Town of Scarborough Conservation Commission

May 28, 2025 | 6:00 pm | Hybrid: Town Manager's Conference Room and via Zoom

Minutes

Present in person:
Commission: Kate Borduas, Bennett Flanders, Randi Hogan, Crescie Mauer, Abel Plaud
Staff: Jami Fitch, Autumn Speer

Present on Zoom:
Commission: Cathleen Miller, Maggie Vishneau
Council: Karin Shupe

Meeting recording

Call to order

1. Meeting is called to order at 6:04 pm.
2. Randi offers a land acknowledgement to recognize the Wabanaki People as traditional stewards of Scarborough.
3. Bennett motions to accept minutes from the 4/23/25 meeting, Kate seconds. Roll call vote is unanimous. Motion passes.

Public Comment

1. None

Old Business

1. Select Chair
   - Bennett shares that he is stepping down from the Commission because he is moving out of Scarborough.
   - Cathleen is willing to serve as Chair.
   - Randi nominates Cathleen as Chair. Abel seconds. Roll call vote is unanimous.
2. Tree City USA
   - Autumn reviews updated tree ordinance that is required for Scarborough to become designated as "Tree City USA."
   - The Commission makes suggestions to the purpose statement, which Autumn incorporates into the document during the meeting.
   - Bennett suggests adding "nuisance" to section 5.e.
   - Autumn shares that staff still need to do some work on the program (e.g., identifying Town Arborist position) to inform the ordinance.
   - The next step will include review by the Ordinance Committee. The Town Council may request a workshop on the program.
   - Abel motions to approve the draft Tree Care Ordinance language to be amended in the meeting as discussed. Kate seconds. Roll call vote is unanimous.

3. Planning Board Submittals
   - Autumn shares a sketch plan for a proposed 5,000 sq. ft. salon building and a 3,500 sq. ft. retail/office space on Rt. 1 adjacent to the Scarborough Marsh (map/lot U035002A) .
   - Staff had a pre-application meeting with the developer. The following items were discussed:
     - Proposed parking needs to be reduced.
     - The resource protection / shoreland zoning line needs to be field-verified.
     - The position of one of the buildings may need to be adjusted to move it out of the resource protection zone.
   - The Commission is concerned with the amount of impervious cover proposed.
   - Based on the Vulnerability Assessment, it does not appear the parcel is at risk of future flooding from sea level rise, nor is it an area of potential marsh migration.

Updates

1. Town Council
   - Karin expresses her sadness in Bennett stepping down and asks the Commission to think of candidates who may be able to serve on the Commission and Planning Board.
   - The Council will review goals at a meeting in June.
   - Stream Protection Overlay Zone for Phillips Brook and Red Brook was approved by the Town Council.
2. Education Subcommittee
   - Cathleen is considering reaching out to the Scarborough Public Library (SPL) about doing a book group on climate grief.
   - Kate will give a presentation on the loss of old growth forests at SPL in the fall. Scarborough Land Trust is sponsoring the presentation. The Commission should help promote it.
   - Jami reminds the group the Sustainable Scarborough Day is coming up. The Commission should consider having a table and activity.
3. Parks and Conservation Land Board (PCLB)
   - Maggie shares the PCLB is in the process of updating its assessment tool to align it with the Open Space Plan.
4. Transportation Committee
   - The Townwide Transportation Assessment is undergoing final edits.
5. Sustainability Committee
   - The Sustainability Committee is exploring a municipal solar array.
   - A Climate Action Plan will get underway in the coming months.
6. Open Space Plan
   - Staff are working with the Open Space consultant to develop an online Open Space dashboard to track 30x30 and a GIS app to evaluate potential open space.
7. Vulnerability Assessment
   - No update.
8. Other updates
   - Randi shares that The Town has signed a contract to being construction on the Eastern Trail Close the Gap project.

Next meeting: July 23, 2025

Meeting adjourned at 7:12 pm.

DRAFT – TOWN OF SCARBOROUGH TREE CARE ORDINANCE
Conservation Commission Review 5.28.25

A. Purpose

It is the purpose of thise Scarborough Tree Care Ordinance to to preserve and enhance Scarborough's natural beauty and encourage healthy ecosystems; to provide air cooling and purification, carbon sequestration, stormwater management, and promote and to protect public health and , safety. This ordinance provides and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants on Town-owned properties and public rights-of-way. This ordinance shall designate which plants are to be planted in order to ensure "right plant, right place" principles are achieved. This ordinance establishes the Tree Care Advisory Board and defines its membership and duties. .

