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Members of the public who wish to provide public comment are encouraged to submit those via email in advance of the meeting. For these comments to be read into the record, they should be submitted at least three hours in advance of the meeting start time. Please email Brian Candela at [bcandela@norwalkct.org](mailto:bcandela@norwalkct.org) to provide written public comment prior to the meeting.

# **COMMON COUNCIL ORDINANCE COMMITTEE**

## **REGULAR MEETING**

**September 21, 2021**  
**7:00 p.m. – By Videoconference and Teleconference**

### **AGENDA**

- 1. ROLL CALL:**
- 2. PUBLIC HEARING (possible action on):**
- 3. PUBLIC HEARING DISCUSSION:**
- 4. PUBLIC COMMENT:**
- 5. ACCEPTANCE OF MINUTES:**
  - July 20, 2021 – regular meeting of the ordinance committee
- 6. OLD BUSINESS:**
  - Discuss and Vote on Chapter 30 (Capital Projects Program) - Possible merger of the Planning & Zoning Commissions.
  - Discuss and Vote on Chapter 79 (Planning and Zoning Commissions) - Possible merger of the Planning & Zoning Commissions.
  - Discuss and Vote on Chapter 112 – Trees.
  - Discuss Chapter 45, Article IV - Outdoor Dining. Discuss Standards/Guidelines for outdoor dining.
- 7. NEW BUSINESS:**
- 8. DISCUSSION ITEM:**
- 9. ADJOURNMENT:**



# **Draft Meeting Minutes**

**July 20, 2021**

**CITY OF NORWALK  
ORDINANCE COMMITTEE  
REGULAR MEETING  
JULY 20, 2021**

**ATTENDANCE:** Lisa Shanahan, Chair; David Heuvelman, Dominique Johnson, Tom Keegan, Tom Livingston, Kadeem Roberts.

**OTHERS:** Atty. Brian Candela, Paul Sotnik, Norwalk Tree Alliance; Steve Kleppin, Planning and Zoning Department; Danica Doroski, State of Connecticut Urban Forestry Coordinator; Council Member George Tsiranidis

**CALL TO ORDER**

Ms. Shanahan called the meeting to order at 7:02 p.m. A quorum was present.

**PUBLIC HEARING  
(Possible Action on)**

Ms. Shanahan said that they would not be voting on Chapter 30 and Chapter 79 because many residents were out of town during July. Atty. Candela said that a number of comments had been submitted regarding Chapters 30 and 79.

**• Discuss and Vote on Chapter 37, Article II, Section 37-10 – Definition of Polystyrene Food Service Product.**

Ms. Shanahan opened the Public Hearing on Chapter 37, Article II, Section 37-10 – Definition of Polystyrene Food Service Product.

Ms. Diane Lauricella stated that this was a reasonable addition to the chapter and suggested that there be a plan to create some public education and outreach in the future. She said that this was very good and much needed.

There was no one else from the public who wished be heard on this matter. Ms. Shanahan closed the public hearing on Chapter 37, Article II, Section 37-10 – Definition of Polystyrene Food Service Product.

**• Discuss and Vote on Chapter 38, Article II (Fireworks and Firecrackers) Sections 38-7 through 38-13.**

Ms. Shanahan opened the Public Hearing on Chapter 38, Article II (Fireworks and Firecrackers) Sections.



Atty. Candela said that he had received a message from a Professor Kipp who stated he was a scientist and could answer questions about Polystyrene.

Ms. Shanahan said that Professor Kipp was a member of the Tree Advisory Committee and that the Ordinance Committee would be contacting her about other issues.

Ms. Shanahan said that there was no one from the public who indicated that they wished to speak regarding the fireworks ordinance.

**• Discuss and Vote on Chapter 30, (Capital Project Program) – Possible merger of Planning and Zoning Commissions.**

**• Discuss and Vote on Chapter 79 (Planning and Zoning Commissions) – Possible merger .of Planning and Zoning Commissions.**

Atty. Candela said that he had received three emails earlier in the day concerning the possible merger of the Planning and Zoning Commissions.

The first email was from Isabel Hargrove, 4 Red Oak Ln., Norwalk.

Dear esteemed Norwalk Ordinance Committee Members,

Our Planning and Zoning Commission are essential to properly managing land use which controls development and zoning and impacts our property taxes, quality of life and shapes the future growth of our City. Norwalk has gone through explosive growth with unintended consequences on traffic, the environment, our school system and infrastructure. Now is not the time to merge our two commissions, which will reduce the staffing by more than half and create an unreasonable workload on our Commissioners. The Planning and Zoning Commissions have very distinctive scopes which would fall on the same seven commissioners. We need more focus on planning and zoning, not less. Finally, combining the commissions consolidates power on fewer Commissioners which will decrease scrutiny on larger developments that are also in need of more, not less. I respectfully encourage the ordinance committee to reject this proposal.

The second email was from Richard Bonenfant and Atty. Candela said that most of the Committee members had received this email.

Dear Ordinance Committee Members,



I urge the committee to reject the merger of the Planning and Zoning commissions primarily because the workload would soon become overwhelming for the few Commissioners. There would likely not be enough time to thoroughly study all the applications or fully examine the required budget requests and decisions. Many people in Norwalk are fed up with rapidly increasing density that has brought us traffic congestion, parking issues, pressures on the school systems and enterprise zone schemes where the homeowners are paying their own taxes and the developers obligations too. If this is an attempt to streamline the application processes, it will just end up speeding approvals before the public has a chance to understand the ramifications to their neighborhoods. There is no urgent need to combine these Commissions and you should not even consider something of this magnitude when you have a little contact with your constituents. During Zoom meetings, you don't even see the public speakers and we, the public, have no idea how long the sign up sheet is so we get frustrated not knowing when it's our turn. This results in many people simply leaving the meeting. Please don't take advantage of the situation and show consideration for the opinions of the people that you represent. Thank you.

Atty. Candela announced that the last email was from Andrew Conroy.

Greetings Mr. Chairman and members of the ordinance committee. I understand that tonight's ordinance committee meeting will include a discussion and vote on the proposal to amend chapter 79 of the Norwalk Ordinances. The intent is to merge/replace the now separate Planning and Zoning Commissions with a combined commission. I've read the proposed language and the current state CGS that apply as Connecticut General Statutes that apply to these Commissions. Having served on the zoning commission and liaison with the planning Commission in the capital budget, I developed an appreciation of the vast workload of both Commissions. It made me wonder why we did not separate the Commissions long ago. There were times when the workload was so great that our meetings lasted until midnight and sometimes beyond. Even the addition of meetings did not fully handle the load. I experienced the Planning Commission dealing with Capital budget hearings and not infrequently re-hearings. Much of the hearing requirements are dictated by the CGS which is the Connecticut General Statutes. Again, a heavy workload for the Planning Commissioners. Our current eight member Planning Commission and seven member zoning commission at times can barely keep up. As I now understand it the combined Commission proposal, the combined planning and zoning I have seven commission members that is having the labor available to the Commission's work. That is a huge issue, especially with the cutting pressure in October resulting from the rewrite of the CGS, the Connecticut General Statutes planning and zoning statutes. The minority party representation statute appears to me to limit the majority party to five members, not six, when the commission has seven or eight members. Even if the proposed ordinance is amended to increase the commission membership, the upper limit in CGS Connecticut

General Statutes 8-4a, it's ten voting members. That would still be a large reduction in the available labor of the combine commission.

Further complicating matters is the apparent legal stricture that requires the combine commission to separate the planning hearings from the zoning hearings. The board must sit as a planning commission when dealing with planning items and separately as a zoning commission when dealing with zoning items. This stricture negates many of the assumed efficiencies of the combination. at minimum, further consideration of the combination should wait until sometime after the October 2021 implementation of the revised CGS Connecticut General Statutes. The revision is so sweeping that it will take months to so they comply with/absorb the changes. Warm regards, Andy Conroy

Ms. Shanahan said that they would discuss Chapter 30, Capital Projects first.

Ms. Lauricella said over the years, she had attended and spoken at several Planning Commission and Zoning Commission meetings through several mayors and administrations. She said she viewed the proposal through that lens. She said she appreciated thinking outside the box, but the proposal in its current form without additional discussion and questions, this particular merger is unwise and premature. She asked the Committee consider postponing making the changes until after the new zoning regulations are adopted. She applauded the Mayor for helping modernize the zoning regulations but pointed out that it was a lengthy process. It's important to finish that process before merging the two commissions. She agreed with the previous emails that were not in favor of the merger, but for different reasons. She said that there has been a large increase in housing development, which is a planning issue, not just a zoning issue. She said she had never seen anyone from the Ordinance Committee sitting in on the Planning Commission when they are working on the Capital budget Requests.

She added that in Chapter 79, Section 3 deals with the composition and appointment of the members. She felt this would be an unfortunate merger because while nine members would be fine, only having three per district should be at least one member per five voting districts or no more than two per voting district. She had seen cases where there were neighborhoods that were not represented.

On Section 6, the search committee should have some citizens or Council Members on it rather than the Chair and Vice Chair of the new Planning and Zoning. Ms. Lauricella said that she thought it was a conflict of interest. Her main concern was that the Zoning Commission has been given too much responsibility. Many of the Ordinance Committee may not know it, but they also have the responsibility of Zoning enforcement. She spoke about the Aquifer Agency for the City of Norwalk could be placed under a different zone or different entity and Ms. Lauricella had requested it be placed under the Conservation Commission or the Planning Commission a long time ago.



Ms. Lauricella said that the Planning Commission also was responsible for the Coastal Zone Management Act. Adding another responsibility of a full Planning Commission is unwise at this time.

Ms. Shanahan said that Ms. Lauricella could send the Ordinance Committee an email and it would be included in the record.

Ms. Lauricella said that the current structure places too much power in one entity and had witnessed the current administration's good Zoning appointments. She added that she had lived through zoning appointments where the members never met a big box store they didn't like during the Moccia and Esposito administrations. This is why they need the checks and balances.

Lastly, the City needs a well-managed Planning Commission, which has never really optimized its responsibilities.

Ms. Shanahan noted that Council Member George Tsiranidis had joined the meeting at 7:17 p.m.

Ms. Shanahan closed the public hearing at 7:20 p.m.

### **PUBLIC HEARING DISCUSSIONS.**

#### **• Chapter 37, Article II, Section 37-10**

Mr. Livingston said that they do need to get out and educate the public more on this issue. It will be important to make sure the public is aware of these changes.

Mr. Heuvelman asked what kind of enforcement they would have on this. Ms. Shanahan said that when they receive complaints, they generally call Atty. Candela who contacts the store to inform them they are not in compliance. Atty. Candela said that when he receives complaints regarding plastic bags or straws, he would give the store management a legal opinion. Some of the stores had exceptions, others had already purchased the plastic bags. At that point, Atty. Candela works with the business to resolve the issue.

**\*\* MR. LIVINGSTON MOVED TO APPROVE SENDING CHAPTER 37, ARTICLE II, SECTION 37-10 – DEFINITION OF POLYSTYRENE FOOD SERVICE PRODUCT TO THE COMMON COUNCIL AT THE NEXT REGULARLY SCHEDULED MEETING.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

#### **• Chapter 38, Article II Sections 38-7 through 38-13.**

Ms. Shanahan said that this would allow the Fire Marshal to inspect stores that were selling illegal fireworks.

Mr. Heuvelman gave a shout out to Fire Marshal Broderick Sawyer and Atty. Candela for the work that they did on this issue. He thanked them and said that it would help the Fire Marshals perform their jobs.

**\*\* MR. ROBERTS MOVED TO APPROVE SENDING CHAPTER 38, ARTICLE II (FIREWORKS AND FIRECRACKERS) SECTIONS 38-7 THROUGH 38-13 TO THE COMMON COUNCIL AT THE NEXT REGULARLY SCHEDULED MEETING.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

Ms. Shanahan said that Mr. Livingston had some comments about the last meeting and Mr. Kleppin might also have some information.

Mr. Livingston said that he wished to review some changes from the last meeting that resulted from comments from Mr. Shulman, Ms. DiMeglio, and Mr. Sepienza in the Law Department. He then displayed the various changes on the screen to Chapter 30-5.

Mr. Livingston said that the Planning Commission deals with the Capital Project Budget every year. The goal is to streamline the process a bit more manageable.

Chapter 30-7 just clarifies the language and would have the Planning and Zoning Commissions review the Capital Project and generate a report stating whether the projects were in line with the Master Plan.

Chapter 30-8 just included some clarifying language.

Chapter 30-10 has significant changes in the last sentence. He reviewed the wording with the Committee members, which requires that any project that is not consistent with the Plan of Conservation and Development be removed from the Capital Budget. Otherwise it would have to be approved by a 2/3rds vote.

Mr. Livingston then reviewed Chapter 79, and explained that most of the changes involved eliminating brackets. They also removed one sentence that could potentially be confusing. Mr. Livingston said that they had discussed having this effective as of January 1, 2022, but the first meeting of the Council would be on January 11th. He said that the statute would be effective as of January 11th, but the terms would run from January 1st to January 1st.

Mr. Kleppin then addressed the Committee. He explained that the Department was in the process of updating the Zoning Regulations and a consultant was working on this. The first meeting will be on July 29th and it is expected to be a 12 to 14 month process until the adoption of the new regulations. The new regulations will make everyone's life easier.



Mr. Kleppin said that Ms. Lauricella had mentioned the Zoning Commission functioning as the Aquifer Protection Agency. Mr. Kleppin said that since he joined the City almost five years ago, he thinks they have only met as the Aquifer Protection Agency twice a year for about 10 to 15 minutes. It is a very small role. If the City decided to transfer the Agency to the Conservation Commission, it would not be a major issue.

