the tree warden and shall report to the commissioner of inspectional services within ten (10) business days of a request with respect to any tree permit application submitted in connection with a building permit as to whether said tree permit has been granted or denied. If no such report is received by the commissioner within the above-stated time period, he shall accept an application for a building permit without receipt of such report.

(d) Standards for grant or denial: No tree permit shall be issued unless one of the following conditions exists:

- (1) The protected tree will be relocated or replaced on site— per section 21-85, Tree Replacement.

(2) The protected tree will be replaced by payment in lieu of planting replacement trees as outlined in section 21-86.

(3) The protected tree is interfering with existing structures, utilities, streets, sidewalks or other existing improvements. Documentation of the interference and damage being currently caused shall be provided at the request of the Tree Warden.

Commented [MW19]: Creates process for applicant to demonstrate if an existing tree is interfering with an already existing structure.

(4) The protected tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of public utility service, is causing drainage or passage problems upon rights-of-way of way, or poses a threat to pedestrian or vehicular safety. Documentation shall be provided by a Certified Arborist utilizing industry approved Risk Tree Evaluation method and any additional forms or documentation required by the Tree Warden.

Commented [MW20]: Defines and standardizes the required documentation provided by the applicant if they feel an existing tree is a high risk.

(5) The removal of the protected tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified to the tree warden by a certified arborist.

(6) No protected tree(s) are to be removed from the site and appropriate tree protection measures will be in place where necessary as determined by the tree warden.

(e) *Conditions:* Upon the issuance of a tree permit, the tree warden may prescribe in writing such protective measures for existing protected trees as he deems necessary. Before site disturbance may begin, the tree warden ~~may~~ shall make a determination that the prescribed protective measures have been adequately provided. Documentation shall be provided by a Certified Arborist on form(s) provided by the Tree Warden that the tree protective measures are in place. Once the tree warden has received confirmation that the tree protection measures are in place exterior work may commence. A copy of the Tree Permit must be displayed on site such that it is visible from the adjacent roadways and must be in place no later than the day after issuance and be in place till the project is closed out.

Commented [MW21]: Requires that proof be provided that protective measures for trees is in place. Also requires tree permit be displayed to the public.

(f) *Construction:* Except as provided in a tree permit, construction activities ~~underwithin the drip-line~~ Tree Save Area of a protected tree, including those on adjoining lots, are prohibited. Activities include, but are not limited to, excavation, trenching or grading, storage of materials or equipment, passage of heavy equipment within the ~~drip-line~~ Tree Save Area and spillage of chemicals or other materials, which are damaging to trees. Tree Protection plans provided by the Certified Arborist must also include protective measures for protected trees on adjoining lots.

Commented [MW22]: Further strengthen tree protection language and requires closer professional oversight.

(g) *Suspension or revocation:* A tree permit may be suspended or revoked at any time by the tree warden upon written notice to the permit holder that the permit holder has failed to comply with either this article or the conditions of the permit. The written notice shall be sent by certified or registered mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the noncompliance and apply for a renewal of the tree permit upon compliance, where practicable. The suspension or revocation of a tree permit in accordance with this subsection shall not affect the validity of a building permit issued in reliance upon the issuance (granting) of such tree permit nor shall such suspension or revocation be cause for withholding the issuance of a certificate of occupancy.

(h) *Appeal:* Any person aggrieved by a decision of the tree warden may file an appeal with the mayor or ~~his~~ their designee. Said appeal must be in writing and must be received by the mayor or his designee within five (5) business days of issuance of the tree warden's decision. Upon receipt of such appeal, the mayor or ~~his~~ their designee shall provide a copy to the clerk of the city council and to each councilor for the ward in which the trees are located. ~~The mayor or his~~ The mayor shall seek input and consult with the Ward councilor in which

Commented [MW23]: Adds language that the Mayor is to seek

the trees are located. The mayor or their designee shall make a final decision on the matter within thirty (30) days from the date of receipt of the appeal. The mayor or his~~is~~their designee shall include in the decision the rationale therefor. Upon issuance of the final decision, the mayor or his~~is~~their designee shall provide a copy to the clerk of the city council and to each ward councilor for the ward in which the trees are located. There shall be no further appeal of the matter decided by the mayor or his designee. No protected trees shall be removed while an appeal is pending. (Ord. No. V-275, 12-6-99; Ord. No. X-202, 04-03-06; Rev. Ord. 2007, § 20-33; Ord. No. A-38, 05-05-14)

Sec. 21-84. Activities not requiring a permit.

