

Town of Scarborough Conservation Commission

May 22, 2024 | 6:00 pm | Hybrid: Town Council Chambers B and via Zoom

To participate in the Conservation Commission meeting remotely, please follow this link:
https://scarboroughmaine.zoom.us/webinar/register/WN_6QAWHgC1T72WzFIFWYeDqg

To view the Conservation Commission, please follow this link:
<https://www.youtube.com/channel/UCD5Y8CFy5HpXMftV3xX73aw>

Agenda

6:00 pm Call to order and attendance

- (1) Welcome and introductions
- (2) Land acknowledgement
- (3) Vote on minutes from 4/24/24 meeting
- (4) Review 5/22/24 agenda
- (5) Public comment

6:15 pm Old Business

- (1) Conserving Land & Building Resiliency:
 - a) Conservation Open Space Plan:
 - Update on process
 - Community Engagement: Open House 7/25; smaller events planned
 - b) Environmental Standards: update on process
- (2) Planning Board submittals (materials will not be available until 5/21)

6:55 pm New Business

- (1) Conserving Land & Building Resiliency: Tree Preservation
 - Review South Portland's Tree Protection Ordinance ([overview](#) linked; language attached)
 - Discuss applicability to Scarborough

7:20 pm Updates

- (1) Promoting Citizen Stewardship: Report out from sub-committee
- (2) Town Council
- (3) Sustainability Committee
- (4) Parks and Conservation Land Board

7:30 pm Adjourn

Next meeting: June 26, 2024 at 6:00 pm

Engineering & Technical Services

Town of Scarborough Conservation Commission

March 24, 2024 | 6:00 p.m. | Virtual via Zoom

Meeting Minutes - DRAFT

Present in person:

Commission: Bennett Flanders, Randi Hogan, Abel Plaud, Jessica Sargent, Pete Slovinsky

Town Council: Karin Shupe

Staff: Angela Blanchette, Jami Fitch, Emerson Goodrich, Autumn Speer

Present via Zoom:

Commission: Cathleen Miller, Maggie Vishneau, Marla Zando

A recording of this meeting is available online: [Conservation Commission – 4/24/24](#)

Call to order

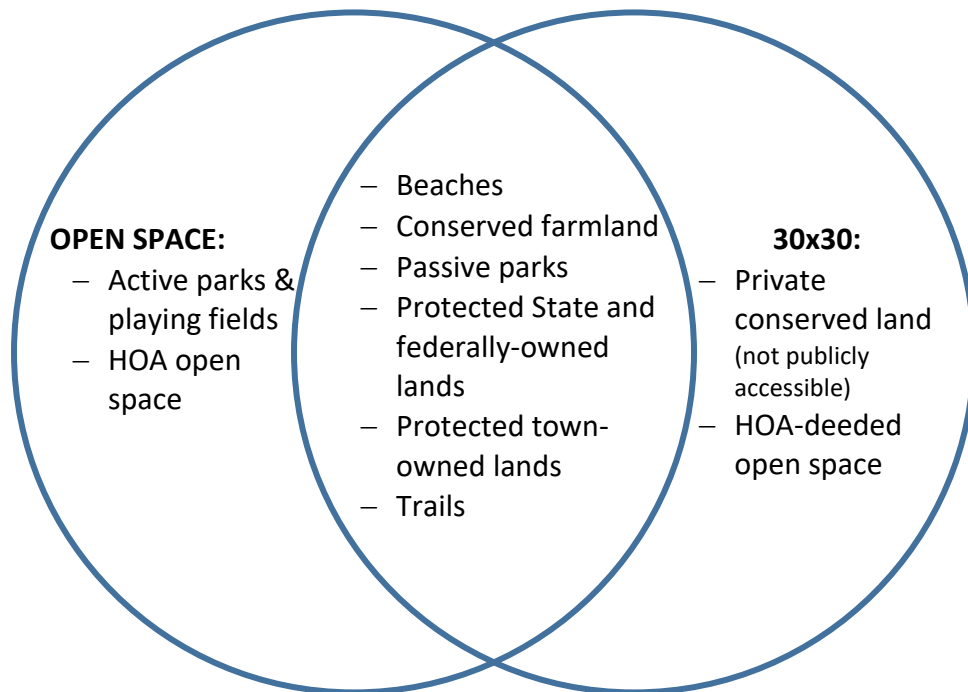
1. Meeting was called to order at 6:02 pm.
2. Randi offered a land acknowledgement to recognize the Wabanaki People as traditional stewards of Scarborough.
3. Jessica motioned to accept the minutes. Pete seconded. Rollcall vote was unanimous. Motion passed.
4. Public Comment
 - Andrew Mackie of Scarborough Land Trust shared that SLT is holding a [plant sale fundraiser and spring festival](#) on 6/1 from 9:00 am - 1:00 pm at Broadturn Farm.
5. Commission Comments
 - Pete shared that officials from the White House and NOAA were in Scarborough on Monday, 4/22, to announce awarding \$123M in [Coastal Zone Management Grants](#). Three projects were funded in Maine, including one for the Scarborough Marsh, which was awarded to SLT.