Mr. Kleppin then addressed the amount of the Planning Commission's workload. He said that Mr. Livingston had noted that it was focused on the Capital Budget. The Commission interviews all the departments and then constructs a capital budget, but it does not have teeth. It is the way the system is set up. He gave a brief overview of a potential alternate process.

Mr. Kleppin said that a majority of the Zoning Commission work is generated by the Zoning Commission itself. When there are regulation changes or amendments, they have to be referred to the Planning Commission for review. It would be more seamless if the Commission was one body. An applicant has to go to two separate bodies for permission for a project and there is not only the cost to the applicant, but also to the City in terms of posting notices, hiring secretarial services and staff overtime.

Another main function of the Planning Commission is looking at sub-divisions. Since Norwalk is very developed, there are only about four to five subdivision applications a year. If the application meets the requirements, then the Planning Commission can't veto it. This is also the same straight forward process for an 8-24 review.

Mr. Kleppin said that the staff direction has changed over the last few years to a planning first mentality. The City wide Plan and the East Norwalk Plan. They are working on final stages of the Industrial Zone study, so much of the legwork has been completed. Once the plans are completed, the regulations are written to uphold the plans. This results in plans that are consistent with the 2019 City wide Plan.

Mr. Livingston asked about the reduction in staffing. Mr. Kleppin said that he was not sure what that referred to but there were no plans to reduce the City staff.

Mr. Livingston asked about the reference to the Connecticut General Statutes. Mr. Kleppin said that he had not spoken with Mr. Conroy, but there was recent legislation passed regarding the overall 8-2, the enabling legislation. He said that the Department was aware of the changes, but did not think it would affect the City.

Mr. Livingston asked about the combined group meeting separately to consider the planning application from the zoning issues. Mr. Kleppin said that the Commissioner would wear two different hats, one when they are in the legislative mode and another when they are in planning mode. It will not change the way they act. He said that they would do some training about the enabling legislation and the sub-division legislation.

Ms. Johnson asked whether merging the two commissions would remove the checks and balances, particularly in the neighborhoods that were not seeing developments aligned with what they would like to see. Mr. Kleppin said that the Planning Commission does not have a voice on applications that don't have to do with a map amendments or a text amendment. When they do have a map or text amendment, the Planning Commission does not hold public hearings. Their role is to decide if the amendment is consistent with the City wide Plan.

Mr. Kleppin explained that there were three different types of permits, the zoning permit which is often referred to as an "over the counter" permit; a site plan approval which is similar to a subdivision application; and a special permit, that automatically triggers a public hearing. Ms. Shanahan said that nothing would change with the merger.

*Mr. Keegan explained he had to leave for another meeting at 7:49 p.m.*

Mr. Heuvelman asked if they would need to change the name of Section 118, article 1400, which is titled Zoning Commission. He added there were more additional duties that the Zoning Commission was responsible for. Discussion followed.

Ms. Shanahan said that this would be one of the things that they would discuss in August.

Ms. Shanahan said that they would close the Discussion portion at this time.

### **PUBLIC COMMENTS**

#### **Acceptance of the minutes**

##### **• May 18, 2021 – Regular Meeting of the Ordinance Committee**

**\*\* MR. HEUVELMAN MOVED THE MINUTES OF THE MAY 18, 2021 REGULAR MEETING OF THE ORDINANCE COMMITTEE.**

Mr. Livingston noted a number of corrections that had already been made in the minutes.

**\*\* THE MOTION TO APPROVE THE MINUTES OF THE MAY 18, 2021 REGULAR MEETING OF THE ORDINANCE COMMITTEE AS CORRECTED PASSED UNANIMOUSLY.**

##### **• June 15, 2021 – Regular meeting of the Ordinance Committee**

**\*\* MR. ROBERTS MOVED THE MINUTES OF THE JUNE 15, 2021 – REGULAR MEETING OF THE ORDINANCE COMMITTEE.**



Mr. Livingston noted a number of corrections that had already been made in the minutes.

**\*\* THE MOTION TO APPROVE THE MINUTES OF THE JUNE 15, 2021 – REGULAR MEETING OF THE ORDINANCE COMMITTEE AS CORRECTED PASSED UNANIMOUSLY.**

### **OLD BUSINESS**

There was no old business to consider at this time.

### **NEW BUSINESS**

#### **• Discuss Chapter 47, Article IV – Outdoor Dining**

A staff member presented a PowerPoint presentation about Outdoor Dining. Key points included:

- the existing outdoor dining ordinance and, much like the zoning regulations, the outdoor dining ordinance was done a number of years ago and needs to be updated
- Parklets are ways in which cities can basically increase vitality and increase pedestrian use of the streets.
- In some cities, the restaurant owners pay a portion of the parking space fee for the season. And they would also pay to build out the modular platform, as well as the structure that is the railing structure to go around the outside. And generally, it's modular.
- Parklets meet ADA compliance, because the idea is that you build a platform that's as high as the curb.
- The legislation that is put in place currently is good to March 2022.

A discussion followed about how long the parklet might be. In one photo, it was very long, but in others, it was only one or two spaces long. The ordinance language needs to be updated. It was also noted that since it was a permitted situation, if there were violations, the permit would be revoked and the parklet would be taken down. During COVID, it was evident that there was a great interest in outdoor dining. The current statute is very limited.

Mr. Roberts expressed concerns about the parklet removing parking from street and whether the police would have easy access to the areas. He was told the intention of the parklets are to provide the restaurants and the small businesses an opportunity for their patrons to be able to sit outside. The challenge with the barriers that we had that was that the barriers were put out to be responsive to COVID and responsive to the fact that the restaurants had a lower capacity. The

way in which these parklets would work, is that they don't need to be back to back to back to back. The guidelines and standards are one that need to be built with DPW and the Police Department to be able to ensure that everyone is comfortable with the way in which they're being put together.

Mr. Heuvelman said that he like the idea because it put the pedestrian traffic back in front of the stores that were not restaurants.

Mr. Tsiranidis agreed and said that it was time to look forward and change the old practice. However, it is important to be aware of the restrictions. Yet this looks like it is a solid ideas that will work across the board. And the Committee definitely has to take the Police department and the Emergency Services into consideration.

**• Discuss and Vote on Chapter 7, Article II – City Seal – Section 7-9 and 7-10**

The discussion moved to updating the gateway signs at the highway exit ramps. Many of them have business names that are no longer there. At Exit 16, the City seal needs to be updated and cleaned up a bit.

One of the statutes in the actual ordinance speaks to any changes in designer inscription upon the seal. And if that's the case the Committee would need to go to Town Clerk and to the Secretary of State. But the language on the seal, and the content on the seal on the right is the same as the one on the left. So the Committee just need to determine, whether to through the process of the Town Clerk and the Secretary of State, or if we feel as though it's not really a design change, because it's the same content. Discussion followed about using the updated design for marketing purposes.

Atty. Candela pointed out that Chapter 7, Article 2, Section 7-9 and 7-10 allows the Council to do this. The last sentence is really what matters here. It said city may have a common seal and alter the same at pleasure. So that's the most important thing, because otherwise the Committee would be talking about charter revision. So that landmine has been avoided. The conservative approach would be to go through the process of filing the certificate with the Town Clerk and then having the Town Clerk provide the city seal the CCL to the Secretary of State.

Secondly, Atty. Candela said he could not imagine that the Secretary of State would have any issue with changing the City seal, especially when everything looks so similar. He proceeded to outline the various steps that would have to be taken to move this forward.

Ms. Shanahan said that Atty. Candela should start a conversation with the Secretary of State and report back at the next meeting.



Mr. Heuvelman and Mr. Livingston wished to know if they could register both designs. Atty. Candela will look into this.

Mr. Keegan rejoined the meeting at 8:20 p.m.

• **Discuss Chapter 112 – Trees**

Ms. Shanahan reminded everyone that there had been a meeting regarding scheduling a tree summit in September with a variety of different, interested groups. The tree ordinance is a pretty bare bones type of ordinance. And it was pretty much adopted so that Norwalk could be designed as a tree city in the State of Connecticut. And the group has had pretty extensive conversations with the DPW staff and conservation groups that there could be some a little bit more be a meat put on the bones of this.

Ms. Danica Doroski, the State of Connecticut Urban Forestry Coordinator, greeted the Committee members. She gave the Committee an overview on the urban forestry program is housed within the Division of Forestry and the Department of Energy and Environmental Protection. The purpose of a program is to advise, assist and provide resources to municipalities, nonprofits, volunteer groups, residents that are looking to grow, maintain and improve their urban and community forest.

In the urban forestry program one of the main objectives is to maintain the existing canopy cover and to increase canopy cover particularly in target areas. This means investing resources in the mature canopy and that might take the form have ongoing maintenance and care or structural pruning throughout a trees lifecycle, but also things that can be done to preserve these larger trees that proportionally provide a majority of the services rendered. All of the benefits that urban trees can provide can include forested national areas and parks as well and increasing urban tree canopy cover. Larger trees provide a majority of the benefits, but at the same time, it is important to also invest in the future tree canopy and particular focus is in investing in areas that has historically been underserved. There's a lot of great research that's coming out right now that's highlighting the disparities that is seen in things like income and surface temperatures, or the heat island effect and tree cover. There was a recent TNC study, some of you may have seen that actually called out Connecticut as one of the states that had the most pronounced disparities.

Ms. Doroski explained the urban forestry program doesn't handle on the ground management which is what the local municipalities are doing. Another big objective of the program is to support municipalities and nonprofits and help them grow their capacity so that they can perform this great on the ground work that, is going to be maintaining and increasing the canopy cover.

She also spoke about what this might look like at a municipal level, with the caveat that every municipality is incredibly distinct. There are 169 very diverse municipalities in Connecticut, so

there's no one size fits all urban forestry program. Norwalk has both a Tree Board and an Advisory Committee, which are very important to having good urban forest management.

There are also national standards and having a tree ordinance along with a tree board is part of a national certification for Tree City USA. Those designations can help really expand that capacity municipality, they can extend outreach, pursue funding opportunities, provide a channel for residential concerns to municipal land managers, and then the tree ordinances are just a very important way that the individual communities can set community forest goals. These ordinances can really range they run the gamut, and there maybe 18 cities in Connecticut that have tree ordinances that range from ordinances that are setting requirements for tree plantings, to tree protection; and there are ordinances that are protection trees of a certain size or that have historical significance, or to just setting stand standards for tree care and maintenance.

Some questions the Committees might want to consider are:

- What do you have?
- What's your resource like?
- What is your current urban forest canopy like?
- And once that is determined, where do you want to go with it?

Once you know where you want to go, identifying the steps that you need to get there. Those are sort of the key components to the ordinance related to this idea of what do you have. another really critical component of a good urban forestry program is implementing data driven forest management. Other questions to consider will be

- Where do we have trees? Where do we not have trees?
- Where we do have trees, what species do we have?
- How big are they?
- What kind of condition are they in?
- Do they need care? Do they need maintenance?
- Are they a potential hazard?
- Where we don't have trees, will the community plant trees?
- What are the demographic breakdowns of those neighborhoods?

These are some of State's big picture objectives and when we were obtaining goals and where we're reaching all these objectives is through a series of grant programs, which have yet to be announced, but will be forthcoming. These are really big grant opportunities that are going to be able to fund projects, urban forestry projects to maintain and grow our urban canopy cover.

Tree planting is expensive, both, economically and carbon wise, when one thinks about how much carbon goes into growing seedlings, and transporting them and planting them. And so it is important to make sure that the trees that are planted survive, and are able to provide all of the services that are associated with them.



Very few municipal programs have the capacity to do things like preventative pruning, or rotating pruning schedules, and going through to check the trees every couple of years to see if they need any structural pruning. But there's a lot of research that demonstrates that things like preventative printing can make trees more wind resistant and can prevent damage in large storms. More frequent storms, storms that bring down trees become a problem because people lose the benefits of those trees. It's also a problem because it changes public perception of the urban canopy. People shift their perspective all of a sudden from the trees being this asset to being a huge disservice and to being a liability.

Another consideration is thinking about things like diversity, and thinking about what types of trees are being planted. Certain species are going to provide more services than others. Things like diversity are so critical in the wake of invasive pests and diseases, which again with climate change, are going to become more and more problematic.

Ms. Doroski said it sounds like this is something Norwalk is already doing and there's so much power and strength that can come from collaboration, communication, not only within the municipality, but with other municipalities as well. No tree ordinance is one size fits all. It needs to meet the needs of the individual municipality. But there's some helpful models and space for collaboration and shared learning across these different municipalities.

Ms. Shanahan asked about the percentage of tree canopy and whether an inventory would be the best way to go on a limited funds.

Ms. Doroski said there's a lot of value in each municipality pursuing, like tree cover analyses as they pertain to the specific needs of that municipality. But she noted that things like street cover is being considered at the state level. They have really high resolution satellite imagery that goes up to one meter. And so DEEP actually can do some pretty robust urban canopy analyses for the whole state. And that is part of our initiative that DEEP is working towards right now.

An analysis of something like urban tree canopy cover is helpful from the perspective of seeing where there is tree cover and where there isn't. Having tree cover analysis helps in understanding how canopy cover is distributed. For most of Connecticut, most of the urban tree canopy cover actually falls on private residential properties. And that's something that the municipality doesn't have jurisdiction over right now. Even just understanding parks and where parks are located is helpful for the for big picture of urban tree canopy cover and the tree inventory. Ideally they should use those inventory to form the future planting palettes. It really depends on what the goals are at the individual municipal level, and what the capacity is at any given moment. DEEP really wants more and more municipalities to be doing this sort of data driven forest management. So there are funding opportunities available to fund these kinds of projects.

Ms. Shanahan asked about the good studies out there that says if a municipality really come up with a good tree management policy, it actually can be less expensive if they maintain their urban forestry then to deal with the end of life.

