



Programs & Services Committee Report

City of Newton **In City Council**

Wednesday, November 9, 2022

Present: Councilors Krintzman (Chair), Humphrey, Wright, Baker, Albright, Noel, Ryan, and Greenberg

Also Present: Councilors Malakie, Norton, Danberg, Leary, Crossley, and Oliver

City Staff: Jennifer Wilson, Assistant City Solicitor; Marc Welch, Superintendent of Urban Forestry; Nicole Banks, Commissioner of Parks, Recreation, and Culture; Jonathan Yeo, Chief Operations Officer; Luis Perez Demorizi, Director of Parks and Open Space; Greg Mellett, Assistant Director of Parks and Open Space; Jaclyn Norton, Committee Clerk

For more information regarding this meeting, a video recording can be found at the following link: [11-09-22 Programs & Services Committee Meeting](#)

#404-22 **Discussion on Athletic Field Surfaces, Natural, and Artificial Turf**
COUNCILORS KELLEY, OLIVER, LEARY, ALBRIGHT, GROSSMAN, LUCAS,
MARKIEWICZ, AND BAKER requesting a meeting with the Parks, Recreation and Culture Department to discuss best practices and materials used for athletic field surfacing, both natural, and synthetic. Topics to be covered include playability, safety, durability, environmental impacts, replacement, maintenance, and cost over time

Action: **Programs & Services No Action Necessary 8-0**

Note: Nicole Banks, Commissioner of Parks, Recreation, and Culture; Luis Perez Demorizi, Director of Parks and Open Space; Greg Mellett, Assistant Director of Parks and Open Space; and Glenn Howard, CDM Smith Consultant were introduced to present of athletic field surfacing (attached).

Commissioner Banks and Mr. Demorizi both noted the significant use that the High School turf fields and the Albemarle Sports Complex endure throughout the year. Due to the age of the turf fields and rubberized track surface at both high schools, the Parks, Recreation, and Culture Department is planning to replace the turf field at both high schools, and the track at Newton North High School (NNHS). The track at Newton South High School (NSHS) currently has plans to be resurfaced. There are also plans to install a new synthetic turf field with no track at Albemarle. The Department will also be standardizing materials across all fields to have cohesive maintenance plans.

The implementation of synthetic turf fields helps increase the playability of these fields into the winter months. This is further increased when the field is lighted, delivering an average annual use expansion of 473 hours (Based on NSHS Stadium Light Data). It was also noted in the synthetic turf field ordinance that “athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible.” Mr. Howard detailed the five areas that created the balanced approach to the selection of synthetic turf surfaces and materials. All aspects of this approach can be seen in the attached presentation. The team has developed a preferred recommendation for the projects previously mentioned which consisted of public outreach and meeting with various stakeholders.

Mr. Howard also discussed how Per- and Poly-fluoroalkyl Substances (PFAS) can be present in the artificial turf extrusion process. It is also noted that these chemicals are present in many consumer products, are slow to break down in the environment, and can have potential adverse health effects at high levels of exposure. In interviews with turf manufacturers, CDM Smith developed questions regarding these chemicals and stormwater. The team found in those meetings that 3 of the 4 have already moved away from the lubricant that had PFAS to a silicone-based lubricant with the 4th planning that transition in the fall. All materials before final selection will undergo PFAS testing as well. Later in the discussion, it was noted that while not present in the extrusion process, they can be present in other parts of the turf lifecycle.

Recycling all parts of the turf field except the infill is possible with the turf manufacturer that is being considered. This recycling takes place at a facility in Georgia and the used turf is made into shock pads that are present under the infill of some artificial turf systems. The crumb rubber is also able to be used for an additional turf cycle. Mr. Howard then detailed the recommended synthetic turf field surface with the turf carpet being a dual fiber turf (Slit Film and Microfilament) and the Infill Mix being a TPE and sand mixture. Mr. Demorizi concluded the presentation by stating the next steps that will be taken to prepare for these projects to take place.