Old Business

1. Open Space Plan
 - The first meeting of the Open Space Ad-Hoc Committee is scheduled for 5/7. Committee members have been tasked with discussing what qualifies as open space with their respective groups in preparation for the meeting.
 - The Commission considers the following to be open space:
 - Active parks (playgrounds, playing fields)
 - Beaches
 - Conserved land

Engineering & Technical Services

- Conserved farmland
- HOA open space
- Passive parks
- Publicly-accessible conserved land
- Protected State and federally-owned properties
- Protected Town-owned properties
- Trails
- The Commission believes the following should count toward the Town’s 30x30 goal:
 - Beaches
 - Conserved farmland
 - HOA-deeded open space
 - Passive parks
 - Private conserved land (not publicly accessible)
 - Public trails
 - SLT properties
 - Town, State, and federally-conserved (or protected) areas



- Additional comments related to open space:
 - The Commission discussed 0.5-acre parcels being the minimum lot size to count toward open space.
 - Contiguous forested areas aren’t explicit in any of these categories but they are critical areas.
 - Permanently protected natural areas are the most important category for 30x30.
 - There are multiple Town-owned properties that could be conserved to help achieve 30x30.
 - Areas protected through regulation (e.g., zoning) could count toward 30x30.

- **ACTION: JAMI will summarize this part of the discussion and provide notes to Maggie to reference at the 5/7 Open Space Ad-Hoc Committee meeting.**

2. Environmental Standards

- Autumn told the group that the Environmental Standards were presented to the Ordinance Committee and were well received. The Long Range Planning Committee will review the standards at their 5/10 meeting. Staff are also working with SEDCO to host a developers forum to introduce the standards to the development community. The standards may be modified based on feedback from these groups and will then go back to the Ordinance Committee.
- Pete suggested having references to other local ordinances, state standards, or scientific sources for each of the proposed setbacks and buffers in the Environmental Standards. He also noted that Scarborough is not like other communities and that the Town must be different given the presence of the marsh.

3. Conservation Principles

- Randi showed the Commission Conservation Principles for Development Review, which are principles that exist in other areas and serve as a basis for the Environmental Standards.
- The Commission discussed impervious cover (IC) and ways to minimize IC on sites. Autumn noted that the parking standards are due to be updated. She also shared that she believes the process to get a waiver to reduce parking should be simplified
- Angela added that for properties constrained by natural resources, developers should be required to consider and evaluate alternatives to reduce IC.
- Jess summarized that there are three paths: set IC limits, require alternative analyses, and allow for reductions in required parking through waivers.
- Autumn shared that Long Range Planning is also exploring other solutions such as shared parking and connections between parking to assist in reducing parking.
- Abel asked about porous pavement. Angela and Autumn explained that porous pavement is an option in some circumstances, but there are issues with winter salt that make porous pavement unable to be used in some watersheds.

4. Planning Board Submittals

- The Commission reviewed a submittal for a site plan amendment at The Downs. The amendment includes improving the existing Scarborough Downs Road so it meets the Town's standards. The road splits a large wetland system. If the road were new, the Army Corps of Engineers would require culverts to be installed every 50-feet (resulting in the road needed approximately 24 culverts). There is also a significant vernal pool adjacent to the road, which has a conservation easement around it. The plans currently show two open-bottomed "critter crossings" and one stormwater conveyance under the road.
- The Commission had the following comments and recommendations on the submission:
 - The Commission does not consider the stormwater conveyance culvert a critter crossing.
 - Without elevations and crossing details (including cross sections) Commissioners cannot determine if the crossings are in appropriate locations.