(a) ~~Pruning~~: A permit is not required for the pruning of protected trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance of the tree, compliance with approved ANSI A300 pruning standards is required, and failure to meet these standards is a violation of this article. ~~The tree warden shall maintain on file at all times a copy of the current edition the Tree Manual and shall make copies of the Tree Manual available for the cost of reproduction upon request.~~

(a) *Emergencies*: If any protected tree shall be determined to be in a hazardous condition so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services and require immediate removal without delay, oral authorization may be given by the tree warden to remove such tree, utilizing such professional criteria and technical assistance as he deems necessary, and the protected tree may be removed without obtaining a written permit as otherwise required by this article. The tree warden shall memorialize in writing each such oral authorization to remove a tree and keep a record of the same

(b) *Waiver*: The requirements of this article may be waived by the tree warden during the period of an emergency such as a tornado, windstorm, flood or other act of God. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-34; Ord. No. A-38, 05-05-14)

Sec. 21-85. ~~Tree~~ replacement.

(a) *Required*: A protected tree shall be replaced in the manner provided in subsection (b) hereof in each instance in which a protected tree was removed from land subject to the provisions of section 21-82 without a tree permit.

(b) *Standards*: A person who has removed a protected tree and is required to replace such tree pursuant to subsection (a) hereof or as a condition of granting a tree permit in accordance with section 21-83, shall replace such tree within eighteen (18) months, or prior to transfer of property ownership whichever comes first from the date the tree permit is issued and in accordance with the following standards:

In the event that a tree of the same or equivalent size as measured in DBH inches cannot be planted, then multiple smaller replacement trees may be planted provided that, wherever practicable, as determined by the tree warden, the total DBH of the replacement trees shall conform to the following:

1) For every protected tree removed, that does not qualify as a Significant, Landmark, or Legacy tree, the total DBH of the replacement trees shall, when added together, equal the total DBH of the protected tree that has been removed.

2) For every protected tree removed that also meets the Significant Tree definition, but is not a Landmark or Legacy Tree, The total DBH of the replacement trees shall, when added together, equal 1.5 times the total DBH of the Significant tree that has been removed.

Commented [MW24]: Tree replacement section significantly updated to address changes in tree size categories

Section also protects replacement trees into the future to prevent their removal before they reach maturity.,

3) For every protected tree removed that also meets the Landmark Tree definition, but is not a Legacy Tree the total DBH of the replacement trees shall, when added together, equal 2 times the total DBH of the Landmark tree that has been removed.

4) For every protected tree removed that also meets the Legacy Tree definition, the total DBH of the replacement trees shall, when added together, equal 3 times the total DBH of the Legacy tree that has been removed. A replacement tree shall be of the same or similar species or such other species as deemed advisable by the tree warden in accordance with the Tree Manual and shall have the same or equivalent size as measured in DBH inches as that of the protected tree that has been removed.

(a)(c) Replacement tree(s) shall be of the same or similar species or such other species as deemed advisable by the tree warden. Trees planted as hedges, or bush/shrub forms shall not count as replacement trees unless otherwise permitted by the Tree Warden. In the event that a tree of the same or equivalent size as measured in DBH inches cannot be planted, then multiple smaller replacement trees may be planted provided that, wherever practicable, as determined by the tree warden, the total DBH of the replacement trees shall, when added together, equal the total DBH of the protected tree that has been removed. The tree warden may specify that replacement trees be of a minimum caliper when consistent with current accepted practice as stated in the Tree Manual.

(d) A replacement tree shall be considered a Significant Trees regardless of trunk diameter, health or condition. Required to survive for a minimum of eighteen (18) months from the date it is planted. The person planting the tree Tree Permit holder shall provide documentation as to the date of planting and file the same with the tree warden within fifteen (15) days of the planting of said replacement tree. Documentation shall be provided by a Certified Arborist on form(s) provided by the Tree Warden that the trees are in place.

(b)(e) No replacement tree shall be removed without a Tree Permit. Tree Permit applicant will be required to meet the replacement requirements of a Significant Tree any time a replacement tree is to be removed.

(f) A replacement tree shall be planted on the same lot from which the tree was removed.. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-35, Ord. No. A-38, 05-05-14)

Sec. 21-86. Tree replacement fund.