During the discussion, multiple Councilors stated concerns over the presence of PFAS. Commissioner Banks and Mr. Demorizi reaffirmed that PFAS can be present in all aspects of life and that they are taking efforts to mitigate these chemicals in projects. One Councilor also raised general concerns about proceeding with synthetic turf. Both the Chair and Commissioner Banks stated that discussions surrounding synthetic turf have been happening for a while and that a substantial burden would be imposed to convert a synthetic turf field into a grass field. The Commissioner stated that this option could be considered once the turf lifecycle in the proposed projects is nearing its end.

Committee members voted 8-0 on a motion of no action necessary from Councilor Albright.

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.

Action: **Programs & Services Held 7-0 (Councilor Ryan not voting)**

Note: The Chair provided a brief overview to the Committee and stated that this is a continued discussion from the October 19th meeting ([10-19-22 Programs & Services Report](#)). Marc Welch, Superintendent of Urban Forestry and Jonathan Yeo, Chief Operating Officer were introduced. Before discussion on the proposed amendments one Councilor sought clarification as to how many trees within the City have a legacy, landmark, or significant designation. Mr. Welch responded that 3-4% of trees within the city have a legacy or landmark designation, and that the department did not sample significant trees due to logistical issues.

Sec. 21-83(b)

The Chair stated that the addition of this section would outline the fees associated with an exemption permit and a tree permit. Mr. Welch followed up that this section is a reference to what the Committee selected via a straw vote at the October 19th meeting. During discussion multiple Councilors stated an interest in detailing some exceptions within the ordinance. It was recommended by Mr. Welch that these be discussed later in the ordinance when going through substantive material. A Councilor on the Committee recommended that the language following “\$0” in 21-83(b)(1) be removed for clarity. The Committee took a straw vote of 6-1 (Councilor Wright opposed) (Councilor Ryan not voting) on adopting 21-83(b) from the City proposal with the removal of “if there is no pending or planned Exterior Work on the lot” from 21-83(b)(1).

Sec. 21-83(c)

The Chair noted that the Councilor proposal would amend the ten (10) day maximum review period to twenty (20) days, prohibit the commissioner of Inspectional Services from issuing a building permit without a tree permit, require the use of an online permitting system and that abutters within 500 feet be notified. The City proposal however changes the word “he” to “the commissioner”. A docketing Councilor noted that the abutter notification in the Councilor proposal would help people be better informed and that it follows a process that currently exists for other activities within the City. Mr. Welch noted that the current ordinance requires a significant amount of work to ensure compliance and that the abutter notifications as stated in the Councilor proposal would cause a significant administrative burden. Mr. Yeo also noted concerns over increased resident complaints if abutter notifications are sent out.

Regarding abutter notification Committee members proposed multiple amendments. The first was to change the 500ft radius to just direct abutters. The second was to have no change from the current ordinance regarding abutter notification. The third is to have direct abutters unless the trees to be removed is over a certain cumulative Diameter at Breast Height (DBH), in such case the notification radius would expand. Seeing these various proposals, the Chair conducted a poll of the Committee. Amending the proposed abutter notification radius from 500 ft to direct abutters received support from three (3) Councilors. No change to the current ordinance also received support from three (3) Councilors. The increased abutter radius after a certain cumulative DBH received support from one (1) Councilor and the Councilor proposal received support from zero (0) Councilors.

During the discussion, one Councilor asked what happens currently if Mr. Welch does not comply with the 10-day decision timeline. Mr. Welch responded that currently, the commissioner of Inspectional Services can issue the building permit. The Committee sought guidance from Jennifer Wilson, Assistant City Solicitor regarding the ability to limit the powers of the commissioner of Inspectional Services. Ms. Wilson stated legal concerns with limiting those powers as the powers of the commissioner of Inspectional Services are governed under the state building code. Councilors took a straw vote on amending the 10-day decision timeline to twenty days followed by a subsequent straw vote on including the provision that would limit the powers of the commissioner of Inspectional Services. Both of these straw votes had a 0-7 (Councilors Krintzman, Noel, Greenberg, Albright, Wright, Humphrey, Baker opposed) (Councilor Ryan not voting) vote.