The Commission requests the plans include elevations and cross sections for each crossing.

- Two crossing is not sufficient. If this were a new road, Army Corps would require crossings every 50-feet (equaling approximately 24 culverts). **The Commission recommends a minimum of five (5) crossings (not including the stormwater conveyance culvert).**
- **The crossings should re-establish the connection between the two wetland systems.** The short-term impact to the wetland system by adding crossings is far out-weighed by the long-term benefits of connecting the two systems. Reconnecting the wetland systems will reduce road flooding and improve road resiliency.
- **Crossings should include funneling/fencing to help direct animals toward the crossings.** Example:



- **The Commission recommends that the full wetland system, including the portion adjacent to the protected vernal pool and the wetlands on the southern side of Downs Road, be placed in conservation.**
- **The Commission recommends that a third-party hold the existing easement around the vernal pool and any future conservation easements.** There is some question to the legality of the landowner/developer being the easement holder.

New Business

1. FEMA Floodplain Maps

- The Town needs to adopt a new Floodplain Management Ordinance, which will include updated FEMA floodplain maps, by June 2024. As part of the ordinance adoption process, the Town can consider increasing requirements for freeboard, which is the additional height above the Base Flood Elevation (BFE) that is used as a factor of safety.
- The Ordinance currently requires 1-foot of freeboard. The Planning Board recommends 2-feet.
- Pete shared that the Commission advocated for 3-feet of freeboard in 2011 when the FEMA flood maps were preliminary. Given the historic flooding this year, and that

- FEMA's maps are now final, this is the time to make Scarborough's buildings as resilient to flooding as possible.
- Bennett shared cost concerns associated with higher freeboard. Pete explained that the difference in cost between going up two feet and three feet is negligible. The majority of the cost is associated with the initial process to jack up the house. He also noted that there is a significant savings in federal flood insurance premiums with a 3-foot freeboard.
 - *Pete motioned to recommend the Council adopt a 3-foot freeboard. Abel seconds. The motion received 5 votes in favor and 1 abstain. Motion passed.*
 - **ACTIONS:**
 - **PETE will provide background documents from the Commission's 2011 process to Jami and Autumn.**
 - **JAMI will draft a memo with the Commission's recommendation.**

Updates

1. Education Subcommittee

- Marla and Cathleen provided an overview of the subcommittee's work. They are working on articles about native plants and hope to have an article about open space.
- Angela shared that she shared the Commission's plant list with the group that is working on updating the State's stormwater regulations. The list could be used statewide.

2. Parks and Conservation Land Board

- The Trust for Public Land is implementing a survey to understand how much money Scarborough residents will support for the land bond. PCLB will vote on a bond amount at their 5/9 meeting. The Finance Committee will consider the land bond at their June meeting, and a Town Council workshop is planned in July.

Meeting adjourned at 7:57 pm.

Next Meeting:

May 22, 2024 @ 6:00 pm

ARTICLE XXI. TREE PROTECTION

Sec. 27-2101. Purpose.

The purpose of this Article is to protect and preserve trees and wooded ecosystems within the City (“Tree Resources”), and if Tree Resources are impacted through the orderly development of the community, to provide commensurate and reasonable mitigation to the City. In protecting, preserving, and mitigating for the loss of Tree Resources, this Article recognizes the value that Tree Resources provide with respect to enhancing quality of life and the environment in the City; protecting air quality; reducing excessive glare and heat; reducing noise nuisances; reducing topsoil erosion and stormwater runoff; preserving and enhancing habitat areas for significant wildlife; protecting and increasing property values; combating climate change through carbon sequestration; supporting privacy between neighboring properties; enhancing overall neighborhood aesthetics; protecting culturally and historically significant trees; and acknowledging the intrinsic value of mature trees in our community.

Sec. 27-2102. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

(a) Affordable Housing Projects.