B. Applicability

This ordinance provides full power and authority over all trees, plants, and shrubs located within rights-of-way, parks, and public places in the town, and over trees, plants, and shrubs located on private property that constitute a nuisance or hazard as described herein.

C. Administration

1. Town Arborist – We need to determine who this will be

a. The Town Arborist and/or their designee shall have full authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all public streets, rights-of-way, parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any public water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
b. All Town departments will coordinate as necessary with the Town Arborist and will provide services as required to ensure compliance with this ordinance as it relates to streets, alleys, rights-of-way, drainage, easements, and other public properties not under the direct jurisdiction of the Town Arborist.
c. No person shall hinder, prevent, delay, or interfere with the Town Arborist or their agents while engaged in carrying out the execution or enforcement of this Ordinance.
d. The Public Works Department shall have the right to prune, spray, maintain, and remove public trees as may be necessary to ensure public safety or to

DRAFT

preserve or enhance the beauty of public places. Spraying shall be undertaken in accordance with State laws and the Town's Organic Pest Control Policy.

e. Pruning, planting, removing or any other tree work done on public trees by volunteers or Town employees under the supervision and operation of the Town Arborist and/or their designee is permitted.
f. Work on public trees by an electric utility company is permitted.

2. Tree Care Advisory Board Establishment and Procedures

It is hereby created and established a Town Tree care Advisory Board for the Town of Scarborough, hereinafter referred to as the "Board."

a. **Terms.** Member shall be appointed by Town Council for three-year terms, except for the initial appointments, which shall be two (2) members for terms of one year, two (2) members for terms of two years and one (1) member for a term of three years and two (2) alternates for a term of two years. Members whose terms expire shall continue to serve until their successors are appointed and qualified.
b. **Council Liaison.** The Town Council shall appoint one of its members to serve as Council liaison to the Committee. The Council liaison shall not be a voting member.
c. **Staff Liaison.** The Town Manager, or their designee, shall serve as staff liaison to the Committee. The staff liaison shall not be a voting member.
d. **Officers**. The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.
e. **Meetings.** The Board shall meet a minimum of four times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

3. Tree Care Advisory Board Duties and Responsibilities

The Board shall act in an advisory capacity to the Town Arborist and shall:

a. Coordinate and promote Arbor Day activities;
b. Support public awareness and education programs relating to trees;
c. Review Town department concerns related to tree care;
d. Submit an annual report of its activities to Town Council, including tree planting and maintenance activities;
e. Assist with the annual application to renew the Tree City USA designation;
f. Develop and maintain a list of desirable trees for planting on public property, using the Preferred species list from Chapter 405b Scarborough Site Plan Review Ordinance. The list shall be made available to the general public, and its use shall be encouraged for private planting.

DRAFT

g. Other duties as assigned by Town Council.

D. Public Landscape Standards

1. Tree Planting

a. Trees planted on public property by abutting property owners or other persons shall be selected and located in accordance with this ordinance and in accordance with Town policy. Notification shall be made to the Town Arborist and/or their designee and approval shall be given prior to any planting. In addition, Dig Safe, the Scarborough Public Works Department, Scarborough Sanitary District, Maine Water, CMP, and the Portland Water District shall be consulted before any planting.
b. All such designs shall be submitted to the Town Arborist and/or their designee for approval prior to any plantings.

2. Species Selection

Species shall be selected from the approved list developed by the Tree care Advisory Board in accordance with all other Town Standards.

3. Tree Installation Requirements

The following minimum installation requirements shall be met, unless otherwise approved by the by the Town Arborist and/or their designee.

Species Size	Minimum Spacing	Minimum Soil Surface	Minimum Soil Volume
Small Trees (mature height of 30' or less)	20 ft.	36 sq. ft.	36 cu. ft.
Medium Trees (mature height of 30' -45')	30 ft.	48 sq. ft.	48 cu. ft.
Large Trees (mature height over 45')	40 ft.	60 sq. ft.	60 cu. ft.