The Committee voted 7-0 (Councilor Ryan not voting) on a motion to hold from Councilor Noel.

Referred to Programs & Services and Finance Committees

#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.

Action: **Programs & Services Held 7-0 (Councilor Ryan not voting)**

Note: This item was discussed concurrently with #411-22. The report can be found with item #411-22.

The meeting adjourned at 10:29pm.

Respectfully Submitted,

Josh Krintzman, Chair

CDM Smith
Glenn Howard, PMP, RLA
City Of Newton
**Parks, Recreation &
Culture Department**
Nicole Banks,
Commissioner
Luis Perez Demorizi,
Director
Greg Mellett,
Assistant Director

November 9, 2022

Synthetic Turf Improvement Projects

City Council Programs and Services Committee, City of Newton

**CDM
Smith**



AGENDA

- ATHLETIC STAKEHOLDERS AND NEEDS
- BALANCED APPROACH TO MATERIAL SELECTION
- NEWTON HS SYNTHETIC TURF REPLACEMENT PROJECT
- MATERIAL EVALUATION, CONSIDERATIONS AND SELECTION

Turf Field Needs for Both High Schools

NEWTON SOUTH HS TEAMS

FALL:

- 3 GIRLS SOCCER TEAMS (9TH, JV, VARSITY)
- 3 BOYS SOCCER TEAMS (9TH, JV, VARSITY)
- 3 FOOTBALL TEAMS (JV, VARSITY)
- 3 FIELD HOCKEY TEAMS (9TH, JV, VARSITY)
- 2 CROSS COUNTRY TEAMS ON TRACK

WINTER:

- 2 GIRLS TRACK TEAMS (WEATHER PERMITTING)
- 2 BOYS TRACK TEAMS (WEATHER PERMITTING)

SPRING:

- 3 GIRLS LACROSSE TEAMS (ALL LEVELS)
- 3 BOYS LACROSSE TEAMS (ALL LEVELS)
- 2 OUTDOOR TRACK (VARSITY, JV)
- 2 MIDDLE SCHOOL TRACK TEAMS
- 1 UNIFIED TRACK TEAM
- POTENTIAL RUGBY TEAMS

UP TO 11 PRACTICES/GAMES EACH WEEKDAY TO SCHEDULE

NEWTON NORTH HS TEAMS

FALL:

- 3 GIRLS SOCCER TEAMS (9TH, JV, VARSITY)
- 3 BOYS SOCCER TEAMS (9TH, JV, VARSITY)
- 3 FOOTBALL TEAMS (9TH, JV, VARSITY)
- 3 FIELD HOCKEY TEAMS (9TH, JV, VARSITY)
- 2 CROSS COUNTRY TEAMS ON TRACK

WINTER:

- 2 TRACK TEAMS, WEATHER PERMITTING

SPRING:

- 3 GIRLS LACROSSE TEAMS (ALL LEVELS)
- 3 BOYS LACROSSE TEAMS (ALL LEVELS)
- 2 OUTDOOR TRACK (VARSITY, JV)

UP TO 12 PRACTICES/GAMES EACH WEEKDAY TO SCHEDULE

Athletics at HS Turf Fields & Albemarle Sports Complex

Winter:

- Oxford Rd. Neighborhood soccer
- Juventus Boston
- Newton Area Flag Football League Clinic
- Newton Girls Soccer
- Newton Youth Soccer
- Boston Villa Soccer club
- BOH & Day Middle Schools
- General Park and School Field Users

Spring:

- B.A.T. Training
- Buda Youth Frisbee
- J. Lowe Soccer Camps (BC clinic)
- Newton Boys Lacrosse league
- Boston FHC (field hockey clinic)
- Newton Area Flag Football League Clinic
- Eastern Mass Women's Soccer (Suburban Thunder games)
- USA Track and Field New England – outdoor track
- Newton Special Athletes – outdoor track
- Newton Girls Soccer
- Newton Youth Soccer
- Over the Hill Soccer League
- Newton Girls Lacrosse League
- Prime – workouts
- Tanrikulu resident group
- Eastern mass Women's Soccer League
- Newton Little League
- Newton LL Seniors
- Senior Youth Baseball
- Newton Girls Softball
- F.A. Day Middle School Athletics;
- Prime Baseball League
- Babe Ruth Baseball Tryouts
- Adult Cricket
- Extra Innings Baseball Clinic
- BOH & Day Middle Schools
- General Park and School Field Users

Summer:

- Eastern Mass Women's Soccer (Suburban Thunder games)
- BUDA Youth Frisbee
- Boston FHC (field hockey clinic)
- Newton Community Ed summer sports clinics
- REV Lacrosse
- Newton Special Athletes – outdoor track
- Bertuzzi Soccer Training
- NN/NS Football Clinic
- North fall pre-season training and tryouts
- Newton Little League
- Babe Ruth Baseball
- Adult Cricket
- Newton Girls Softball
- Newton Community Ed – baseball
- Boys and Girls Club
- Extra Innings Baseball Clinic
- Mustang Youth Football
- American Legion Baseball
- Prime Baseball
- Juventus Youth Soccer
- BOH & Day Middle Schools
- General Park and School Field Users

Fall:

- Newton Mustangs (youth football)
- Endurance Youth Field Hockey
- Newton Boys Lacrosse League
- Newton Area Flag Football League Clinic
- Over the Hill Soccer league
- Eastern mass Women's Soccer League
- Newton Girls Soccer
- Newton Youth Soccer
- Newton Mustangs Football game
- Newton Little League
- Newton LL Seniors
- Adult Cricket
- Newton Girls Softball
- Mustang Youth Football
- F.A. Day Middle School Athletics
- Extra Innings Baseball Clinic
- Lasell Baseball
- NNHS Baseball captain's practice
- BUDA Youth Frisbee
- BUDA Adult Frisbee
- BOH & Day Middle Schools
- General Park and School Field Users

Synthetic Turf Replacements & Enhancement

- Synthetic turf field replacements at both high schools
 - NSHS First (Winkler Stadium & Brandeis Rd Field)
- Track Improvements
 - resurfacing at NSHS
 - replacement at NNHS
- Synthetic turf expansion at Albemarle (No Track)
- Standardize synthetic turf materials across all fields



NSHS WINKLER STADIUM (2023)



NSHS BRANDEIS RD FIELD (2023)



NNHS TIGER STADIUM (2024)



ALBEMARLE CRAFTS ST FIELD (2023-2024)

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Expanding Play

- Synthetic turf fields:
 - Extended play into the winter months
 - Playable without snow cover in December, January, February & March
- Lighted synthetic turf fields:
 - Additional 3 hours of play per evening in fall and winter
 - Additional 1.5 hours of play per evening in spring and summer
 - Average Annual use expansion: 473 hrs (Based on NSHS Stadium Light Data)



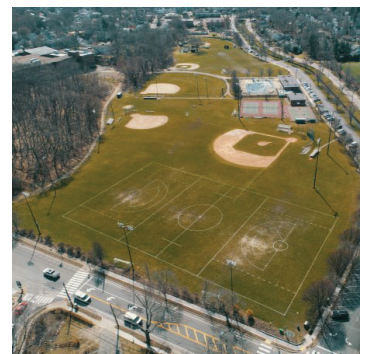
NSHS WINKLER STADIUM LIGHTS (2020)



NSHS BRANDEIS RD FIELD LIGHTS (2022)



NNHS TIGER STADIUM LIGHTS (2023)



ALBEMARLE LIGHTS (2023-2024)