Projects proposing 3 or more dwelling units, where at least 50% of the dwelling units are decent, safe, sanitary, and affordable as follows:

- 1) For rental housing, a dwelling unit is affordable if a household whose income does not exceed 80% of the local area median income (i.e., the “Portland, ME HUD Metro Fair Market Rent Area” as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended), can afford to lease the dwelling unit without spending more than 30% of the household’s monthly income on housing costs. For a rental unit, housing costs include the cost of rent; any utilities (electric, heat, water, sewer, and/or trash); and any other contractual service costs or costs that are otherwise required to be paid by a tenant household through a lease or rental agreement with the landlord in order for the tenant household to occupy the rental unit.
- 2) For owned housing, a dwelling unit is affordable if a household whose income does not exceed 120% of the local area median income (i.e., the “Portland, ME HUD Metro Fair Market Rent Area” as defined by the U.S. Department of Housing and Urban Development under the U.S. Housing Act of 1937, as amended), can afford to purchase the dwelling unit without spending more than 30% of the household’s monthly income on housing costs. For an ownership unit, housing costs include the cost of mortgage principal and interest, real estate taxes, private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.

(b) Caliper.

A measurement of the tree trunk diameter used when purchasing tree plantings measured at 12 inches above the ground.

(c) Crown Cover.

The proportion of the ground covered by the crowns of live trees. This term is synonymous with the drip line of the tree.

(d) DBH (Diameter at Breast Height).

This term shall have the same meaning as set forth in Sec. 27-201. For multi-stemmed trees, DBH is the aggregate diameter of the trunks.

(e) Environmental Management Organizations.

Organizations whose mission and purpose is the long term preservation and conservation of open space and natural resources, and that include, but are not limited to, the following: The City's Parks, Recreation and Waterfront Department; land trusts; land conservation entities; State and federal environmental management agencies; and watershed management agencies.

(f) On-site Replacement.

Planting trees as a mitigation measure for Tree Removal on the property where the Tree Removal occurred, or on a contiguous parcel under the same ownership as the property where the Tree Removal occurred.

(g) Off-site Replacement.

Planting trees as a mitigation measure for Tree Removal on property that is not considered On-Site Replacement.

(h) Project Reductions or Modifications.

Project Reductions or Modifications refer to modifications in the scope, scale, design, and extent of a project such that Tree Removal of Protected Trees is avoided. Project Reductions or Modifications include altering the following project parameters below the maximum that is otherwise allowable based on the applicable standards and regulations in the City's Code of Ordinances to avoid Tree Removal:

- 1) Decrease square feet of lot coverage, as defined in Sec. 27-201, if the project proposes to develop at 75% or more of the maximum allowable lot coverage on the property.
- 2) Decrease square feet of impervious surface area, as defined in Sec. 27-201, if the project proposes to develop at 75% or more of the maximum allowable impervious surface area on the property.
- 3) Decrease the area within the project's disturbance area, which includes the area of work as well as areas disturbed due to construction staging and operations.
- 4) Decrease the number of dwelling units, as well as associated improvements such parking spaces, to decrease density or net residential density, as defined in Sec. 27-201, if the project proposes to develop at 75% or more of the maximum allowable density or net residential density on the property.
- 5) Decrease the number of proposed parking spaces if the project is proposing more parking than is required by this Chapter.
- 6) Modify the location of streets and access ways to avoid Tree Removal. This Project Reduction or Modification shall be measured in terms of linear feet of roadway (but the locations must still be in compliance with all applicable ordinances, including, without limitation, Chapter 23 (Streets and Sidewalks) and Chapter 24 (Subdivisions)).

- 7) Modify linear feet of lot frontage and/or lot area dimensions in projects that propose new lots (but frontage and lot area still be in compliance with applicable space and bulk requirements).

(i) Protected Trees.