(a) *Established:* There is hereby established a tree replacement fund which shall be held in a separate identifiable account and administered in accordance with applicable provisions of the General Laws. Any payments into the tree replacement fund required by this article shall be deposited in the tree replacement fund and shall be used in accordance with subsection (c) hereof.

(b) *Payment in lieu of planting replacement tree(s):* In lieu of planting a replacement tree as provided in section 21-85, a person who has been granted a tree permit may make a contribution to a tree replacement fund in an amount equal to the cost to replace the tree in accordance with the provisions of section 21-85, which cost shall be determined by the tree warden based on the City's current cost to purchase and install trees, install, and maintain trees for the first five years. The Tree Warden will update this cost annually.

Commented [MW25]: To better address cost to City to establish newly planted trees the cost of establishing and maintaining the new trees for the first five years will be included into the per tree price.

(c) *Maintenance of tree replacement fund:* The tree replacement fund shall be maintained in a separate account in accordance with state law. All sums deposited into such fund shall be used solely for the purpose of buying, planting and maintaining trees in the city. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-36, Ord. No. A-38, 0505-14)

Sec. 21-87. Rule and regulations.

The tree warden is authorized to promulgate reasonable rules and regulations to implement administration of sections 21-80 through 21-90. (Ord. No. A-38, 05-05-14)

Sec. 21-88. Enforcement.

(a) *Notice of violation:* Any person who violates any of the provisions of this article shall be notified by the tree warden of the specific violation by certified mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had. The tree warden shall send notice of violation of section 21-86), which notice shall include the date by which trees were to be replaced or payment was to be made for purposes of computing the "per day" violation fine, as provided in section 21-89.

(b) *Stop work order:*

(1) Upon notice from the tree warden that work on any protected tree, or lot on which a protected tree is located, is being performed contrary to the provisions of this article, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.

(2) The tree warden is also authorized to request the agency which has granted an exterior work permit to order, to the extent permissible by law, that the owner cease any activity pursuant to the exterior work permit that might affect such protected tree while a stop work order is pending.

(3) Any person who shall continue any work in or about the protected tree or lot on which a protected tree is located after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each such violation. Each day during which a violation exists shall constitute a separate offense.

(c) *Injunctive relief:*

(1) Whenever there exists reasonable cause to believe that a person is violating this article or any standards adopted pursuant to this article or any term, condition or provision of an approved tree permit, the city may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the city for a mandatory or prohibitory injunction and an order of abatement demanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(2) Upon determination of a court that an alleged violation is occurring, it shall enter such order or judgment as is necessary to abate the violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceedings from any civil penalty prescribed for violation of this article. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-37; Ord. No. A-38, 05-05-14)

Sec. 21-89. Penalties.

(a) *Removal without a permit:* Each instance in which a protected tree is removed without a permit shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00).

(b) *Failure to replace trees or make payment:* Each failure to replace a tree or make a payment into the tree replacement fund shall constitute a separate violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day such violation continues shall constitute a separate offense.

(c) *Failure to comply with a condition contained in a tree permit or stop work order:* Each instance where there is a failure to comply with a condition contained in a tree permit or stop work order shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day such violation continues shall constitute a separate offense.

(d) *City trees:* Nothing herein shall be construed to require the city to make a payment into the tree replacement fund for any tree(s) which it removes. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-38; Ord. No. A-38, 05-0514)

Sec. 21-90. Severability, effect on other laws.

(a) *Severability:* The provisions of this article are severable. If any section, provision, or portion of this article is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this article shall continue to be valid.

(b) *Conflict of laws:* This article shall not apply to any public shade tree as that term is defined by the General Laws, Chapter 87 or any amendments thereto. Nothing herein is intended to conflict with the General Laws, Chapter 87 and to the extent that any provision hereof conflicts with said Chapter 87, such provision shall not be valid. Nothing herein is intended to conflict with existing special permit procedures as provided in section 30-24 and to the extent that any provision hereof conflicts with said special permit procedures, such provision shall not be valid. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-39; Ord. No. A-38, 05-05-14)

Tree Preservation Ordinance Comparison Summary, Current vs Administration Proposed vs Councilor Proposed -- 9-15-2022