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Project History

- Synthetic turf typically needs to be replaced about 8 - 10 years after installation.
 - Repairs can be done to extend lifespan an additional 2-3 years
- Rubberized track surfacing typically needs to be resurfaced about 8 - 10 years after installation
- Newton South HS synthetic turf fields and track
 - constructed in 2009 (13 yrs old)
- Newton North HS synthetic turf fields and track
 - constructed in 2010 (12 yrs old)
- Fields are currently at their “end of life cycle”
 - repairs to extend lifespan of carpet are no longer effective

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Recap of Environmental Monitoring Report at NSHS Stadium

- Reviewed Environmental Monitoring Work in 2014 and testing
- Conservation Commission 2009 Order of Conditions and MassDEP Superseding Order of Conditions (#239-0590)
 - Perform stormwater monitoring for 5 years
 - Monitor crumb rubber migration for 18 months
- 2013: Environmental consultant hired to:
 - Perform stormwater monitoring 3 times
 - Perform crumb rubber inspections
 - Test groundwater in existing 300' deep irrigation wells
- The 2014 environmental report concluded that:
 - The crumb rubber collection drain system was working properly
 - The synthetic field had no impact on groundwater quality
 - No further testing was required

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Newton High Schools Turf Replacements Project Goals

- Winkler Stadium, Brandeis Road Field and Tiger Stadium synthetic turf field replacement
 - Remove and recycle existing turf carpets
 - Remove and dispose of existing Crumb Rubber infill from recycled tires
 - Replace with better and cleaner turf carpet and infill
- Newton North and South track resurfacing
 - Evaluate and patch significant irregularities
 - Respray track surface over existing
- Field collector drains cleaned

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Existing Turf Photos

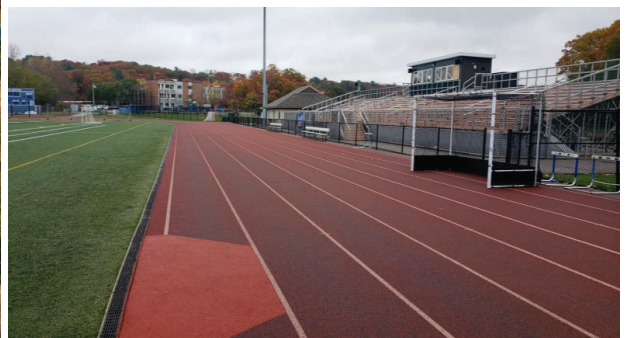
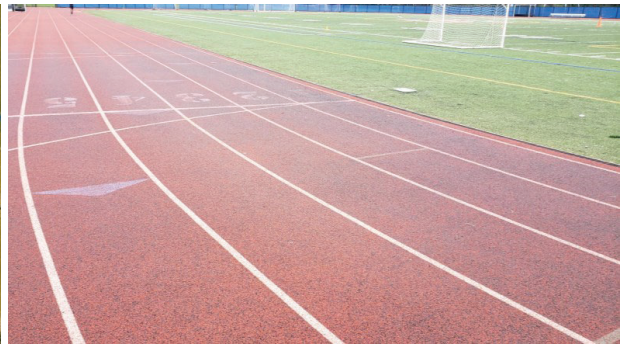


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Existing Turf Photos



Existing Track Photos at NSHS



Product Research

- Interviews with Turf manufacturers
 - Shaw Sports
 - AstroTurf
 - Field Turf
- Review of synthetic turf system options for multi-purpose sports fields
 - Turf carpet
 - Infill materials (organic and non-organic)
 - Shock pads (when required)

City Of Newton Synthetic Turf Field Ordinance (Ord. No. Z-96, 11-07-11)

Sec. 2-205.

Installation of synthetic in-filled turf athletic fields on city-owned property. The installation of synthetic in-filled turf athletic fields on city-owned property shall use sustainable, recyclable, lead-free, non-toxic products to the maximum extent feasible. The department responsible for the project, in conjunction with the city's chief procurement officer, shall make the determination of the maximum extent feasible for installation in any particular site. The determination shall take into account the best available technology, cost effectiveness, public health and safety, and environmental risks and benefits, and shall consider each proposed installation in light of site conditions, engineering feasibility, commercial availability, public safety, environmental impact and cost. Cost, however, shall not be the overriding factor in determining maximum extent feasible, and a determination of cost shall include consideration of projected life cycle costs including maintenance, repair, replacement, recycling and/or disposal costs over the estimated useful life of the installation.