Ms. Doroski said Tree City, USA is a program runs through the Arbor Day Foundation. There are 18 cities in Connecticut that meet the standards for Tree City. As part of that application, municipalities need to report how much money they spent on tree planting, how much they spent on maintenance and pruning, and then how much they spent on tree removals. Tree removals are so incredibly expensive. And so there is an economic case to be made for doing more preventative pruning, investing more in younger trees, investing more trees throughout their lifecycle, in the hopes that it leads to better outcomes at the end of their life. When a tree is maintained throughout its lifecycle at their end of life outcome, they are able to persist longer. They're less of a liability.

Mr. Livingston asked if there were other uses for the inventory and canopy studies. Ms. Doroski explained actually DEEP has three different funding opportunities right now for on the ground project. That would be things like tree planting, tree maintenance. And there urban forestry projects that are going to target climate change and environmental justice issues, but there's some specific criteria for those grants, which will hopefully be announced soon. The short answer is that it is not just for inventories or management plans. There is flexibility. But the important part is that the need for the data is demonstrated as is the follow through on the management side.

Ms. Shanahan thanked Ms. Doroski for her presentation.

Chris then spoke about the preparations for the Fall Tree Summit. He noted that the City does not do enough to protect the trees during construction, such as putting fencing around the tree's drip line. He also noted that when the utilities come in to remove a tree, in the past, they have been required to replace it on a one for one basis. He suggested planting 10 trees for every single City tree that is removed. Discussion followed about the details for replacing trees.

Chris explained that typically the City tends not to want to plant trees in the snow shelf anymore. But that were for many years, that was what the city did. But now what they're trying to get the homeowners involved in plant the trees on the other side of the sidewalk where it's protected a little bit more. Maybe the homeowner has an active investment to make sure that it has water/ and is healthy. One of our policies for those that don't know is even if a tree is planted on private property, sometimes the tree if it grows on the public property, even an inch, the city takes the tree. The tree is our tree, it is no longer your private tree, it is the city tree. So it needs a permit to remove it. You can't just remove it and even if you said hey, my great grandfather planted that 75 years ago, it doesn't matter, it's our tree.

Ms. Shanahan said that Mr. Sotnik of the Norwalk Tree Alliance was present. The Tree Alliance is the 501(c)3 arm of the Tree Advisory Committee. They have been doing outreach for decades.



**DISCUSSION ITEM**

There were no additional items to consider at this time.

**ADJOURNMENT**

**\*\* MS. JOHNSON MOVED TO ADJOURN.  
\*\* THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

S. L. Soltes  
Telesco Secretarial Services

**Chapter 30**

**Capital Projects Program**

**Possible Merger of Planning &  
Zoning Commissions**



## Chapter 30 Capital Projects Program

### § 30-5. Estimates.

On or before the first day of January in each year, the Common Council and the head of each department, board and agency shall submit to the Planning and Zoning Commission and the Comptroller a detailed estimate of all capital ~~projects~~**budget items**, as defined in § ~~30-4,30-4~~, which, in the judgment of the Common Council and such head of department, should be undertaken within the five succeeding fiscal years. These estimates shall be known as "estimates for capital projects" and shall be in such form as the Comptroller shall prescribe. These estimates shall be public records and shall be open for inspection at all reasonable time.

### § 30-6. Comptroller's report.

Following the receipt of estimates for capital projects and not later than February 1 in each year, the Comptroller shall report to the Board of Estimate and Taxation, the Common Council and the Planning and Zoning Commission the amount of the expenditures requested and his, her or their estimate of the effect of such expenditures upon the current budget, and the bonded indebtedness for the succeeding years, together with his, her or their recommendations relative thereto.

### § 30-7. Review by Planning and Zoning Commission.

On or before February 15 in each year, the Planning and Zoning Commission shall hold hearings on the proposed capital projects program for the ensuing five years, at which time the Mayor, heads of all departments, boards and agencies or their representatives, the Comptroller, members of the Board of Estimate and Taxation, and members of the Common Council may be heard in respect to estimates for each of these years. The role of the Planning and Zoning Commission shall be to ensure that **each capital budget item** in the proposed capital projects program is consistent with the City's Master Plan for the physical development of the City. The Planning and Zoning Commission may require the production of all pertinent data in respect to such estimates, including preliminary plans, sketches, layouts and surveys. The Comptroller and the Director of Planning and Zoning shall render assistance to the Planning and Zoning Commission in its consideration of the capital projects program ~~and its preparation thereof. The Planning and Zoning Commission shall thereupon recommend the capital project program items which, in its judgment, the City should undertake during the ensuing fiscal year.~~ The Planning and Zoning Commission shall thereupon prepare a report setting forth its determination as to whether each proposed capital budget item for the ensuing fiscal year is or is not consistent with the City's Master Plan for the physical development of the City. Such report may also contain recommendations of the Planning and Zoning Commission with respect to the proposed capital projects program. The Planning and Zoning Commission shall deliver such report to the Mayor as provided in § 30-8 and also to the Common Council, Board of Estimate and Taxation and Comptroller.

### § 30-8. Review by Mayor.

The proposed capital budgets program, **together with the report of the Planning and Zoning Commission as provided in § 30-7**, shall thereupon, on or before March 5 of each year, be transmitted to the Mayor for his, her or their review and recommendations, but he, she or they may



not include therein any new ~~projects~~capital budget items without first submitting them to the Planning and Zoning Commission for its ~~consideration~~determination in accordance with § 30-7. If the Planning and Zoning Commission ~~is opposed to~~determines that any such new ~~projects~~capital budget item is not consistent with the City's Master Plan for the physical development of the City, this fact shall be recorded by the Mayor when submitting his, her or their recommendations to the Board of Estimate and Taxation and the Common Council.

#### § 30-9. Action by Board of Estimate and Taxation.

The Mayor shall thereupon, on or before March 15 in each year, transmit the capital budget to the Board of Estimate and Taxation, which shall, after incorporating therein such recommendations as the Mayor, the Planning and Zoning Commission and the Comptroller may make, forward the same to the Common Council, or before April 1 in each year, with an expression in writing of its judgment with respect to the amount of funds it is proposed to expend in such capital budget and the effect such expenditures will, in its opinion, have upon the operating expenses and credit of the City. The Board of Estimate and Taxation may transfer from the capital budget to the operating budget all or such part of such capital items as it believes may feasibly be included in the operating budget for the ensuing year.

#### § 30-10. Adoption of budget.

Upon receipt of the recommendations of the Board of Estimate and Taxation, the Common Council may approve, reject or reduce any item in the capital budget by a vote of the majority of its members, present and voting, or may, by a vote of a majority of its members present and voting, reinstate therein any item which may have been previously disapproved. The Common Council shall thereupon approve the same as amended on or before the 15th day of April in each year, when it shall be certified to the Comptroller. Any item not rejected or reduced by the Common Council shall be deemed approved by it. Notwithstanding anything to the contrary in this Chapter, if any proposed capital project item has been determined by the Planning and Zoning Commission to not be consistent with the City's Master Plan for the physical development of the City, such item shall not be included in any capital budget or otherwise funded unless and until it has been approved by a two-thirds vote of the entire Common Council.

#### § 30-10.1. Schedules, progress and completion reports and recommendations for termination or abandonment of capital budget items.

A. Upon adoption of the capital budget as set forth in § ~~30-10~~,30-10, the Comptroller shall notify each department or agency of those items under such department's or agency's responsibility, together with the amount thereof which has been approved. Each department or agency shall, within 30 days after notification by the Comptroller, submit to the Comptroller a work program scheduling the expected progress of each capital budget item to completion. On the first of each month, the Comptroller shall submit to the Mayor, Common Council and Planning and Zoning Commission, a report showing ~~monies~~funds expended in the capital budget and the status of each capital budget item.

B. Funds set aside for a capital budget item shall be deemed to have been allotted for that purpose only. No such allotment shall lapse until the purpose for which it was made is accomplished and



completion thereof accepted by the Common Council as herein provided: such allotment is terminated or abandoned, or two fiscal years elapse without any expenditure from or encumbrance of such allotment except where such capital budget item is delayed by litigation or by action of state or federal agencies. The Comptroller shall certify to the Mayor, Common Council and Planning and Zoning Commission in his, her or their monthly report any such automatic abandonment. Any capital budget item may be terminated or abandoned, provided the Mayor shall give written notice to the Planning and Zoning Commission of the reason for termination or abandonment, whereupon the Planning and Zoning Commission shall within 30 days after the receipt of such notice, forward its recommendations to the Common Council which shall hold a public hearing thereon. In the event of approval by the Planning and Zoning Commission of the Mayor's request, a majority of the Council is required for concurrence; in the event of disapproval, the Commission shall communicate its reasons to the Council, which shall have the power to overrule such disapproval by recorded vote of not less than ~~2/3~~<sup>two-thirds</sup> of its entire membership.

C. Any and all unencumbered funds that constitute a surplus of funds allocated for capital budget items that have been completed, terminated or abandoned shall revert to a capital budget surplus account which shall be used to reduce the net capital budget for the succeeding year, except when such surplus funds are used to finance additional obligations as provided for in § ~~30-11.1~~<sup>30-11.1</sup>.

#### § 30-11. Restrictions.

No obligations of the City shall be authorized or expenditures made in any fiscal year for or on account of the capital budget unless such obligations or expenditures shall have been included in the capital budget as finally approved for that fiscal year, except as hereafter provided. Additional obligations may be authorized and expenditures made; provided that such obligations or expenditures shall be recommended in writing by the Mayor to the Planning and Zoning Commission, which shall, within 10 days after receipt thereof, forward the same to the Common Council with its recommendations relative thereto. ~~The~~<sup>Except as otherwise provided in § 30-10,</sup> the Common Council may thereupon, by a majority of its members present and voting, approve, reduce or reject all or any part thereof.

#### § 30-11.1. Financing additional obligations.

Requests for additional obligations to the capital budget shall not be approved unless the request is made necessary by unforeseeable or emergency conditions. Any such request shall be accompanied by a statement from the Comptroller setting forth, first, the necessity for using capital budget funds rather than financing through operating budget and, second, his, her or their recommendations as to the most feasible and economical measures to finance such obligations either from overall surplus from any previous bond issue for capital budgets or from the issuance of notes, each of which shall be designated "bond anticipation notes" and which may be renewed from time to time through utilization of funds from capital budget items that have been terminated, abandoned or lapsed. However, all such notes of any fiscal year and any renewals thereof shall be paid from the proceeds of the next regular capital improvements bond issue.

#### § 30-12. Financing recommendations.

On or before the first day of May in each year, the Comptroller shall transmit to the Common Council and the Board of Estimate and Taxation his, her or their recommendations in respect to the most feasible and economical measures to finance the capital budget for the ensuing fiscal year. These bodies, at an appropriate time, shall adopt such resolutions as may give force and effect to the financing of such capital budget in accordance with the provisions of the Charter of the City relating thereto.

§ 30-13. Planning and Zoning Commission and Common Council authorized to hold public hearings.

The Planning and Zoning Commission and the Common Council shall each, in its discretion, hold such public hearings on the capital projects program and the capital budget as either or both of them may deem necessary to ascertain the opinion of the public on the matters under consideration. The Chair of any such hearings shall permit such public participation in such proceedings as may, in his, her or their judgment, be necessary to impart to the Board holding such hearing information of value to it in appraising the opinion of the public in relation thereto. Nothing contained herein, expressed or implied, shall be construed as limiting the free expression of the public in relating to any subject pertinent to such hearing, to restrain such public participation as may unreasonably retard the deliberations thereof, or which may not be germane to the subject under deliberation.



### **Legal Notice of Public Hearing**

Notice is hereby given that the Common Council Ordinance Committee will hold a Public Hearing on Tuesday, July 20, 2021 at 7:00p.m. by way of videoconference/teleconference for the purpose of discussing and voting on revisions to Chapter 30, Sections 30-5, 30-6, 30-7, 30-8, 30-9, 30-10.1, 30-11.1, 30-12, 30-13. Please check the Ordinance Committee agenda for additional details and instructions about how to attend this Public Hearing by way of videoconference/teleconference. The Ordinance Committee agenda will be posted on the City website by July 16, 2021.

#### **Chapter 30 Capital Projects Program**

##### **§ 30-5. Estimates.**

On or before the first day of January in each year, the Common Council and the head of each department, board and agency shall submit to the Planning and Zoning Commission and the Comptroller a detailed estimate of all capital projects, as defined in § 30-4, which, in the judgment of the Common Council and such head of department, should be undertaken within the five succeeding fiscal years. These estimates shall be known as "estimates for capital projects" and shall be in such form as the Comptroller shall prescribe. These estimates shall be public records and shall be open for inspection at all reasonable time.

##### **§ 30-6. Comptroller's report.**

Following the receipt of estimates for capital projects and not later than February 1 in each year, the Comptroller shall report to the Board of Estimate and Taxation, the Common Council and the Planning and Zoning Commission the amount of the expenditures requested and his, her or their estimate of the effect of such expenditures upon the current budget, and the bonded indebtedness for the succeeding years, together with his, her or their recommendations relative thereto.

##### **§ 30-7. Review by Planning and Zoning Commission.**

On or before February 15 in each year, the Planning and Zoning Commission shall hold hearings on the proposed capital projects program for the ensuing five years, at which time the Mayor, heads of all departments, boards and agencies or their representatives, the Comptroller, members of the Board of Estimate and Taxation, and members of the Common Council may be heard in respect to estimates for each of these years. The role of the Planning and Zoning Commission shall be to ensure that the proposed capital projects program is consistent with the City's Master Plan for the physical development of the City. The Planning and Zoning Commission may require the production of all pertinent data in respect to such estimates, including preliminary plans, sketches, layouts and surveys. The Comptroller and the Director of Planning and Zoning shall render assistance to the Planning and Zoning Commission in its consideration of the capital projects program and its preparation thereof. The Planning and Zoning Commission shall thereupon recommend the capital project program items which, in its judgment, the City should undertake during the ensuing fiscal year.