Current	Administration Proposal	Councilor Malakie/Norton Proposal
Sec. 21-80 Findings, intent, and purpose.		
	No Substantive change	Lengthy explanation added to this section. See proposed draft for language.
Sec. 21-81. Definitions.		
Allows lots of four families and less to be exempt under many circumstances as long as the property is not being sold for at least 18 months following the completion of construction	Eliminates Exempt Lots	Same as Administration Proposal
One group of protected trees. All trees 8" in diameter and larger	Drops protected tree size to 6" in diameter and larger	Same as Administration Proposal
	Adds different size classes of trees which relate to other requirements and replacement requirements later in other sections of the ordinance. Protected tree = 6" and larger; Significant Tree 25" to 39"; Landmark Tree 40" to 54"; Legacy tree 55"+	Same as Administration Proposal
		Creates new definition, "Environmental Mitigation Payment". Outlines cross sectional area calculation for determining monetary value of a tree.
		Added definition of a Lot
References City Tree Manual for certain standards	Replaces language referencing Tree Manual with language to specifies current industry standards to insure the most up to date protocols are being used.	Same as Administration Proposal
	Adds specific language and specific standards to be used to when determining the risk level an existing tree poses. Insure current standards are being followed and creates a base line all are to follow.	Same as Administration Proposal
	Detailed requirements for Tree Plan are added to insure uniformity for applicants and assists the City in its review.	Same as Administration Proposal
Requires protection around an existing tree within the drip line of the tree. Does not protect trees on adjacent lots that are impacted by construction.	Defines Tree Protection Plan and Tree Save area. This will standardize protection measures, uses industry standards and insures a base line for all to follow. Also increases the area of protection around a tree and requires protection to trees on adjacent lots.	Same as Administration Proposal

Sec. 21-82. Applicability

Tree Preservation Ordinance Comparison Summary, Current vs Administration Proposed vs Councilor Proposed -- 9-15-2022

Current	Administration Proposal	Councilor Malakie/Norton Proposal
Applies to all private property in the City but has certain exemptions.	Applies to all private property in the City. (City property is addressed under Chapter 21-72 - 21-80,)	Applies to all private property in the City as well as City property.
Residential properties 4 family or less are exempt from needing a permit or replacing trees if no exterior work (needing a permit) is to take place and the lot is legally inhabited and owned by the same person for at least three months.	Single and two family homes where no construction will take place for two years will not be required to replace trees if removed when under 55 inches in diameter but will be required to get a permit to remove any tree 6" in diameter or larger.	Rules apply to all private and City lots. No exceptions of any kind.
Sec. 21-83. Permit application.		
Permit application fee \$150	Permit application fee \$200	Same as Administration Proposal
Requires site plan showing size, location and type of trees and which ones are to be removed and which ones remain	Requires more details in the proposed tree location plan and delineation of work limits and tree save area.	Same as Administration Proposal
Requires trees be protected	Enhanced language that clearly states expectations for the protection of any trees to remain on site. Requires that industry standards for tree protection be followed. Requires applicant to provide documentation from a Certified Arborist. Prohibits Exterior work until Certified Arborist confirms tree protection measures are in place.	Same as Administration Proposal
		Requires large projects, which require a special permit, to include a tree protection plan that has been submitted to the City a minimum of 21 days prior and reported on to the Land Use Committee.
Fee for processing tree permit \$150.	Fee for processing tree permit \$200. No fee for dead or significantly compromised trees not part of exterior construction.	Same as Administration Proposal
Requires Tree Permit review in ten days or less	Same as Current	Requires Tree Permit review in twenty days or less
Allows Inspectional Services to accept a building permit application if Tree Permit is not acted on within ten days.	Same as Current	Prohibits Inspectional Services from accepting an application for building permit without an approved tree permit.
		Requires notification of abutters within 500 feet of the lot the application is received from.
For a tree permit to be issued protected tree (s) must be relocated or replaced on site; or a payment in lieu of planting replacement trees is made; or the tree interferes with existing infrastructure; or is dead, diseased, or in danger of falling; or no protected trees are being removed.	Similar to current version but adds additional requirements for documentation from a certified arborist that a tree is in poor condition; also requires additional documentation if an existing tree is damaging existing infrastructure.	Same as Administration Proposal

Tree Preservation Ordinance Comparison Summary, Current vs Administration Proposed vs Councilor Proposed -- 9-15-2022