The following are Protected Trees in the City:

- 1) **Significant Trees.** Significant Trees are trees in the City that meet one of the following criteria:
 - (a) The tree has a 10 inches DBH or greater or 30 inches cumulative DBH for a multi-stemmed tree and the tree is not listed on the State of Maine Invasive Species list; or
 - (b) The tree is located within the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, or Stream Protection Overlay Districts.
- 2) **Heritage Trees.** Trees protected due to their age and size. Any tree that meets at least one of the following criterion is a Heritage Tree:
 - (a) The tree is listed on the Register of Big Trees promulgated by the Maine Department of Agriculture, Conservation & Forestry (the “Big Tree List”);
 - (b) The tree is 90 years or older as determined by a Qualified Tree Professional or scientist qualified in determining the age of trees, such as a botanist; or
 - (c) The tree has a DBH of 60 inches or greater.
- 3) **Historic or Cultural Trees.** Trees protected for their historic or cultural importance in the community as evidenced by their inclusion by the City Council on the South Portland Inventory of Archaeological and Historic Resources due to historical or cultural significance.
- 4) **Program Trees.** Trees that require long-term preservation because of an agreement or contract approved by the City Council, such as an agreement or contract to receive grant funding that obligates the City to plant and preserve trees. Program Trees must be designated as such by City Council order.

(j) Qualified Tree Professional (QTP).

A Qualified Tree Professional is an individual with relevant education and training in arboriculture or urban forestry who has at least one of the following credentials:

- 1) International Society of Arboriculture (ISA) Certified Arborist;
- 2) Tree Risk Assessor Qualification (TRAW);
- 3) American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- 4) Society of American Foresters (SAF) Certified Forester for Forest Management Plans;
- 5) Arborist License in the State of Maine; or
- 6) A botany degree from an accredited university, with a specialty in dendrology.

(k) Replacement Trees.

A tree that is proposed for planting to mitigate for proposed Tree Removal in accordance with Sec. 27-2104. Replacement Trees must be at least 24 inch-box sizing at planting, or 1-3 inch caliper and 6-10 feet in height.

(l) Review Authority.

The City official or body responsible for review of and action on Tree Protection Approval applications.

(m) Tree Pruning and Maintenance

Any voluntary change to a Protected Tree that is completed consistent with a recommendation from a Qualified Tree Professional (QTP), which recommended change is intended to ensure that the long term health and structure of the tree will be maintained. In addition, the following activities shall be considered Tree Pruning and Maintenance but do not require a recommendation from a QTP:

- 1) Removing dangerous branches of 10 inch caliper or less to reduce risk of failure.
- 2) Removing dead, dying or diseased branches.
- 3) Lifting lower branches of 3 inch caliper or less.
- 4) Providing clearance for pedestrian mobility; removing branches obstructing view to traffic; or removing branches rubbing on a structure or other branches.
- 5) Thinning overgrowth.

(n) Tree Removal.

Any voluntary act involving a Protected Tree that, within two years of the act, results in the death of the Protected Tree, or the necessary removal of the Protected Tree to preserve safety and protect against property damage that may be caused by the tree due to diminished health caused by such act. This includes, but is not limited to the following:

- (1) The improper use of machinery on the tree;
- (2) The storage of materials in or around the tree;
- (3) Soil compaction;
- (4) Altering the natural grade to expose the roots or to cover the tree's root system with more than four inches of soil;
- (5) Pruning that does not meet the definition of "Tree Pruning and Maintenance" as defined in this Article;
- (6) Paving with concrete, asphalt, or other impervious surface within such proximity as to be harmful to the tree or its root system;
- (7) Application of poisons, herbicides or defoliates; and
- (8) Voluntary tree cutting and removal.

Sec. 27-2103. Applicability.

(a) Tree Protection Approval Not Required.

A Tree Protection Approval shall not be required for the following activities:

- 1) Tree Removal not involving Protected Trees.
- 2) Tree Removal that is necessary to, or becomes necessary in the course of providing emergency services or in emergency situations.