##### **§ 30-8. Review by Mayor.**

The proposed capital budgets program shall thereupon, on or before March 5 of each year, be transmitted to the Mayor for his, her or their review and recommendations, but he, she or they may not include therein any new projects without first submitting them to the Planning and Zoning Commission for its consideration. If the Planning Commission is opposed to such new projects, this fact shall be recorded by the Mayor when submitting his, her or their recommendations to the Board of Estimate and Taxation and the Common Council.

##### **§ 30-9. Action by Board of Estimate and Taxation.**

The Mayor shall thereupon, on or before March 15 in each year, transmit the capital budget to the Board of Estimate and Taxation, which shall, after incorporating therein such recommendations as the Mayor, the Planning and Zoning Commission and the Comptroller may make, forward the same to the Common Council, or before April 1 in each year, with an expression in writing of its judgment with respect to the amount of funds it is proposed to expend in such capital budget and the effect such expenditures will, in its opinion, have upon the operating expenses and credit of the City. The Board of Estimate may transfer from the capital budget to the operating budget all or such part of such capital items as it believes may feasibly be included in the operating budget for the ensuing year.

##### **§ 30-10.1. Schedules, progress and completion reports and recommendations for termination or abandonment of capital budget items.**

A. Upon adoption of the capital budget as set forth in § 30-10, the Comptroller shall notify each department or agency of those items under such department's or agency's responsibility, together with the amount thereof which has been approved. Each department or agency shall, within 30 days after notification by the Comptroller, submit to the Comptroller a work program scheduling the expected progress of each capital budget item to completion. On the first of each month, the Comptroller shall submit to the Mayor, Common Council and Planning and Zoning Commission, a report showing monies expended in the capital budget and the status of each capital budget item.



B. Funds set aside for a capital budget item shall be deemed to have been allotted for that purpose only. No such allotment shall lapse until the purpose for which it was made is accomplished and completion thereof accepted by the Common Council as herein provided: such allotment is terminated or abandoned, or two fiscal years elapse without any expenditure from or encumbrance of such allotment except where such capital budget item is delayed by litigation or by action of state or federal agencies. The Comptroller shall certify to the Mayor, Common Council and Planning and Zoning Commission in his, her or their monthly report any such automatic abandonment. Any capital budget item may be terminated or abandoned, provided the Mayor shall give written notice to the Planning and Zoning Commission of the reason for termination or abandonment, whereupon the Planning and Zoning Commission shall within 30 days after the receipt of such notice, forward its recommendations to the Common Council which shall hold a public hearing thereon. In the event of approval by the Planning and Zoning Commission of the Mayor's request, a majority of the Council is required for concurrence; in the event of disapproval, the Commission shall communicate its reasons to the Council, which shall have the power to overrule such disapproval by recorded vote of not less than 2/3 of its entire membership.

C. Any and all unencumbered funds that constitute a surplus of funds allocated for capital budget items that have been completed, terminated or abandoned shall revert to a capital budget surplus account which shall be used to reduce the net capital budget for the succeeding year, except when such surplus funds are used to finance additional obligations as provided for in § 30-11.1.

#### § 30-11. Restrictions.

No obligations of the City shall be authorized or expenditures made in any fiscal year for or on account of the capital budget unless such obligations or expenditures shall have been included in the capital budget as finally approved for that fiscal year, except as hereafter provided. Additional obligations may be authorized and expenditures made; provided that such obligations or expenditures shall be recommended in writing by the Mayor to the Planning and Zoning Commission, which shall, within 10 days after receipt thereof, forward the same to the Common Council with its recommendations relative thereto. The Common Council may thereupon, by a majority of its members present and voting, approve, reduce or reject all or any part thereof.

#### § 30-11.1. Financing additional obligations.

Requests for additional obligations to the capital budget shall not be approved unless the request is made necessary by unforeseeable or emergency conditions. Any such request shall be accompanied by a statement from the Comptroller setting forth, first, the necessity for using capital budget funds rather than financing through operating budget and, second, his, her or their recommendations as to the most feasible and economical measures to finance such obligations either from overall surplus from any previous bond issue for capital budgets or from the issuance of notes, each of which shall be designated "bond anticipation notes" and which may be renewed from time to time through utilization of funds from capital budget items that have been terminated, abandoned or lapsed. However, all such notes of any fiscal year and any renewals thereof shall be paid from the proceeds of the next regular capital improvements bond issue.

#### § 30-12. Financing recommendations.

On or before the first day of May in each year, the Comptroller shall transmit to the Common Council and the Board of Estimate and Taxation his, her or their recommendations in respect to the most feasible and economical measures to finance the capital budget for the ensuing fiscal year. These bodies, at an appropriate time, shall adopt such resolutions as may give force and effect to the financing of such capital budget in accordance with the provisions of the Charter of the City relating thereto.

#### § 30-13. Planning and Zoning Commission and Common Council authorized to hold public hearings.

The Planning and Zoning Commission and the Common Council shall each, in its discretion, hold such public hearings on the capital projects program and the capital budget as either or both of them may deem necessary to ascertain the opinion of the public on the matters under consideration. The Chair of any such hearings shall permit such public participation in such proceedings as may, in his, her or their judgment, be necessary to impart to the Board holding such hearing information of value to it in appraising the opinion of the public in relation thereto. Nothing contained herein, expressed or implied, shall be construed as limiting the free expression of the public in relating to any subject pertinent to such hearing, to restrain such public participation as may unreasonably retard the deliberations thereof, or which may not be germane to the subject under deliberation.

Dated at Norwalk, Connecticut this 16th day of June 2021.

ATTEST:

  
Donna I. King, City Clerk

THE HOUR: Please publish once on Friday, July 9, 2021



## **Chapter 79**

# **Planning & Zoning Commissions**

## **Possible Merger of Planning & Zoning Commissions**



## Chapter 79. Planning and Zoning Commission

### §1. Creation.

Pursuant to the authority granted to the Common Council by § 1-368.2 of the Charter of the City of Norwalk and § 8-4a of the Connecticut General Statutes, the Planning Commission of the City of Norwalk is hereby designated as the Planning and Zoning Commission for Norwalk (hereinafter, the Commission).

### §2. Powers and duties.

The Commission shall have all of the powers and be subject to all of the duties granted to and imposed upon planning and zoning commissions under the Connecticut General Statutes, together with all of the powers and duties specifically granted to and imposed upon the Planning Commission under the Charter of the City of Norwalk, to the extent that such powers and duties are not inconsistent with the powers and duties provided under the Connecticut General Statutes.

### §3. Composition and appointment.

The Commission shall consist of ~~nine~~ ~~7~~ regular members, provided that no more than ~~six~~ such members may be registered members of any one political party, and provided further, that there shall be not more than three regular members from any one Council District. All of such members shall be electors of the City of Norwalk.

Members of the Commission shall be appointed by the Mayor with the approval of the Common Council. If the Mayor shall fail to submit a nomination within 60 days after a vacancy, either by reason of expiration of term or for any other reason, such vacancy shall thereafter be filled by nomination and approval of the Common Council. If the Mayor shall have submitted a nomination to fill a vacancy within the sixty-day period and the Common Council shall have rejected or failed to act upon such nomination, the seat shall be vacated. The Mayor may submit the same or different nominations thereafter until the same shall have been approved by the Common Council. ~~In no instance shall a member serve more than five consecutive terms as a regular member.~~ No member of the Commission shall be a regular or alternate member of the Zoning Board of Appeals.

### §4. Alternate members.

There shall be appointed, in the manner provided in Section 3 above, ~~three~~ alternate members to the Commission, no more than ~~two~~ of whom shall be registered members of any one political party. Such alternate members shall, when seated as herein provided, have all the powers and duties set forth above for regular members of the Commission. Such alternate members shall be electors and shall not be regular or alternate members of the Zoning Board of Appeals. If a regular member of the Commission is absent, they may designate, in writing, an alternate member of the Commission to act in their place. If they fail to make such designation



or the person so designated is disqualified, the Chair of the Commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

§5. Terms of office.

- A. Regular members. The terms of the regular members shall be as follows: ~~{three}~~ of said members shall be appointed for terms ending ~~{January 1, 2022}; {2023}~~; three of said members for terms ending ~~{January 1, 2023}; {2024}~~; and three of said members shall be appointed for terms ending ~~{January 1, 2024}; 2025~~. Thereafter, upon the expiration of the term of any such member, their successor shall be appointed for a term of ~~{three}~~ years.
- B. Alternate members. ~~{One}~~ alternate shall be appointed for a term ending ~~{January 1, 2022}; {2023}~~, one alternate for a term ending ~~{January 1, 2023}; 2024~~, and ~~{one}~~ alternate for a term ending ~~{January 1, 2024}; 2025~~. Thereafter, upon the expiration of the term of any such alternate member, their successor shall be appointed for a term of ~~{three}~~ years.

§6. Organization and administration.

- A. The Commission shall organize and elect officers, maintain records, contract, prepare budgets, and do all other things permitted or directed by the provisions of the Connecticut General Statutes and the Charter of the City of Norwalk, insofar as the latter are not inconsistent with the provisions of the Connecticut General Statutes. All employees of the Planning Commission and the Zoning Commission as of the effective date of this chapter shall be employees of the Commission.
- B. There shall be a Director of Planning and Zoning, who shall be appointed by the Commission based on the recommendation of a search committee. Such committee shall consist of the ~~{Chair and Vice-Chair}~~ of the Commission, the Chief of Economic and Community Development, and the City's Personnel Director or designee. There may be an Assistant Director of Planning and Zoning who shall be appointed in the same manner, except that the Director of Planning and Zoning shall replace the Personnel Director on the search committee.
- C. Nothing contained herein shall be construed to alter the terms and conditions of any collective bargaining agreement applicable hereto.
- D. Staff of the Commission shall be appointed by the Director and employed pursuant to the City's Personnel Rules and Regulations.

§7. Effect on prior regulations.

All regulations adopted by the Planning Commission or the Zoning Commission which were in effect prior to the effective date of this chapter shall continue in full force and effect until

modified, repealed, or superseded in accordance with the provisions of the Connecticut General Statutes.

§8. Effective date.

This chapter shall take effect on ~~January 11, 2022~~.



## Legal Notice of Public Hearing

Notice is hereby given that the Common Council Ordinance Committee will hold a Public Hearing on Tuesday, July 20, 2021 at 7:00p.m. by way of videoconference/teleconference for the purpose of discussing and voting on revisions to Chapter 79, Sections 1, 2, 3, 4, 5, 6, 7 and 8. Please check the Ordinance Committee agenda for additional details and instructions about how to attend this Public Hearing by way of videoconference/teleconference. The Ordinance Committee agenda will be posted on the City website by July 16, 2021.

### **Chapter 79. Planning and Zoning Commission**

#### § 1. Creation.

Pursuant to the authority granted to the Common Council by § ~~1-366.2~~ of the Charter of the City of Norwalk and § 8-4a of the Connecticut General Statutes, the Planning Commission of the City of Norwalk is hereby designated as the Planning and Zoning Commission for Norwalk (hereinafter, the Commission).

#### §2. Powers and duties.

The Commission shall have all of the powers and be subject to all of the duties granted to and imposed upon planning and zoning commissions under the Connecticut General Statutes, together with all of the powers and duties specifically granted to and imposed upon the Planning Commission under the Charter of the City of Norwalk, to the extent that such powers and duties are not inconsistent with the powers and duties provided under the Connecticut General Statutes.

#### §3. Composition and appointment.

The Commission shall consist of [nine ~~7~~] regular members, provided that no more than [six] such members may be registered members of any one political party, and provided further, that there shall be not more than three regular members from any one Council District. All of such members shall be electors of the City of Norwalk.

Members of the Commission shall be appointed by the Mayor with the approval of the Common Council. If the Mayor shall fail to submit a nomination within 60 days after a vacancy, either by reason of expiration of term or for any other reason, such vacancy shall thereafter be filled by nomination and approval of the Common Council. If the Mayor shall have submitted a nomination to fill a vacancy within the sixty-day period and the Common Council shall have rejected or failed to act upon such nomination, the seat shall be vacated. The Mayor may submit the same or different nominations thereafter until the same shall have been approved by the Common Council. [In no instance shall a member serve more than five consecutive terms as a regular member.] No member of the Commission shall be a regular or alternate member of the Zoning Board of Appeals.

#### §4. Alternate members.

There shall be appointed, in the manner provided in Section 3 above, [three] alternate members to the Commission, no more than [two] of whom shall be registered members of any one political party. Such alternate members shall, when seated as herein provided, have all the powers and duties set forth above for regular members of the Commission. Such alternate members shall be electors and shall not be regular or alternate members of the Zoning Board of Appeals. If a regular member of the Commission is absent, they may designate, in writing, an alternate member of the Commission to act in their place. If they fail to make such designation or the person so designated is disqualified, the Chair of the Commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

#### §5. Terms of office.

A. Regular members. The terms of the regular members shall be as follows: [three] of said members shall be appointed for terms ending [January 1, 2022]; [three] of said members for terms ending [January 1, 2023]; [three] of said members shall be appointed for terms ending [January 1, 2024]. Thereafter, upon the expiration of the term of any such member, their successor shall be appointed for a term of [three] years.

B. Alternate members. [One] alternate shall be appointed for a term ending [January 1, 2022], [one] alternate for a term ending [January 1, 2023], and [one] alternate for a term ending [January 1, 2024]. Thereafter, upon the expiration of the term of any such alternate member, their successor shall be appointed for a term of [three] years.

#### §6. Organization and administration.

A. The Commission shall organize and elect officers, maintain records, contract, prepare budgets, and do all other things permitted or directed by the provisions of the Connecticut General Statutes and the Charter of the City of Norwalk, insofar as the latter are not inconsistent with the provisions of the Connecticut General Statutes. All employees of the Planning Commission and the Zoning Commission as of the effective date of this chapter shall be employees of the Commission.