Current	Administration Proposal	Councilor Malakie/Norton Proposal
Unless removed from an exempt lot requires that every protected tree diameter inch be replaced with an inch. Unless the tree is determined to be dead, diseased or significantly compromised or it is compromising and existing structure. This also includes payment in lieu of planting.	Requires all protected tree inches be replaced based on the per inch replacement rules listed in the replacement section of the ordinance. Replacement can also come in the form of a per inch payment in lieu of planting. Replacements will not be required if the tree is determined to be dead, diseased or significantly compromised or it is compromising and existing structure.	Replacement planting requirements the same as Administration Proposal. Payment in lieu of planting is calculated using a different method, which includes a set base tree value and utilizing a cross sectional area calculation.
Allows Tree Warden to prescribe tree protection measures	Allows Tree Warden to prescribe tree protection measures and requires documentation from a Certified Arborist that the measures are in place	Same as Administration Proposal
	Requires Tree Permit be posted at the site	Same as Administration Proposal
		Inspectional Services must be notified that exterior work may commence
Any person aggrieved by decision of Tree Warden can appeal to the Mayor. The Mayor shall notify the councilors in the Ward of the appeal and the Mayor's decision	Any person aggrieved by decision of Tree Warden can appeal to the Mayor. The Mayor shall notify the councilors in the Ward of the appeal, The Mayor shall consult with the Ward Councilor in which the trees are located before making a decision.	Any person aggrieved by decision of Tree Warden can appeal to the Mayor and the Councilors in the ward in which the protected trees are located. A copy of the appeal shall be provided to the properties abutters. The Mayor and the councilors (from the Ward) shall jointly make a final decision on the matter. If there is a tie vote than the Tree Warden's original ruling stands.
Sec. 21-84. Activities not requiring a permit.		
	Same as Current	Same as Current
Sec. 21-85. Tree replacement.		
All protected trees removed requiring replacement shall be on an inch for inch basis. For every diameter inch removed a new inch needs to be planted.	All protected trees removed requiring replacement shall be based on the size class they fall under. Trees 6" to 24" require 1 inch per 1 inch removed Trees 25" to 39" require 1.5 inches per 1 inch removed Trees 40" to 54" require 2 inches per 1 inch removed Trees 55" require 3 inches per 1 inch removed	Same as Administration Proposal
	Trees planted as hedges, or bush/shrub forms shall not count as replacement trees unless otherwise permitted by the Tree Warden	Trees planted as hedges, shall not count as replacement trees

Tree Preservation Ordinance Comparison Summary, Current vs Administration Proposed vs Councilor Proposed -- 9-15-2022

Current	Administration Proposal	Councilor Malakie/Norton Proposal
Replacement trees must survive for a minimum of 18 months	Replacement trees will be considered Significant Trees regardless of trunk diameter, health or condition and are protected from removal in perpetuity. Removal requires compliance with tree permit process. Replacement will be required if dead at any point in future.	Replacement trees will be considered Significant Trees regardless of trunk diameter, health or condition and are protected for 10 years. Removal requires compliance with tree permit process

Tree Preservation Ordinance Comparison Summary, Current vs Administration Proposed vs Councilor Proposed -- 9-15-2022

Current	Administration Proposal	Councilor Malakie/Norton Proposal
Sec. 21-86. Tree replacement fund.		
Payment in lieu of planting replacement trees based on City determined cost to purchase and install trees.	Payment in lieu of planting replacement trees based on City determined cost to purchase, install and maintain trees for the first five years. Payment is calculated by multiplying the number of required replacement inches by the City's per inch cost.	Environmental Mitigation Payment will be required for all Protected Trees removed unless otherwise waved. Payment calculated by tree DBH ² x 0.785 x base value, where the base value is not less than an amount to be determined will be reduced by the cross-sectional valuation of each Replacement Tree.
Sec. 21-88. Enforcement.		
The tree warden may request the agency which has granted an exterior work permit that the activity be stopped if it might affect such protected trees.	Same as Current	The Tree Warden is to DIRECT the agency which has granted an exterior work permit that the activity be stopped if it might affect such protected trees.
Sec. 21-89. Penalties.		
Removal without a permit: Each instance in which a protected tree is removed without a permit shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00).	Same as Current	Removal without a permit: Each instance in which a protected tree is removed without a permit shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day until a Permit Application is filed shall constitute a separate offense.