- 3) Tree Removal that is conducted pursuant to 35-A M.R.S. § 2522, as may be amended, for maintenance of utility facilities.
- 4) Tree Removal conducted by a State or federal Agency on State or federally controlled property, or Tree Removal that conducted pursuant to a State or federal law that preempts this Article.
- 5) Tree Removal conducted for maintaining safe clearance for aircraft as required by federal law or the establishment of facilities exclusively dedicated to aviation operations by the City of Portland for the Portland International Jetport.
- 6) **Tree Pruning and Maintenance.** provided further that for any voluntary change to a Protected Tree that is completed consistent with a recommendation from a QTP, the report prepared by a QTP must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with a recommendation from a QTP.
- 7) **Pest Management.** Tree Removal of a Protected Tree conducted to manage pests and disease affecting the health of trees in the area. A report prepared by a QTP must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with Pest Management.
- 8) **Compromised Health or Structure.** Tree Removal of a Protected Tree that is a Hazard Tree, Storm-Damaged Tree, or Dead Tree as defined in Sec. 27-201. A report prepared by a Qualified Tree Professional documenting the Protected Tree's qualification as a Hazard Tree, Storm-Damaged Tree, or Dead Tree must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with trees that have compromised health or structure.
- 9) **Environmental Projects.** Tree Removal of a Protected Tree for ecological restoration, ecological rehabilitation, parks and open space management, or other natural area management practices, including invasive species management projects. Environmental Projects must be conducted by Environmental Management Organizations.
- 10) **Structural Preservation.** Tree Removal of a Protected Tree that is required to avoid or remediate damage to an existing structure or to infrastructure, such as utilities, associated with an existing structure. This does not include Tree Removal to prevent potential damage to new structures or expansions and additions to existing structures. A report prepared by a contractor qualified to assess the structural risk must be retained and available on site at the request of the Code Enforcement Office to verify that the Tree Removal is associated with structural preservation.
- 11) **Infrastructure Projects.** Tree Removal of a Protected Tree involving any of the following infrastructure projects:
 - (a) Creation or maintenance of public streets by the City;
 - (b) Creation or maintenance of water, sewer, stormwater or other utility work conducted by or on behalf of the City;
 - (c) Creation or maintenance of water, sewer, stormwater, telecommunication, gas, electric power or other similar service conducted by or on behalf of a public utility as that term is defined in 35-A M.R.S. § 102(A), as may be amended; and

(d) Development of public schools and associated improvements.

12) Accessibility Projects. Tree Removal of a Protected Tree to create ADA access improvements to existing property.

13) Cemeteries. Tree Removal on properties, or portions of properties, containing cemeteries as of August 1, 2023, when the Tree Removal is required to maintain existing grounds for interment, create additional grounds for interment, construct structures and associated improvements for interment, or to construct structures and associated improvements to support administrative or client services associated with managing and operating a cemetery.

14) All other projects and activities involving Tree Removal not listed in Sec. 27-2103(b) below as requiring Tree Protection Approval.

(b) Tree Protection Approval Required.

The following projects shall require a Tree Protection Approval prior to conducting Tree Removal of Protected Trees:

1) Projects subject to Planning Board review. All projects that require Planning Board approval, other than those specifically identified in Sec. 27-2103(a) above, require Tree Protection Approval.

(a) If the project is a subdivision without the construction of structures, the subdivision application shall identify the proposed or future building envelopes. Any Tree Removal of Protected Trees caused by (i) the creation of the subdivision, (ii) the construction of necessary improvements for the subdivision, such as access and utilities, or (iii) the proposed building envelopes associated with the subdivision, shall be subject to review under the separate Tree Protection Approval application.

2) Site Clearing. Projects not subject to Planning Board review, other than those specifically identified in Sec. 27-2103(a)(1)-(5) & (13) above, that result in the Tree Removal of ten (10) or more Significant Trees, three (3) or more Heritage Trees, one (1) or more Historic or Cultural Trees, or one (1) or more Program Trees, shall require Tree Protection Approval.

Sec. 27-2104. Review Process and Standards for Tree Protection Approval Applications.

(a) Review Authority.

The Planning Board shall have the authority to review and act upon all Tree Protection Approval applications. The requirements of this Article and the associated costs shall be in addition to the requirements and costs associated with any other required Planning Board or other regulatory review.

(b) Notice of Application.

Before taking action on an application, the Planning Board shall provide notice of its public hearing on Tree Protection Approval applications in accordance with the notice requirements for a site plan application, Sec. 27-1425(a)-(c).

(c) Review Standards for Tree Protection Approval Applications.