Synthetic Turf Field Surfaces and Materials Selection Based on a Balanced Approach



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Per- and Poly-fluoroalkyl Substances (PFAS)

- What are PFAS?
 - Large class of man-made chemicals that contain fluorine
- Why is PFAS in the news?
 - Studies suggest potential for adverse health effects at high levels of exposure
- Where are PFAS found?
 - PFAS are used in many consumer products
 - Slow to break down in the environment



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Material Testing and Disposal

- Turf Manufacturer PFAS testing evaluation
 - Ensure that turf carpet selected is factory tested and acceptable per EPA and California Prop. 65 testing methods and guidelines
- Infill Manufacturer PFAS testing evaluation
 - Ensure that infill selected is factory tested and acceptable per EPA and California Prop. 65 testing methods and guidelines
- Existing Turf Carpet Recycling
 - Ensure that the existing turf carpet being removed is recycled at the turf manufacturing facility

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Recommended Synthetic Turf Field Surfaces and Materials Selection Based on a Balanced Approach

- Turf Carpet:
 - Dual Fiber Turf: Slit Film + Monofilament
 - Fiber height: 2.25"-2.5" to ensure GMAX values
 - Appropriate for: Soccer, Football, Lacrosse, Field Hockey and more!
 - Infill Flyout and Displacement Control
- Infill Mix:
 - TPE + Sand
 - No material Migration
 - Retains consistent GMAX ratings
 - Reduced heat levels compared to Crumb Rubber
 - Minimal annual replenishing required at center field and goals
 - Less susceptible to freezing

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Next Steps

- Finalize Project budget for NSHS Fields
- Permit the work at Newton South HS Stadium with the Newton Conservation Commission (Dec. 2022 Thru Jan. 2023)
- Docket funding request with city council for construction funding for both HS projects (Dec. 2022 Thru Jan. 2023)



Thank you for attending!

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)

Proposed change - difference in versions

Councilor Proposal

City Proposal

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.** ~~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.~~

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

No Change Proposed

trees and the provision for mitigating costs to the city of tree loss, both by replacement of trees and by an environmental mitigation payment.

The preservation of ~~Newton's the private~~ tree canopy ~~and the planting of replacement trees~~ is intended to preserve public health, mitigate climate impacts, and thereby enhance the quality of life and the environment of the city; ~~to preserve~~ . A mature healthy tree canopy preserves the character of the wooded and natural areas; ~~to~~ reduces energy consumption; ~~to~~ protects air quality; ~~to~~ baffles noise; ~~to~~ preserves and enhances habitat for wildlife; ~~to~~ reduces topsoil erosion and storm water runoff; ~~to~~ protects and increases property values; and to 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.

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

Proposed change - same in both versions

~~*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.~~
- ~~(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.

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") DBH or larger and which is located on land subject to the provisions of section 21-82.

Proposed change - same in both versions

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.

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.

Proposed change - same in both versions

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.**

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)

Proposed change - same in both versions

~~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)~~

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)

Proposed change - new definitions added - same in both versions

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.

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.

Proposed change - difference in versions

Councilor Proposal

City Proposal

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 x 0.785 x base value, where the base value is not less than [AMOUNT].

not part of City Proposal

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 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.

Proposed change - difference in versions

Councilor Proposal

(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.~~

City Proposal

(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.**

(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.

Proposed change - same in both versions

(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.