4. Tree Spacing Requirements

The distance trees may be planted from curbs or curb-lines, sidewalks, street corners, driveways, buildings and sidewalks shall be in accordance with the species sizes listed in Definitions, Section C. of this ordinance. No trees may be planted closer to any curb, sidewalk, driveway, building, or street than the following:

DRAFT

Species Size	Distance to Curb or Sidewalk	Distance to Driveway ~~or Building~~	Distance to Building	Distance to Street Corner
Small Tree	2 ft.	10 ft.	10’	20 ft.
Medium Tree	5~~3~~ ft.	10 ft.	15’	20 ft.
Large Tree	10~~4~~ ft.	~~10~~ 15 ft.	25’	20 ft.

No public tree shall be planted within ten feet (10’) of any hydrant or any underground utilities. Only small trees may be planted under or within 10 feet (10’) of any overhead utility wire.

5. **Public Tree Maintenance**
   a. **Authority.** No person except the Town Arborist, their designee(s), or an approved contractor ~~hired by the Town Arborist~~ may prune, plant, transplant, or remove public trees.
   b. **Pruning.** The Public Works Department shall have the right to prune any public tree if, in the opinion of the Town Arborist and/or their designee, it interferes with visibility of any traffic control devise or intersection, or interferes with pedestrian or vehicular traffic. A clearance of fourteen feet (14’) above street surface or eight feet (8’) above the sidewalk surface shall be maintained. If such obstructing public tree is on private property, the Town Arborist and/or their designee shall notify the property owner of the intent to prune.
   c. **Tree Topping**. It shall be unlawful for any person or the Town to top any public tree. Trees severely damaged by storms or other causes may be exempted from this prohibition at the determination of the Town Arborist and/or their designee.
   d. In lieu of topping, public trees under utility wires or other obstructions where other pruning practices are impractical or not considered arboriculturally sound may be removed by the Town Arborist and/or their designee.
   e. **Private Property.** No property owner shall allow a tree, or other plant growing on their property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a nuisance or hazard. If an obstruction persists, the Town Arborist shall notify the property owners to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner.
   f. **Disease.** Upon the discovery of any destructive or communicable disease or other pestilence that endangers the growth or health of trees or threatens to spread disease or insect infestations, the Town Arborist may at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated. The notice shall require such property owner to eradicate, remove, or otherwise control such condition within a

DRAFT

reasonable time to be specified in such notice. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner.

6. Tree Preservation

Wherever practical, existing specimen trees, native species over 20” at DBH, tree clusters or other significant vegetation shall be preserved on public properties. When preservation is proposed, the following protection must be in place to ensure survival of the preserved tree.

a. Site features must be designed to minimize disturbance to protected trees.
b. Tree wells or cut areas may be used to preserve the original grade around the tree.
c. In the drip line of protected trees, no cut or fill may be at least four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.
d. Finished grades must slope away from trunks to avoid water concentrated at tree bases.
e. During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one-half of the drip line, whichever is more.
f. Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.
g. Damaging attachments, wires, signs or permits cannot be fastened to protected trees.
h. Trenches or footings should be at least eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.

7. Heritage Trees

The Town Arborist shall have as one of their duties the location, selection, and identification of any trees that qualify as heritage trees. A tree may qualify as a heritage tree if it meets one or more of the following criteria:

a. The tree (or group of trees) is associated with events that have made a significant contribution to the broad pattern of national, state, regional, or local history;
b. The tree (or group of trees) is associated with the life of a person or group of historic significance;
c. The tree (or group of trees) represents a significant and distinguishable entity within a community or location; and/or
d. The tree (or group of trees) has age, size, or species significance that contributes to its heritage status.

DRAFT

E. Violations and Penalties

a. **Violations.** Any failure to comply with the terms, conditions, provisions, or any notice issued pursuant to this ordinance, shall constitute a violation.

b. **Penalties.** Any person who violates any provision of this ordinance shall be subject to a fine payable to the Town of Scarborough of up to $100.00 each day of the violation. No penalty shall be assessed for failure to act during any notice period, unless remediation ordered by any notice is not accomplished within the designated timeframe. In addition, if, as a result of the violation of any provision of this ordinance, the injury, mutilation, or death of a public tree occurs, the penalty shall include the replacement value of the public tree as determined by the Town Arborist and/or their designee.

F. Severability

Should any section, clause, or provision of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

DRAFT