B. There shall be a Director of Planning and Zoning, who shall be appointed by the Commission based on the recommendation of a search committee. Such committee shall consist of the [Chair and Vice-Chair] of the Commission, the Chief of Economic and Community Development, and the City's Personnel Director or designee. There may be an Assistant Director of Planning and Zoning who shall be appointed in the same manner, except that the Director of Planning and Zoning shall replace the Personnel Director on the search committee.

C. Nothing contained herein shall be construed to alter the terms and conditions of any collective bargaining agreement applicable hereto.

D. Staff of the Commission shall be appointed by the Director and employed pursuant to the City's Personnel Rules and Regulations.

#### §7. Effect on prior regulations.

All regulations adopted by the Planning Commission or the Zoning Commission which were in effect prior to the effective date of this chapter shall continue in full force and effect until modified, repealed, or superseded in accordance with the provisions of the Connecticut General Statutes.



§3. Composition and appointment.

The Commission shall consist of [nine 7] regular members, provided that no more than [six] such members may be registered members of any one political party, and provided further, that there shall be not more than three regular members from any one Council District. All of such members shall be electors of the City of Norwalk.

Members of the Commission shall be appointed by the Mayor with the approval of the Common Council. If the Mayor shall fail to submit a nomination within 60 days after a vacancy, either by reason of expiration of term or for any other reason, such vacancy shall thereafter be filled by nomination and approval of the Common Council. If the Mayor shall have submitted a nomination to fill a vacancy within the sixty-day period and the Common Council shall have rejected or failed to act upon such nomination, the seat shall be vacated. The Mayor may submit the same or different nominations thereafter until the same shall have been approved by the Common Council. [In no instance shall a member serve more than five consecutive terms as a regular member.] No member of the Commission shall be a regular or alternate member of the Zoning Board of Appeals.

§4. Alternate members.

There shall be appointed, in the manner provided in Section 3 above, [three] alternate members to the Commission, no more than [two] of whom shall be registered members of any one political party. Such alternate members shall, when seated as herein provided, have all the powers and duties set forth above for regular members of the Commission. Such alternate members shall be electors and shall not be regular or alternate members of the Zoning Board of Appeals. If a regular member of the Commission is absent, they may designate, in writing, an alternate member of the Commission to act in their place. If they fail to make such designation or the person so designated is disqualified, the Chair of the Commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

§5. Terms of office.

A. Regular members. The terms of the regular members shall be as follows: [three] of said members shall be appointed for terms ending [January 1, 2022]; [three] of said members for terms ending [January 1, 2023]; [three] of said members shall be appointed for terms ending [January 1, 2024]. Thereafter, upon the expiration of the term of any such member, their successor shall be appointed for a term of [three] years.

B. Alternate members. [One] alternate shall be appointed for a term ending [January 1, 2022], [one] alternate for a term ending [January 1, 2023], and [one] alternate for a term ending [January 1, 2024]. Thereafter, upon the expiration of the term of any such alternate member, their successor shall be appointed for a term of [three] years.

§6. Organization and administration.

A. The Commission shall organize and elect officers, maintain records, contract, prepare budgets, and do all other things permitted or directed by the provisions of the Connecticut General Statutes and the Charter of the City of Norwalk, insofar as the latter are not inconsistent with the provisions of the Connecticut General Statutes. All employees of the Planning Commission and the Zoning Commission as of the effective date of this chapter shall be employees of the Commission.

B. There shall be a Director of Planning and Zoning, who shall be appointed by the Commission based on the recommendation of a search committee. Such committee shall consist of the [Chair and Vice-Chair] of the Commission, the Chief of Economic and Community Development, and the City's Personnel Director or designee. There may be an Assistant Director of Planning and Zoning who shall be appointed in the same manner, except that the Director of Planning and Zoning shall replace the Personnel Director on the search committee.

C. Nothing contained herein shall be construed to alter the terms and conditions of any collective bargaining agreement applicable hereto.

D. Staff of the Commission shall be appointed by the Director and employed pursuant to the City's Personnel Rules and Regulations.

§7. Effect on prior regulations.

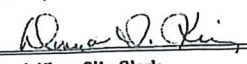
All regulations adopted by the Planning Commission or the Zoning Commission which were in effect prior to the effective date of this chapter shall continue in full force and effect until modified, repealed, or superseded in accordance with the provisions of the Connecticut General Statutes.

§8. Effective date.

This chapter shall take effect on [January 1, 2022].

Dated at Norwalk, Connecticut this 16th day of June 2021.

ATTEST:

  
Donna I. King, City Clerk

THE HOUR: Please publish once on Friday, July 9, 2021

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# **Chapter 112 - Trees**



## Chapter 112. Trees and Shrubs

### § 112-1. Purpose.

The purpose of this chapter is to protect, preserve and ensure the proper maintenance of trees and shrubs along public streets and rights-of-way, parks and other properties in the City of Norwalk and to provide for new trees and shrubs to be planted for the benefit of present and future generations. Trees and shrubs provide important benefits to the City and its residents, including the beautification of City streets and neighborhoods, the reduction of urban heat islands, an improvement in air and water quality, and the enhancement of property values. Trees and shrubs provide oxygen, impede soil erosion, aid water absorption and the mitigation of stormwater, ameliorate against potential flooding, and absorb CO<sub>2</sub>, other pollutants, and breathable particulate matter. Furthermore, trees and shrubs provide shade, screening, privacy, and aesthetic appeal, absorb and lessen impacts from winds, act as natural noise barriers, and support habitat for wildlife.

The intent of this chapter is to maintain and grow the Norwalk's urban forest, maintain trees and shrubs in a healthy condition, protect existing trees and shrubs, and mitigate losses and damage to the City's trees and shrubs.

### § 112-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ALTER** means to take action by removing branches or by filling, surfacing, grading, compacting, channeling or changing the drainage pattern of the soil surrounding any Tree or Shrub in a manner that threatens to diminish the vigor of the Tree or Shrub. The term "alter" does not include normal seasonal Pruning of a Tree or Shrub necessary for normal growth or for the maintenance of sight lines.

**ASSESSED VALUE** means the dollar value of a Tree or Shrub as determined by the Tree Warden using the most current edition of the 'Guide for Plant Appraisal,' published by the International Society of Arboriculture, Urbana, Illinois.

**BEST INTEREST** is a determination based on a review of all relevant factors, including, but not limited to, the preservation of Trees and Shrubs, the impact on the streetscape, the maintenance of an effective Tree canopy, the importance of the particular Tree or Shrub, the health of the Tree or Shrub, and the overall impact that the loss of the Tree or Shrub would have on the health, safety, and welfare of the general public and on the City's urban forest.

**CITY TREE** means any Tree in a Public Place and, depending on the relevant facts, may include a Streetscape Tree.

**CITY SHRUB** means a Shrub in a Public Place.



**DAMAGE** means to act in a manner to jeopardize a Tree or Shrub's health or cause its appearance to be defaced. Actions that constitute Damage include but are not limited to: posting bills; hanging streamers and/or decorations; driving any objects into a Tree or Shrub; carving the bark of a Tree or Shrub; digging/excavating/paving and/or parking a motor vehicle within the Drip Line in a way that affects the root system; painting a Tree or Shrub; setting fire to a Tree or Shrub; or allowing harmful substances to come in contact with a Tree or Shrub.

**DBH (DIAMETER AT BREAST HEIGHT)** means the diameter of a Tree at fifty-four inches above grade as indicated by the United States Forest Service method.

**DRIP LINE** means a conceptual line along the ground that conforms to the perimeter of the crown of the Tree and projects vertically to the ground.

**HAZARDOUS SHRUB** means a Shrub that is likely to create hazardous conditions on roadways or sidewalks or to cause imminent danger to the health, safety and/or welfare of the general public, public property, private property or utility wires or other infrastructure.

**HAZARDOUS TREE** means a Tree that is likely to create hazardous conditions on roadways or sidewalks or to cause imminent danger to the health, safety and/or welfare of the general public, public property, private property or utility wires or other infrastructure.

**LAND USE REGULATORY AUTHORITY** means any body or authority responsible for the regulation of land use in the City of Norwalk including, but not limited to, the Conservation Commission, the Planning and Zoning Commission and the Zoning Board of Appeals.

**LEGACY TREE** means any Tree as determined by the Tree Advisory Committee to be of unique and intrinsic value to the general public because of its size, age, historic association, ecological importance or aesthetic value.

**MASTER TREE PLAN** means a document prepared by the Tree Advisory Committee pursuant to the chapter.

**PERSON** means any individual, firm, partnership, association, company, trust, corporation, or organization of any kind.

**PRUNING (TRIMMING)** means to cut off or remove dead or living parts or branches of a Tree or Shrub performed by an arborist licensed in the State of Connecticut.

**PUBLIC PLACE** means any space owned and/or controlled by the City of Norwalk, including, but not limited to, the Right-Of-Way, property operated or controlled by the Norwalk Board of Education or the Norwalk Housing Authority and any space in a City park.

**PUBLIC UTILITY**, or language of similar import, means “Public service company” as defined in Connecticut General Statutes § 16-1(a)(3), as the same may be amended from time to time.

**REMOVE** means to cut down a Tree or Shrub or to take any other action that will, in the sole and absolute judgment of the Tree Warden, cause a Tree or Shrub to die within a five-year period.

**REQUIRED TREE** means any Tree required to be planted or maintained as part of an approval by any Land Use Regulatory Authority or under the terms of any deed, easement, agreement or other document relating to the sale, lease or other disposition of any property owned by the City or any municipal body or authority.

**RIGHT-OF-WAY** means the area between the street lines reserved for the street (paved/sidewalk area) and the adjacent property that abuts the City street and is owned and/or controlled by the City of Norwalk.

**SHRUB** means woody plants, usually branched from the base, generally less than fifteen feet tall when mature.

**STREETSCAPE TREE** means any Tree or Shrub on public and/or private property with a base that originates, in whole or in part, in the Right-of-Way, and, in the sole and absolute judgment and/or discretion of the Tree Warden, serves as part of the tree line of a street.

**STREETSCAPE TREE INVENTORY** means a recording of the size, condition, location, and species of all Streetscape Trees and of all planting locations without a Tree that could reasonably accommodate a Streetscape Tree.

**TREE** means any living woody, self-supporting plant that has a defined stem(s) with a DBH of at least two inches using the United States Forest Service method of determination.

### **§ 112-3. Tree Warden.**

- A. The Chief of Operations and Public Works shall designate a Tree Warden and may designate one or more Deputy Tree Wardens.
- B. The Tree Warden is hereby authorized to administer and enforce this chapter. The Tree Warden shall have the powers, duties and authorization prescribed in the Connecticut Public Shade Tree Statutes, particularly Connecticut General Statutes §§ 23-58, 23-59, 23-60 and 23-65, as the same may be amended from time to time, and those powers and duties as described in this chapter. The Tree Warden shall have full power and authority over all Trees and Shrubs located within Public Places and, to the extent provided herein, on private property.



- C. The Tree Warden shall prepare all permits, procedures, and documents necessary under this chapter and shall maintain accurate records of all activities conducted. Upon request, but no less frequently than annually, the Tree Warden shall provide a report on such activities to the Mayor and the Common Council.
- D. The Tree Warden shall be advised by the Tree Advisory Committee established pursuant to this chapter and shall be an ex officio non-voting member of such committee.
- E. The Tree Warden, or his, her or their designee, shall determine whether any specific plant shall be considered a Tree or Shrub and whether a Tree or Shrub is a Hazardous Tree or Hazardous Shrub, and is hereby authorized to Remove or Prune the same in accordance with this chapter and the Connecticut General Statutes.
- F. The Tree Warden shall determine the Assessed Value of any Tree or Shrub for purposes of this chapter.
- G. The Tree Warden shall conduct or cause to be conducted an assessment of the Tree canopy of Norwalk, which may include a description of the Tree canopy and a description of the extent and condition of Trees in Norwalk, including those on private property, in parks, and other Public Places. This assessment of the Tree canopy may include a Streetscape Tree Inventory. When completed, such assessment shall be available to the public and shall be updated at least every ten years.
- H. The Tree Warden shall have the authority to issue citations for violations of this chapter.
- I. Removal of a City Tree, City Shrub or Required Tree shall be permitted only if authorized by the Tree Warden or his, her or their designee.
- J. The Tree Warden shall recommend a budget for expending the annually available funds in the Norwalk Tree Account pursuant to this chapter.

#### **§ 112-4. Tree Advisory Committee.**

- A. The Tree Advisory Committee shall be composed of five members nominated by the Mayor and approved by the Common Council. The Mayor shall designate one of the five members as Chair. Each member of the Tree Advisory Committee shall be appointed for a term of three years, and terms shall be staggered. The terms of the initial members shall be as follows: two members with terms to expire July 1, 2003; one member with a term to expire July 1, 2004; and two members with terms to expire July 1, 2005. Thereafter, the terms for all members shall be for three years commencing on July 2nd. If a member shall for any reason cease to serve as such in advance of the end of his, her or their term, a replacement shall be appointed to complete such term. Members shall serve without compensation. The Tree Warden and the Director of Planning and Zoning, or his, her or their designee, shall serve as an ex officio nonvoting members of the Tree Advisory Committee.