(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 exempted 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)

Proposed change - same in both versions

~~(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.~~

~~—(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 exempted 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)~~

Proposed change - difference in versions	
Councilor Proposal	City Proposal
not part of Councilor proposal	(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

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:

Proposed change - same in both versions

(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) 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;

Proposed change - same in both versions

(1) **A plan showing** The shape and dimensions of the parcel of real property, 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 indicating which protected tree(s) are to be removed, and the location, type and size of replacement trees;

Proposed change - same in both versions

(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;**

Proposed change - new definitions added - same in both versions

(new #) Documentation from a Certified Arborist if any trees are dead, diseased, injured, in danger of falling, dangerously close to existing structures, disrupting public utility services, causing drainage or passage problems on rights-of-way, or posing a threat to public safety

(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 a statement prepared by a certified arborist explaining how each such protected tree shall be protected and maintained;

Proposed change - same in both versions

(5) Any proposed grade changes which might adversely affect or endanger any Protected Tree or is within the Tree Save Area of any protected tree on the applicant's lot or any abutting lot 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.

Proposed change - same in both versions

(6) The proposed method of protecting the remaining protected trees on the applicant's lot and any abutting lots during the course of construction or tree removal shall be prepared by a Certified Arborist;

Proposed change - new definitions added - same in both versions

(7) For any activity requiring Exterior Work Permit or involving tree removal, where Protected Trees are to remain on the lot or where the Tree Save Area of Protected Trees on adjacent lots comes onto the applicant's lot, a Tree Protection Plan must be completed by Certified Arborist (as specified in 21-81).

<i>Proposed change - difference in versions</i>	
Councilor Proposal	City Proposal
<p>(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.</p>	<p>not part of City Proposal</p>

<i>Proposed change - difference in versions</i>	
Councilor Proposal	City Proposal
<p>not part of Councilor proposal</p>	<p>(8?) 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.</p>

<i>Proposed change - difference in versions</i>	
Councilor Proposal	City Proposal
<p>(b) Fee: The application for a tree permit shall be accompanied by a fee in the amount(s) listed below.</p> <p>(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</p> <p>(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.</p>	<p>(b) Fee: The application for a tree permit shall be accompanied by a fee in the amount(s) listed below.</p> <p>(1) The fee for an <u>exemption permit or tree permit</u> 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 <u>if there is no pending or planned Exterior Work on the lot.</u></p> <p>(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.</p>

(b) 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.

Proposed change - difference in versions	
Councilor Proposal	City Proposal
<p>(c b) 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 <u>twenty (20)</u> business days after the submission of a completed application to the tree warden and shall report to the commissioner of inspectional services within <u>twenty (20)</u> 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. <u>The commissioner of inspectional services shall not accept an application for a building permit without confirmation of an approved tree permit.</u></p> <p><u>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.</u></p>	<p>(c b) 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 <u>ten (10)</u> business days after the submission of a completed application to the tree warden and shall report to the commissioner of inspectional services within <u>ten (10)</u> 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 the commissioner shall accept an application for a building permit without receipt of such report.</p> <p>not part of City Proposal</p>

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

Proposed change - difference in versions

Councilor Proposal

(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:

City Proposal

(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.

Proposed change - same in both versions

(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

Proposed change - same in both versions

(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 to the Tree Warden as part of the permit application, per section 21-83 (a)(3).**

(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, or poses a threat to pedestrian or vehicular safety.

Proposed change - same in both versions

(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, 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.**

(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.

(d) 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 make a determination that the prescribed protective measures have been adequately provided.

Proposed change - difference in versions

Councilor Proposal	City Proposal
<p>(ed) Conditions: Upon the issuance of a tree permit, the tree warden may prescribe in writing additional parameters and requirements related to the protection of trees to remain on the lot and trees within a reasonable distance from the lot.</p> <p>No Exterior Work, site disturbance, or tree removal work shall take place on a lot until all tree protective measures are approved and in place. The tree Permit holder must provide documentation from a Certified Arborist on the form(s) provided by the Tree Warden that all protective measures are in place. Once the Tree Warden has made a determination that the tree protection measures are in place, the Tree Warden will provide written documentation to the property owner and <u>commissioner of Inspectional Services</u> that Exterior Work may commence</p> <p>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 remain in place for the duration of the permit-related activities</p>	<p>(ed) Conditions: Upon the issuance of a tree permit, the tree warden may prescribe in writing additional parameters and requirements related to the protection of trees to remain on the lot and trees within a reasonable distance from the lot.</p> <p>No Exterior Work, site disturbance, or tree removal work shall take place on a lot until all tree protective measures are approved and in place. The tree Permit holder must provide documentation from a Certified Arborist on the form(s) provided by the Tree Warden that all protective measures are in place. Once the Tree Warden has made a determination that the tree protection measures are in place, the Tree Warden will provide written documentation to the property owner that Exterior Work may commence</p> <p>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 remain in place for the duration of the permit-related activities</p>