Before granting a Tree Protection Approval, the Planning Board shall determine that the following standards are met:

- 1) **Required Reductions.** All projects that result in Tree Removal must incorporate up to a 10% modification into the project scope or design any or all of the Project Reductions or Modifications listed in Sec. 27-2102 that individually or together avoid Tree Removal of Protected Trees to the maximum extent practicable as determined by the Planning Board.
- 2) **Mitigation.** If the Tree Removal cannot be avoided after incorporating any required Project Reductions or Modifications as determined by the Planning Board, then the Tree Removal is mitigated as follows:
 - (a) **Heritage, Historic, or Program Trees.** No Tree Removal of Heritage, Historic or Culturally Significant, or Program Trees is permitted unless Replacement Trees are provided such that the cumulative DBH of the Replacement Trees is equivalent to the cumulative DBH of the removed Heritage, Historic or Culturally Significant, or Program Trees.
 - (b) **On-site Replacement,** at a rate of 1.5 trees for each Protected Tree removed, or at a rate of 5 trees for each Protected Tree removed if the Tree Removal occurred within the Shoreland Area Overlay District, Shoreland Resource Protection Overlay District, or Stream Protection Overlay Districts.
 - (c) **Off-Site Replacement,** at a rate of 2 trees for each Protected Tree removed.
 - (d) **Replacement requirements:**
 1. **All replacement requirements shall be rounded up to the nearest whole number.**
 2. **Mitigation with Replacement Trees must plant Protected Tree species.**
 3. **If more than five (5) Replacement Trees are required, no species shall make up more than fifty percent (50%) of the number of trees planted.**
 4. **All Replacement Trees shall be subject to landscaping Performance Guarantees equivalent to at least \$500 for each Replacement Tree or a greater amount as determined by the Director of Parks, Recreation, and Waterfront or other duly designated person, and in accordance with the landscape performance guarantee requirements set forth in Sec. 27-1431.**
 - (e) **In-Lieu Payment to Tree Mitigation Fund.** An applicant may request that the Planning Board make a determination that On-site Replacement is not feasible or practicable under the specific circumstances of the project. If the Planning Board makes such a determination, the applicant shall pay an in-lieu compensation fee to the Tree Mitigation Fund established under Article VII (Tree Ordinance) of Chapter 2 of the Code of Ordinances.
 1. **The in-lieu fee shall be paid per Replacement Tree not provided in an amount as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.**
 2. **Affordable Housing Projects are not required to request that the Planning Board make a determination that On-Site Replacement is**

infeasible in order to be eligible to pay an in-lieu compensation fee to the Tree Mitigation Fund as mitigation.

Sec. 27-2105. Tree Protection Approval Application Requirements.

(a) Forms and Materials Required.

Application for a Tree Protection Approval shall be made to the Planning Board by submission of a completed written application on forms provided for this purpose, accompanied by a fee as specified in the Schedule of License, Permit, Inspection and Application Fees established by City Council order.

(b) Application Information.

The application must be accompanied by the following documentation:

- 1) Evidence of right, title, or interest in the property.
- 2) An existing conditions plan in accordance with Section 27-1424(2), documenting the location of the Protected Trees proposed for Tree Removal. The plan shall delineate the Project Disturbance Area to show the area of work as well as areas disturbed due to project staging and implementation.
- 3) A narrative, accompanied by such site plan drawings as may be necessary, explaining in detail how Project Reductions or Modifications cannot prevent Tree Removal.
- 4) A landscape plan indicating the mitigation plan for the Tree Removal. This may address On-Site and Off-Site Replacement.
- 5) If Off-Site Replacement is proposed, the applicant must submit documentation from the owner(s) of the off-site property granting approval to plant trees on the property. If Off-Site Replacement is proposed on City-owned or controlled property, a letter from the City Manager or their designee allowing planting on the property shall be included in the application.
- 6) If On-Site Replacement is not provided as mitigation, a narrative, accompanied by such site plan drawings as may be necessary and appropriate, shall be provided explaining in detail why On-Site Replacement is not feasible or practicable.

Sec. 27-2106. Effective Date; Applicability Date.

This Article XXI (Tree Protection) shall become effective pursuant to Section 225 of the City Charter. In order to allow time for residents and property owners to become familiar with the requirements of this Article, the requirements of this Article shall be phased in and not become applicable until January 1, 2024.

Fiscal Note: Less than \$1,000

Date: August 15, 2023