- B. The duties of the Tree Advisory Committee shall include, but not be limited to: advising the Tree Warden, the Common Council, and the Mayor on Tree and Shrub-related issues in the City and promoting awareness of Tree and Shrub care, Norwalk's arboreal heritage, and the benefits of an urban forest.
- C. The Tree Advisory Committee shall develop and adopt a Master Tree Plan. The Master Tree Plan shall establish direction for the City's urban forestry program and shall include targets for Tree canopy cover and Tree diversity, including targets for native and hybrid species. It may also reference standards for Tree and/or Shrub planting and Tree and/or Shrub maintenance and include guidelines for specifications relating to Trees and/or Shrubs and Tree and Shrub care and for contract Tree and/or Shrub work. In addition, the Master Tree Plan may outline a broad program for the improvement of the urban forest and may include recommendations for urban forestry activities in specific neighborhoods, along specific streets, and in areas of the City such as Historic Districts. The Master Tree Plan may also include a plan for management of City-owned woodlands, such as those that exist in City parks. The Master Tree Plan may be undertaken as part of other City plans and activities. The Master Tree Plan shall incorporate any study conducted by the Tree Warden and may, at the discretion of the Tree Advisory Committee, include additional studies of the urban forest. The Committee shall review the Master Tree Plan at least every five years and shall amend it as needed. The Master Tree Plan shall be consulted by all City Departments in the course of conducting City business.
- D. The Tree Advisory Committee shall create an annual "State of the Forest" report on changes to the urban forest during the prior year and recommendations of policy and action for the next year. This report may also identify priority locations for planting, so that the City's Tree and Shrub planting will address any arboreal inequities and will give priority to filling in gaps resulting from the absence of Streetscape Trees. The Committee shall present this report to the Mayor and Common Council for their review.

#### **§ 112-5. Legacy Tree Program.**

- A. The Tree Advisory Committee shall establish a Legacy Tree Program in order to catalog Legacy Trees in the City, which Program may include and/or be based on the Norwalk Tree Alliance Legacy Tree Program. The public shall be encouraged to give input to the Committee about which Trees should be included in the Program.
- B. The Tree Warden shall keep a record of all Trees designated as Legacy Trees and their locations.
- C. A list of Legacy Trees shall be available to the public at the office of the Tree Warden.

#### **§ 112-6. Planting Trees or Shrubs in Public Places.**

- A. To contribute to the urban forest of Norwalk, members of the public shall be encouraged to support the planting of Trees or Shrubs in Public Places and in areas which fill in gaps



in the Tree line in or near the Right-of-Way, provided they follow the procedures outlined in this chapter.

- B. Any Person wishing to plant a Tree or Shrub in a Public Place shall apply in writing for a permit to the Tree Advisory Committee prior to taking such action. The application shall include a Tree and/or Shrub planting and maintenance plan, specifying the size, species and location of all new Trees and/or Shrubs, as well as a plan for the maintenance of the Tree or Shrub for a period of not less than two years from the date such Trees or Shrubs are planted and the Person responsible therefor.
- C. After reviewing such application and conducting a site inspection, the Tree Advisory Committee shall determine whether such action is in the Best Interest of the City's urban forest and shall notify the applicant of the decision in writing within thirty days of receipt of a complete application.
- D. Once such a Tree or Shrub is planted in a Public Place, the Tree or Shrub shall become the property of the City of Norwalk after the maintenance period specified in subsection B. of this section has expired.
- E. The Tree Advisory Committee shall report to the Tree Warden on a quarterly basis the details of all applications approved in accordance with this section, including the size, species and location of all new Trees and Shrubs planted and the Person(s) responsible for the maintenance thereof.
- F. Whenever any Tree or Shrub is planted in any Public Place in violation of this chapter or any permit issued hereunder, the Tree Warden may order the property owner or Person responsible to Remove such Tree or Shrub. If the property owner or Person responsible fails to Remove the Tree or Shrub within a period of thirty days after such order, the Tree Warden shall Remove or cause the removal thereof, or may take such action deemed necessary to rectify such improper planting, and the cost thereof shall be charged to the property owner or the Person responsible for the improper planting.

#### **§ 112-7. Altering or Damaging City Trees, City Shrubs or Required Trees.**

- A. No Person shall Alter or Damage a City Tree, City Shrub or Required Tree. No Person shall Prune a City Tree, City Shrub or Required Tree without a permit from the Tree Warden.
- B. Any Person wishing to Prune a City Tree, City Shrub or Required Tree shall apply in writing for a permit to the Tree Warden prior to taking such action. Each application to Prune a City Tree, City Shrub or Required Tree shall be subject to a fee established in accordance with § 90-4, Approval of rates and fees.
- C. After reviewing such application and conducting a site inspection, the Tree Warden shall determine whether such action is in the Best Interest of the City's urban forest and shall

notify the applicant of the decision in writing within thirty days of receipt of a complete application.

- D. Any Person who violates the provisions of this section shall be subject to a fine up to two hundred fifty dollars (\$250.00) per City Tree, City Shrub or Required Tree, per violation. The Tree Warden or his, her or their designee shall have the authority to issue a citation for violations. Notwithstanding the foregoing, if the Tree Warden determines in his, her or their sole and absolute judgment that any Person has Pruned, Altered or Damaged a City Tree, City Shrub or Required Tree so severely that it is not likely to survive, that Person shall replace such Tree or Shrub in accordance with § 112-10, Tree or Shrub replacement, below.

#### **§ 112-8. Tree or Shrub Removal.**

- A. No Person shall Remove a City Tree, City Shrub or Required Tree without a permit from the Tree Warden, except for any removal that has been permitted pursuant to the applicable provisions of Connecticut General Statutes § 23-65. To grant permission to any other Person to Remove a City Tree, City Shrub or Required Tree, the Tree Warden must determine, within thirty days of receiving a complete application, that (1) the Tree and/or Shrub is in poor health or diseased, (2) the Tree and/or Shrub's removal is unavoidable because the Tree and/or Shrub poses a threat to human health, safety, and welfare, or (3) the negative impact on the urban canopy caused by the Tree and/or Shrub's removal can be mitigated.
- B. Any Person wishing to Remove a City Tree, City Shrub or Required Tree shall apply in writing for a permit to the Tree Warden. Such application shall contain written proof that the applicant has notified property owners of land that abuts or is directly across the street from the affected Tree(s) and/or Shrub(s), and the appropriate Land Use Regulatory Authority in the case of a Required Tree, that he, she or they has applied for a Tree and/or Shrub Removal permit by a written notice delivered within three business days of the date of said application. Each application shall be subject to a fee established in accordance with § 90-4, Approval of rates and fees.
- C. After reviewing such application and conducting a site inspection, the Tree Warden shall determine whether removal of the City Tree, City Shrub and/or Required Tree is in the Best Interest of the City's urban forest and shall notify the applicant of the decision in writing within thirty days of receipt of a complete application.
- D. The permit for the removal of any City Tree or Required Tree with a DBH of six inches or more shall be posted by the Tree Warden, or his, her or their designee, on the affected Tree(s) at least ten days prior to such Removal. The ten-day period shall commence from the date of such posting. The Tree Removal posting shall be in the form of a brightly colored sign at least eight and a half inches by eleven inches in bold, clearly printed lettering able to be seen from the street which provides the name, address and phone number of the Tree Warden in the event that there is an objection to the removal of the Tree(s).



- E. Any Person who Removes a City Tree, City Shrub or Required Tree without a permit shall replace the City Tree, City Shrub or Required Tree in accordance with § 112-10, Tree or Shrub replacement, below.

**§ 112-9. Protection during construction.**

- A. Property owners and other Persons responsible for construction and excavation projects in whole or in part within the Drip Line of any City Tree or Required Tree shall adhere to all relevant provisions of the latest edition of the American National Standards Institute, Inc., Standards for Tree Care Operations—Tree, Shrub, and other Woody Plant Maintenance—Standard Practices (Management of Trees and Shrubs During Site Planning, Site Development, and Construction) for the duration of the construction or excavation project. A copy of these standards shall be available to the public in the Tree Warden's office.
- B. The Tree Warden or his, her or their designee shall have the authority to issue a citation to a property owner and other Person responsible, in the amount of two hundred fifty dollars (\$250.00) per day, per City Tree or Required Tree affected, for each instance of an action inconsistent with the tree care standards referred to in this section.
- C. Any Person found in violation of this section for which the Tree Warden determines there is substantial danger of Damage to a City Tree or Required Tree shall post a five year bond in the amount of the Assessed Value of such Tree. Such bond shall be forfeited if the Tree Warden determines that the Tree is dead or moribund within the five year period.

**§ 112-10. Tree or Shrub replacement.**

- A. A property owner or other Person responsible for the replacement of a City Tree, City Shrub or Required Tree pursuant to this chapter shall follow the provisions of this section.
- B. The acceptable methods of replacement for a City Shrub are:
  - (1) Replacement of the City Shrub with a comparable Shrub, as determined by the Tree Warden in his, her or their sole and absolute judgment, at the location of the City Shrub being replaced or at a different location identified or approved by the Tree Warden; or
  - (2) A payment to the Norwalk Tree Account, established in accordance with this chapter, in the amount of the City Shrub's Assessed Value.
- C. The acceptable methods of replacement for a City Tree other than a Legacy Tree are:
  - (3) Replacement of the City Tree with a Tree of equal or greater DBH at the location of the City Tree being replaced or at a different location identified or approved by the Tree Warden;
  - (4) An inch-for-inch replacement of the City Tree with a number of replacement Trees with DBH of three inches or more totaling the DBH of the original City Tree at a

location or locations identified or approved by the Tree Warden. For example, if a City Tree with a DBH of twenty-four inches is Removed, it may be replaced with six Trees with DBHs of four inches; or

- (5) A payment to the Norwalk Tree Account, established in accordance with this chapter, in the amount of the Tree's Assessed Value.

D. The acceptable method of replacement for a Legacy Tree is:

- (1) Replacement of the Legacy Tree with a number of replacement Trees with DBH of three inches or more totaling four times the DBH of the original Tree at a location or locations identified or approved by the Tree Warden; or
- (2) A payment into the Norwalk Tree Account of four times the Assessed Value of the Legacy Tree.

E. Any replacement Tree planted in accordance with this section must be maintained by the Person responsible for at least a period of five years from the date of planting. The Person responsible, or the property owner if there is no Person responsible, shall replace any Tree that dies during this time period, and such replacement Tree shall be maintained by the Person responsible for at least a period of five years from the date of planting of the replacement Tree.

#### **§ 112-11. Norwalk Tree Account.**

A. There is hereby established an account known as the Norwalk Tree Account. Such Account is established under authority of the Connecticut General Statutes for the exclusive purpose of funding activities that implement or promote the purpose of this chapter including, but not limited to, tree canopy and inventory assessments, creation of Master Tree Plans, and other reports consistent with best practices for urban forestry management.

B. The principal of the Norwalk Tree Account shall consist of the following:

- (1) All fines, processing fees, payments in lieu of planting, and other monies collected pursuant to this chapter, other than legal fees and costs collected pursuant to § 112-13, Enforcement, below;
- (2) All gifts and grants from any source, public or private, made to the City and designated for Trees or Shrubs or improvements to the urban forest;
- (3) Any funds from any source designated by the Common Council to be added to the Account; and
- (4) All investment income earned by the Account.



C. Expendable funds in the Account may be spent for the purposes authorized by this section upon recommendation of the Mayor and with the approval of the Common Council. Expenditures may be made as follows:

- (1) All funds received by the Account under subsection B. (1) of this section shall be used only for the purchase and planting of Trees or Shrubs.
- (2) Any restricted funds received by the Account shall be expended in accordance with such restrictions.
- (3) At least half of the remaining unrestricted funds shall be expended for the purchase and planting of Trees or Shrubs.
- (4) All other unrestricted funds may be spent for any activity that is consistent with the purpose of the Account.

D. Any budget proposed by the Mayor or approved by the Common Council, and any appropriation made for the purchase and planting of Trees or Shrubs, must not be reduced, ratably or otherwise, in consideration of any funds in the Account. Expenditures from the Account shall add to and not replace budgets and appropriations which also serve the purposes of the Account.

E. Any remaining investment income shall be held in reserve for future transfer and appropriation.

#### **§ 112-12. Public utilities.**

A. The Tree Warden shall monitor the work of all Public Utilities to ensure that such work does not adversely affect any Tree or Shrub in any Public Place. Each Public Utility company proposing to conduct Tree and/or Shrub Alteration or Removal activities in any Public Place shall present an annual work plan to the Tree Warden that includes the following items:

- (1) City Map showing all area(s) designated for Tree and/or Shrub Alteration or Removal work.
- (2) Tree Removal list, identifying all Trees and Shrubs that are proposed for Removal.
- (3) Name and phone number of licensed arborist(s) performing such work.
- (4) Name and phone number of utility contact Person supervising such work.
- (5) Tree and/or Shrub replacement commitment; replacement determined to be at discretion of the Tree Warden.

- B. Such Public Utility work plan shall be submitted to the Tree Warden at least thirty days prior to the start of any activity by said Public Utility. The Tree Warden shall review, modify and approve such plan within thirty days from date of receipt, unless extended by either party. This section shall not apply to emergency and public hazard work specifically exempted under § 112-14, Exemptions, below.

**§ 112-13. Enforcement.**

- A. Any Person who violates any of the provisions of this chapter shall be notified by the Tree Warden of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall explain the nature of the violation and shall provide a reasonable time period within which compliance must be achieved.
- B. Upon verbal or written notice from the Tree Warden that work is being performed contrary to any provision of this chapter, such work shall be immediately stopped by the Person doing the work. Within seven days of any verbal or written notice, a stop work order shall be provided to the owner of the subject lot, or to the owner's agent, or to the Person doing the work, and the stop work order shall state the conditions under which work is permitted to resume. Any Person who continues work after having been served with a stop work order, except such work as that Person is directed by the Tree Warden or other City officials to perform to remove a violation or unsafe condition, shall be liable for a daily fine established in accordance with § 90-4, Approval of rates and fees per violation, per Tree or per Shrub affected.
- C. Notwithstanding any other provision of this chapter, if the Tree Warden determines that any violation of this chapter was willful, the Person responsible shall be liable for a civil penalty of up to three times the Assessed Value of each affected Tree or Shrub.
- D. Whenever there is reasonable cause to believe that a Person is violating any provision of this chapter, the City may institute a civil action in a court of competent jurisdiction for a mandatory or prohibiting injunction ordering the defendant to either correct or cease the unlawful use of the property.
- E. In addition to any fines hereunder, any Person who is found to have violated any provision of this chapter shall be responsible to the City for any legal fees and costs that may be incurred by the City in the enforcement of this chapter.
- F. Each failure to replace a Tree or Shrub or make a payment into the Norwalk Tree Account or to post and maintain a bond in accordance with this chapter, or to follow any of the provisions of this chapter, shall constitute a separate violation of this chapter for which there shall be a fine established in accordance with § 90-4, Approval of rates and fees. Each day such violation continues shall constitute a separate offense.
- G. The Chief of Operations and Public Works or his, her or their designee, the Tree Warden, and employees of the Department of Public Works are hereby authorized to enforce the provisions of this chapter.