(e) Construction: Except as provided in a tree permit, construction activities under the drip line of a protected tree are prohibited. Activities include, but are not limited to, trenching or grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials, which are damaging to trees.

Proposed change - same in both versions

(fe) Construction : Except as provided in a tree permit, construction activities ~~under~~ **within 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.**

(f) 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.

Proposed change - difference in versions

Councilor Proposal

(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~~ 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.

City Proposal

no change in City Proposal

(g) Appeal: Any person aggrieved by a decision of the tree warden may file an appeal with the mayor or his 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 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 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 designee shall include in the decision the rationale therefor. Upon issuance of the final decision, the mayor or his 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)

Proposed change - difference in versions

Councilor Proposal

(hg) Appeal: Any person aggrieved by a decision of the tree warden may file an appeal with the mayor (or ~~his~~ **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 ~~his~~ **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)

City Proposal

(hg) 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~~ **their** 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 shall seek input and consult with the Ward councilor in which 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~~ **the mayor's** designee shall include in the decision the rationale therefor. Upon issuance of the final decision, the mayor or ~~his~~ **the mayor's** 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~~ **the mayor's** 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 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.

Proposed change - same in both versions

(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.~~

(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 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.

Proposed change - same in both versions

(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, or designee, to remove such tree, utilizing such professional criteria and technical assistance as ~~he~~ **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 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:

(1) 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.

Proposed change - difference in versions

Councilor Proposal

(1) Replacement tree(s) 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.~~ Trees planted as hedges shall not count as Replacement Trees.

City Proposal

(1) Replacement tree(s) 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.~~ Trees planted as hedges shall not count as replacement trees unless otherwise permitted by the Tree Warden.

(2) 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.

Proposed change - same in both versions

(2) 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.~~ conform to the following:

a) 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.

b) 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.

c) 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.

d) 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.

(3) A replacement tree shall be required to survive for a minimum of eighteen (18) months from the date it is planted. The person planting the tree 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.

Proposed change - same in both versions

(3) 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 **Tree Permit holder** ~~person~~ 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.**

Proposed change - difference in versions

Councilor Proposal

(4) 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).

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(4) 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.

(45) 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.

Proposed change - difference in versions

Councilor Proposal

(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

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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 (DBH2 x 0.785 x base value, where the base value is not less than [AMOUNT]) will be reduced by the cross-sectional valuation of each Replacement Tree.

not part of City Proposal

(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.

Proposed change - difference in versions

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(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. ~~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.~~

(c) 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, install , and maintain trees for the first five years. The Tree Warden will update this cost annually.

(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.

Proposed change - same in both versions

(1) Upon notice from the tree warden that work on any protected tree, or lot, **or abutting 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.

Proposed change - difference in versions

Councilor Proposal

(2) The tree warden is also authorized to **direct** ~~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.

City Proposal

no change in City Proposal

(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.

Proposed change - same in both versions

(3) Any person who shall continue any work in or about the protected tree or lot on which a protected tree is located, **or an abutting lot**, 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).

Proposed change - difference in versions

Councilor Proposal

(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.**

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no change in City Proposal

(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.

Proposed change - difference in versions

Councilor Proposal

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(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.

no change in City Proposal

(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.

(a) 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)

Proposed change - difference in versions

Councilor Proposal

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(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. This ordinance shall guide requirements for special permits (Chapter 30, Zoning), with regard to tree removal and replacement. ~~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)

no change in City Proposal