#### **§ 112-14. Exemptions.**

This chapter shall not apply to any Alteration or Damage to a Tree or Shrub that has been: (1) ordered or authorized by the Tree Warden or other officials of the City of Norwalk on an emergency basis because the Tree is a Hazardous Tree or Hazardous Shrub that represents so immediate a hazard to public safety or structure integrity that Alteration or Damage cannot be deferred and that such Hazardous Tree or Hazardous Shrub cannot be protected, secured, or stabilized by reasonable temporary measures; or (2) otherwise properly permitted and/or authorized in accordance with applicable state law or regulation.

#### **§ 112-15. Appeals of Tree Warden decisions.**

Any Person objecting to any decision of the Tree Warden under this chapter may file a written appeal to the Tree Warden who shall schedule a public hearing and shall post a public hearing notice, including the scheduled time, date and location of such hearing, on the affected Tree(s) or Shrub(s), if appropriate. Within three business days of such hearing, the Tree Warden shall render a decision granting or denying such appeal. Any Person aggrieved by the Tree Warden's decision, may appeal within ten days to the Superior Court for the Stamford/Norwalk Judicial District.



**Chapter 45, Article IV**  
**Outdoor Dining**



#### § 45-29. Definitions.

As used in this article, the following terms shall have the meanings indicated:

OUTDOOR DINING — Any outdoor cafe, sidewalk cafe, eating area or any food service accessory to a restaurant.

**OUTDOOR BAR** — Is a food establishment that prepares and serves only beverages at a location not completely housed inside a building.

**ENTERTAINMENT** — Any activity conducted for the primary purpose of diverting or entertaining clientele inside or outside a premises. Such activity shall include, but shall not be limited to, dancing, whether by performers or patrons of the establishment, live musical performances, instrumental or vocal, when carried on by more than two persons or whenever amplified, musical entertainment provided by a disc jockey or karaoke, or any similar entertainment activity involving amplified or reproduced music.

#### § 45-30. Location restricted; permit and license agreement.

A. Outdoor dining may be allowed on any private or public property, with valid active permits, as issued by the City of Norwalk. Outdoor dining may be allowed on lots, zoning lots, street faces, or yards directly adjacent to the sponsoring retail establishment. Outdoor dining may be allowed on lots, zoning lots, street faces, or yards used for Outdoor Activities directly contiguous to the sponsoring retail establishment provided written permission from the owner of the lots, zoning lots, street faces, or yards is provided to the City of Norwalk.

##### A.B. Permit and license agreement.

- (1) Outdoor dining proposed to be located entirely on private or public property is required to obtain a permit from the Director of Zoning or his/her designee pursuant to the Norwalk Zoning Regulations on a yearly basis and a license agreement between the City of Norwalk and the retail establishment.<sup>4</sup>
  - (2) Outdoor dining proposed to be located on a publicly owned property, such as sidewalks, ~~or land, lots, zoning lots, street faces, or yards~~ ~~sidewalk or land~~ must meet the following requirements identified in the Outdoor Dining Guidelines and Standards for the outdoor dining season. A copy can be obtained from the City of Norwalk website, or from the Economic and Community Development Office.
- (a) A permit from the Planning and Zoning Department

Commented [VJ1]: We do not reference parking in this document; however, it is addressed in other zoning regs (by neighborhood, etc.)

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##### Commented [VJ2]: General References

- NOISE ORDINANCE – See Ch. 68
- Add Tent Fire Code here
- City of Norwalk's Guidelines and Standards for Outdoor Dining – available on the City of Norwalk website, or in the Economic and Community Development Office.

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pursuant to the Norwalk Zoning Regulations;

~~(b) A license agreement by and between the City of Norwalk and the applicant for utilization of City-owned property. Commercial General Liability Insurance that names the City of Norwalk as additionally insured in the minimum amounts identified in the Outdoor Dining Guidelines and Standards, which may be updated from time to time.~~

Commented [VJ5]: Should this be "the Planning and Zoning Department?"

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~~(c) If liquor is to be served, Liquor Liability insurance in the minimum amount of \$1.0 million.~~

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~~(d) A performance bond shall be required as a condition of issuance of a license agreement in the amount of the license agreement fee.~~

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~~(b)(e) Indemnity agreement.~~

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~~(3) The application for a license agreement and required zoning permit shall be coordinated by the Director of Planning and Zoning or his/ her designee.~~

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#### ~~§ 45-31. Application for permit and license agreement.~~

An application for a permit and license agreement to use public land for outdoor dining shall be filed with the Director of Zoning or his/her designee who shall determine whether the application complies with the following criteria:

~~A. Outdoor dining may be located on public sidewalks in front of, adjacent to or abutting the indoor restaurant which operates the outdoor dining. Outdoor dining shall extend no further than the actual street frontage of the operating restaurant. [Amended 3-24-2009]~~

Commented [CS6]: I don't think this is necessary any longer as they will be reviewed by P&Z on a case by case basis.

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1. Editor's Note: See Ch. 118, Zoning.



~~B.A.~~ Outdoor ~~dining operation~~dining operation shall provide not less than ~~five-four~~ contiguous feet of sidewalk clear of obstructions to allow unimpeded pedestrian traffic. At street corner intersections there shall be a minimum of eight feet of unobstructed sidewalk. Obstructions shall include, but not be limited to, light poles, traffic signal poles, fire hydrants, utility structures, parking meters, street furniture, trash receptacles and street signs. Further, the location of outdoor dining cannot obstruct the clear sight distance for vehicles or access or crossings for the disabled. Outdoor dining shall not be located in front of a fire hydrant, active driveway, manhole or active utility access point. In addition, shall not impede surface drainage.

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~~G.B.~~ Outdoor dining operation shall meet all ~~Building Code requirements and Zoning Code Regulations applicable regulations.~~

#### § 45-32. Design standards.

A. All outdoor dining shall meet standards and guidance as issued by the City on an annual basis.

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~~A.B.~~ Outdoor dining on public land shall have an approved enclosure. All planters, railings and fences associated with outdoor dining must be approved by the Director of ~~Public Works~~Public Works. ~~Railings, fences~~Railings, fences, or other enclosures shall not be more than 42 inches in height and must be anchored in a manner to prevent movement. ~~Railings and fences must be removed from the sidewalk and stored and stored~~ indoors when outdoor dining is not in seasonal operation unless the Director approves otherwise. No modifications shall be made to City property without approval of the Director of Public Works.

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~~B.C.~~ Furnishings for outdoor dining shall consist solely of moveable tables, chairs and decorative accessories. Furnishings must be kept in a state of good repair and in a clean and safe condition at all times.

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~~G.D.~~ Awnings shall be adequately secured and retractable. Umbrellas over tables must be adequately weighted.

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~~D.E.~~ Tables, chairs, and all other furnishings or accessories may be left in place overnight during seasonal operation but shall be removed from the sidewalk and stored indoors whenever outdoor dining is not in seasonal operation. It shall be the responsibility of the licensee to secure furnishings and accessories that are left in place overnight.

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~~E.F. Outdoor heaters, busing stations, trash receptacles, food preparation stations, and music shall not be permitted in the outdoor dining facility.~~

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~~F.G. Outdoor dining shall be at the same elevation as the public sidewalk and any exceptions must be approved by the Director of~~

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~~Public Works. Paint, carpeting, artificial turf, platforms or other surfaces of any kind shall not be permitted at any time in the outdoor dining facility.~~

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- ~~G. No sign shall be allowed at any outdoor dining facility except for the name of the establishment on an awning or umbrella fringe. One menu board sign may be displayed within the area of the outdoor dining, mounted on an easel or other easily removable fixture. The sign shall not exceed six square feet.~~

**§ 45-33. License agreement terms and other requirements.**

A. Outdoor dining proposed to be located on private or public property is required to obtain a permit from the Director of Zoning or his/her designee pursuant to the Norwalk Zoning Regulations on a yearly basis and a license agreement between the City of Norwalk and the retail establishment.

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B. Outdoor dining proposed to be located on a publicly owned property, such as sidewalks, lots, zoning lots, street faces, or yards must meet the following requirements identified in the Outdoor Dining Guidelines and Standards for the outdoor dining season. A copy can be obtained from the City of Norwalk website, or from the Economic and Community Development Office.

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~~A. Anyone wishing to operate outdoor dining on public property must execute a license agreement by and between the applicant and the City of Norwalk.~~

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~~B. The Director of Zoning or his/her designee will coordinate a license agreement application with Public Works Department, Health Department, Police Department, Redevelopment Agency, Fire Marshal and Code Enforcement Department. In addition to meeting the requirements of this article, the applicant shall be responsible for providing additional information requested by any City Department for its review.~~

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~~C. Any requirements of other agencies which regulate restaurants or the public right-of-way must be adhered to, and the City of Norwalk shall incorporate any such requirements into the license agreement and shall not recommend a license agreement if the applicant has not received approvals for the operation from other agencies having any jurisdiction on its operation.~~

~~D.B. Any license agreement shall not in any way excuse an applicant from complying with any applicable requirement imposed by the~~

Liquor Control Act of the State of Connecticut. Consumption of alcohol on such property is permitted only in accordance with any liquor permit, provided that such public consumption shall not violate any other state ~~statute, state~~statute, state regulation or municipal ordinance.

~~E. The outdoor dining licensee must provide liability insurance in an amount determined by the Director of Finance, and must name the City as an additional issued in that policy.~~

~~F. All permit and license agreement fees shall be nonrefundable. The permit fee shall be \$100 and the license agreement fee for the leasing of City property shall be \$2 per square foot of leased space.~~

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G.D. Outdoor dining license agreements shall be issued for an annual operation period from April 1 to November 31. Thereafter, the Director of Zoning or his/her designee may approve a renewal application and license agreement on an annual seasonal basis, provides a request is made for the renewal and after an inspection of the premises has been completed.

H.A. A performance bond shall be required as a condition of issuance of a license agreement in the amount of the license agreement fee.

I.E. The City may deny a license agreement or a renewal license agreement to operate outdoor dining if the proposed licensee has a history of violations of any of the requirements governing outdoor dining, fails to correct any violations when duly noticed, violates the terms of the license agreement or has any tax delinquencies.

J.F. A license agreement shall not be executed until all approvals are received.

Any violations of the requirements governing outdoor dining, the terms of the license agreement or failure to correct any violations when duly noticed by the City shall be deemed separate offenses and subject to a fine of \$99.

#### **§ 45-33A. Fines and Revocation**

A. This section governs the initiation of enforcement actions, the issuance of fines for violations of this chapter, and the imposition of penalties for violations of this chapter.

B. Any person violating any provision of this ordinance may be punished as follows:

1. Any violation of the requirements of this ordinance shall be subject to a fine of \$250.00 for each violation. Each day that a violation exists shall constitute a separate violation of this ordinance. No more than one fine shall be imposed in one twenty four hour period.

2. The City reserves the right to revoke a permit for failing to adhere to this ordinance and/or the City's guidelines concerning outdoor dining. The City will reinstitute the permit once the violation has been corrected.

C. Any aggrieved person may file an appeal to the Superior Court for the Judicial District of Stamford/Norwalk.

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Commented [VJ11]: Is this necessary, especially if we are not anchoring down fencing or furniture? We can ask DPW.  
I think this is to repair any damage done from anchoring down fencing to the sidewalk.

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~~(MOVED FROM LICENSE AGREEMENT) Any violations of the requirements governing outdoor dining, the terms of the license agreement or failure to correct any violations when duly noticed by the City shall be deemed separate offenses and subject to a fine of \$250 for each violation (Noise Ordinance - BRIAN). \$99.~~

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~~K. MOVED FROM OPERATIONS: The City reserves the right and power to terminate the license agreement for any reason, including, but not limited to, a violation of any provision of this article and/or the terms of the license agreement.~~

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**L. § 45-33B. Temporary discontinuation of outdoor dining permit**

~~The City reserves the right and power to temporarily order the discontinuation of the operation of public outdoor dining at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. These situations include, but are not limited to festivals, parades, marches, road races, severe weather events, repairs to the street or sidewalk, or any other emergencies occurring in the area. To the extent possible, the permittee licensee shall be given prior written notice of the time period during which the operation of outdoor dining will not be permitted by the City, but failure to give notice shall not affect the right and power of the City to prohibit outdoor dining operation at any particular time.~~

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~~(MOVED FROM OPERATIONS): The City reserves the right and power to temporarily order the discontinuation of the operation of public outdoor dining at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. These situations include, but are not limited to festivals, parades, marches, road races, severe weather events, repairs to the street or sidewalk, or any other emergencies occurring in the area. To the extent possible, the licensee shall be given prior written notice of the time period during which the operation of outdoor dining will not be permitted by the City, but failure to give notice shall not affect the right and power of the City to prohibit outdoor dining operation at any particular time.~~

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**§ 45-34. Operation and service requirements.**

**A. All outdoor dining shall meet standards and guidance as issued by the City on an annual basis.**

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~~A. Outdoor dining may operate during regular business hours of the restaurant operating the outdoor dining but no later than 11:00~~

**B. p.m.** The license agreement shall be for all annual seasonal outdoor

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dining from April 1 through November 31.

- ~~B. The licensee of outdoor dining is responsible for keeping the premises clean at all times, including the public sidewalk and other furnishings of the outdoor dining. At no time should trash or debris of any kind be blown, swept or otherwise deposited into the street. The presetting of tables with utensils, glasses, napkins, condiments and the like is prohibited.~~
- ~~C. The City reserves the right and power to temporarily order the discontinuation of the operation of public outdoor dining at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. These situations include, but are not limited to festivals, parades, marches, road races, repairs to the street or sidewalk, or any other emergencies occurring in the area. To the extent possible, the licensee shall be given prior~~

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§ 45-34

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~~written notice of the time period during which the operation of outdoor dining will not be permitted by the City, but failure to give notice shall not affect the right and power of the City to prohibit outdoor dining operation at any particular time.~~

~~D.C. Any aggrieved person may file an appeal to the Superior Court for the Judicial District of Stamford/Norwalk.~~

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## CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING 2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022

### Introduction

Building on Norwalk's ongoing commitment to support restaurants and small business, guidelines and standards for outdoor dining have been updated to better meet the needs of diners, restaurateurs, and businesses across the city. The 2022 Outdoor Dining Program will incorporate many of the successful initiatives from the prior year's program, such as streamlined permitting and outdoor patios on neighboring properties, with proper approvals.

[You can apply for outdoor dining here.](#)

If you have specific questions related to your application and permit, please contact the Planning and Zoning Department at 203.854.7780

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### Getting your Outdoor Dining Permit

Permits are required for all outdoor dining, including dining that will take place on private and public land. If you have previously been approved for Outdoor Dining via a Site Plan approval you DO NOT need to apply for a yearly Outdoor Dining Permit. If you are unsure of your status or if that scenario applies to you, please contact the Planning and Zoning Department at 203.854.7780. Applicants need to apply for an outdoor dining permit from the Planning and Zoning Department. [You can apply for outdoor dining here.](#)

#### What is needed for a permit?

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To obtain an outdoor dining permit, you will need to submit the following:

1. A completed Outdoor Dining permit application. [You can apply for outdoor dining here.](#)
2. A to-scale site plan showing the area intended for outdoor dining or seating, the proposed seating configuration, a description and the location of the physical barrier fencing, and the ingress and egress to the outdoor dining area. In addition, the plan shall also include the dimensions of the seating area and any potential projection onto the municipal roadway, street, or parking lot. The site plan must show ADA access with at least four feet clearance from all obstacles, including fire hydrants, water access points, trees, street trees, street furniture, parking meters, trash receptacles and benches. This does not need to be a certified architectural drawing. [Please see examples of accepted plans here.](#)
3. If the proposed outdoor dining area includes a contiguous neighboring building/storefront sidewalk or walkway, a written authorization to engage in such outdoor activities is required from the owner. This must be included with your application.
4. Proof of adequate insurance, naming the City of Norwalk as an additional insured. This insurance policy shall be effective for the duration of the permit (April 1 to November 31). Insurance may be no less than one million dollars (\$1,000,000.00) per incident/occurrence and two million dollars (\$2,000,000.00) aggregate.

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**CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING  
2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022**

5. If applicable, liquor liability insurance in the minimum amount of one million dollars (\$1,000,000.00).
6. Workers' compensation insurance in such amount as required by law.
7. A completed and signed indemnification agreement, in a form approved by Norwalk's Corporation Counsel. The applicant must indemnify and hold the City of Norwalk harmless from any and all claims, costs, and damages as a result of the applicant's use of the outdoor dining space.
8. A five-thousand-dollar (\$5,000.00) bond in the form of a certified check shall be required to insure the removal of the outdoor dining and fencing at the end of the season and the restoration, if any, of the roadway, street, or other public property.
9. In event alcoholic beverages are to be sold, the following shall be presented:
  - a. A copy of a valid and current liquor permit from the State Liquor Commission; and
  - b. An application for a patio liquor permit signed by the Director of Planning and Zoning, the Fire Chief or Fire Marshal, and the Health Department. [You can access the application here.](#)
10. Before receiving formal and final approval of the permit for use of public property, the applicant shall execute a license agreement with the City of Norwalk.

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**Please note:**

- The permit shall be for the exclusive use of the sponsoring retail establishment. The sponsoring retail establishment cannot assign or transfer this permit to any other party.
- For tents, a separate permit is required from the Building and Code Department/Fire Marshal. Please see below section, "Tent – Rules and Regulations." [You can apply for a tent permit here.](#)

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**How will my permit be circulated to the different departments?**

Before the application is submitted to the Planning and Zoning Department for final approval, the applicant's design plan shall be submitted and approved by the following: (a) Chief of Operations and Public Works, (b) the Chief Building Official, (c) the Police Chief, (d) the Fire Chief or Fire Marshal, (e) the Director of Health, and (f) a duly authorized representative of Transportation, Mobility and Parking. This is completed automatically by the online system. Should any changes or modifications be required, the respective department will reach out to the applicant. It is important that with your application you include a valid and frequently monitored email address and phone number for this purpose.



**CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING  
2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022**

**Building out and maintaining Outdoor Dining**

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1. The cost, design, construction, and maintenance of outdoor dining shall be paid for by the sponsoring retail establishment.
2. Outdoor dining may be located on public sidewalks in front of, adjacent to or abutting the indoor restaurant which operates the outdoor dining. Outdoor dining may be located on public sidewalks in front of, adjacent to or abutting a neighboring building/storefront and/or area, given the sponsoring retail establishment obtains written authorization to engage in such outdoor activities from the owner and provides a copy of the authorization to the Planning and Zoning Department, as part of the application.
3. Outdoor dining shall extend no further than the actual street frontage of the operating restaurant, unless approved by the Planning and Zoning Department.
4. Each outdoor dining space shall include a continuous physical barrier. This physical barrier shall separate the patrons, guests, and invitees of the sponsoring retail establishment and the traveled portions of the street. At all times a clear sight distance is required for all vehicles and access to crossings. Detail of the physical barrier fencing must be provided in the application.
5. Outdoor dining shall not be located in front of, or obstruct, fire department access to any buildings or fire protection feature required for fire suppression activities, including but not limited to any and all fire hydrants. Please note a four foot clearance is required from all obstacles including, but not limited to trees, street trees, street furniture, parking meters, trash receptacles and benches.
6. Outdoor dining shall not be located in front of, or obstruct, an active driveway, manhole or active utility access point. Outdoor dining shall not impede surface drainage.
7. The outdoor dining physical barriers shall not interfere with access for first responders.
8. Tables, chairs, and all other furnishings or accessories may be left in place overnight during seasonal operation but shall be removed from the sidewalk and stored indoors whenever outdoor dining is not in seasonal operation. It shall be the responsibility of the licensee to secure furnishings and accessories that are left in place overnight. All furniture and accessories for outdoor dining must be removed in advance of a major storm and/or weather event based on notification from the City of Norwalk.
9. Outdoor dining shall be at the same elevation as the public sidewalk and any exceptions must be approved by the Planning and Zoning Department. Paint, carpeting, artificial turf, platforms, or other surfaces of any kind must be approved by the Planning and Zoning Department.
10. No sign shall be allowed at any outdoor dining area except for the name of the establishment on an awning or umbrella fringe. One menu board sign may be displayed within the area of the outdoor

**CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING  
2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022**

dining, mounted on an easel or other easily removable fixture. The sign shall not exceed six square feet.

11. Awnings shall be adequately secured and retractable and have been permitted. Umbrellas over tables must be adequately weighted.
12. Access for all roadway users and pedestrians shall be maintained during the set-up and removal of outdoor dining appurtenances.
13. For information on tents for outdoor dining, please see section "Tents – Rules and Regulations."

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**Hours of Operation, Noise and Entertainment**

1. Hours of operations for outdoor dining located outside of the Washington Street Design District shall be from 7:00 a.m. to 9:00 p.m. Sunday through Wednesday, and from 7:00 a.m. to 11:00 p.m. on Thursday, Friday, Saturday, and night before federal and state holidays. See, City Code §§ 68-3 and 68-5 for noise related regulations in the City of Norwalk.
2. Hours of operations for outdoor dining located within the Washington Street Design District shall be from 7:00 a.m. to 10:00 p.m. Sunday through Wednesday, from 7:00 a.m. to 11:00 p.m. on Thursday, on 7:00 a.m. to 1:00 a.m. Friday, Saturday, and night before federal and state holidays. See, City Code §§ 68-3 and 68-5 for noise related regulations in the City of Norwalk. All entertainment must be approved through the local and state process. At this time, the City is not allowing outdoor entertainment within the Washington Street Design District, except by special event permit only.

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**General Outdoor Dining Rules and Regulations**

Any Outdoor Dining permit granted by Norwalk, shall be subject to the following rules and regulations below. The City of Norwalk's Planning and Zoning Department shall enforce the terms and conditions of any permit issued pursuant to terms referenced below.

1. All outdoor dining must provide ADA access with at least four feet clearance from all obstacles, including fire hydrants, water access points, trees, street trees, street furniture, parking meters, trash receptacles and benches. The minimum width of the sidewalk must be four (4) feet to allow unimpeded pedestrian traffic. At street corner intersections, there shall be a minimum of 9 (eight) feet of unobstructed sidewalk.
2. Furnishings for outdoor dining shall consist solely of moveable tables, chairs, and decorative accessories. Furnishings must be kept in a state of good repair and in a clean and safe condition at all times, including adjacent to the physical barriers separating patrons, guests and invitees from the



**CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING  
2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022**

travel way. The outdoor dining area shall be swept and cleaned daily.

3. The sponsoring retail establishment shall be solely responsible for the security of all tables, chairs, and other personal property at all times. At any time, the City of Norwalk has the right to move and/or relocate furniture and accessories that are placed in the right of way.
4. Any damage done to the public right-of-way, sidewalk, or curbing by the sponsoring retail establishment or by its patrons shall be repaired promptly by the sponsoring retail establishment at its expense. No hooks, fasteners, or holes shall be made or affixed to the public right-of-way, sidewalk or curbing by the sponsoring retail establishment in the outdoor dining area. All installations into the public right of way require necessary permits.
5. In the event of a public necessity or emergency where access to street, sidewalk or adjacent building is impaired for any reason, outdoor dining shall be temporarily moved by the sponsoring retail establishment and/or emergency responders. All costs associated with the relocation of the outdoor dining furniture and/or accessories, or any damage incurred to the outdoor dining furniture or accessories, in the event of a public emergency or otherwise, shall solely be borne by the sponsoring retail establishment.
6. The sponsoring retail establishment shall be solely responsible for removing and storing all tables, chairs, and other personal property from the outdoor dining area least twelve (12) hours, or as otherwise directed by the City of Norwalk, prior to the National Weather Service predicted time of arrival of any storm event involving wind gusts in excess of forty-five (45) miles per hours, snow falls in excess of two (2) inches and/or flooding.
7. Outdoor heaters, bus stop shelters, trash receptacles, food preparation stations, and music shall not be permitted in the outdoor dining area. Exceptions must be approved by the Planning and Zoning Department.
8. Outdoor consumer bars are not permitted for outdoor dining areas.
9. Alcohol may only be served with food, regardless of the time and day of service.
10. Smoking of any kind is prohibited in all outdoor dining areas, without exception.
11. No animals are allowed in outdoor dining areas, except for certified service animals.
12. No cooking will be permitted in the outdoor dining area and no food may be kept in outdoor service areas.

**Commented [VJ7]:** Need guidance on additional accessories, flags, lighting, etc.

**CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING  
2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022**

Norwalk may deny an outdoor dining permit or renewal if the sponsoring retail establishment has a history of violations of any of these regulations, failed to correct any violations when duly noticed, or has any tax delinquencies.

Failure to adhere to these rules, regulations and restrictions shall result in a fine as well as a revocation of the permit until such time that the violation has been corrected. If a retail establishment has three violations in a six (6) month period, the permit will be pulled for the remainder of the outdoor dining season.

**Tent - Rules and Regulations**

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An application to erect a tent requires the completion of a permit. [You can apply for a tent permit here.](#)

Tents over 8 square feet will require a physical inspection from the Fire Marshal, or his/her designee, and the Chief Building Official, or his/her designee, prior to use.

Any tent permit granted by Norwalk, shall be subject to the following rules, regulations, and restrictions:

1. All rules and regulations related to general outdoor dining are applicable to activities that take place under the erected tent.
2. No heaters under the tent.
3. No cooking under the tent.
4. No smoking, fireworks or open flames of any kind shall be permitted in any tent.
5. No flammable liquids or gases shall be brought into any tent, including fire pits or decorative heating devices.
6. No smoking sign shall be posted.
7. Fire extinguishers are required.
8. All tent poles shall be secured to the ground with ground driven stakes or 8 (if on concrete/asphalt). Tents can not be tied to fire apparatus or infrastructure.
9. Where required, the Fire Marshal, or his/her designee, and/or the Chief Building Official, or his/her designee, shall inspect to be sure that capacity, location, and size of any tents are to code, with at least two (2) means of egress with suitably marked exit signs.
10. All tents will have a clearance of 6'8", as outlined by ADA requirements. Sidewalk clearance, from the legs and supports of the tent, and clearance to other obstacles must be at least four (4) feet.



**CITY OF NORWALK, GUIDELINES AND STANDARDS FOR OUTDOOR DINING  
2022 DINING SEASON, APRIL 1, 2022 TO NOVEMBER 31, 2022**

**Other Outdoor Dining Programs**

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The City of Norwalk may from time to time introduce new Outdoor Dining programs. Newly introduced programs will be accompanied by guidelines and standards and have a separate permitting process.

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