

**City of Norwalk
Ordinance Committee
Sep 21, 2021**

I. ROLL CALL

ATTENDANCE: Lisa Shanahan, Chair; David Heuvelman, Dominique Johnson, Tom Livingston, Manny Langella, Kadeem Roberts, Tom Keegan (7:05).

OTHERS: Atty. Brian Candela, Paul Sotnick, Norwalk Tree Alliance, Louis Shulman, Peter Vittaretto, Steve Kleppin, Planning and Zoning, Jessica Vonashek, Chris Torre, Tree Warden.

There was a quorum present.

II. PUBLIC HEARING

Attorney Candela read an email from Bruce Kimmel in strong support of the joining of the Planning and Zoning Commissions. Email is attached.

Attorney Candela read a letter from the tree advisory committee. Letter is attached. Peter Vittaretto's comments to the letter are also attached.

Ms. Lauricella suggested that the minutes from the last meeting be changed, instead of using the word entity using the word home. Attorney Candela will amend the minutes.

Ms. Lauricella stated that she thinks it is premature to join the Planning and Zoning Commissions because there will be no checks and balances. She also commented on how to value trees.

Adam Blank shared his experience on past Planning and Zoning boards, and recommends that the two committees merge into one for efficiency and cohesive messaging.

III. PUBLIC HEARING DISCUSSION

There was no further discussion.

IV. PUBLIC COMMENT

There was no additional public comment.

V. ACCEPTANCE OF MINUTES

Jul 20, 2021

Mr. Livingston moved to accept the minutes as corrected. Ms. Shanahan corrected the attendance, adding Attorney Candela, Chris Torre, Tree Warden, and Jessica Vonashek. She also added titles for Paul Sotnik and stated Professor Kippin is a she not a he. Mr. Livingston asked to change page 14, third paragraph to read "other sources for funds" not "other uses for funds". All changes were unanimously approved.

VI. OLD BUSINESS

- 1) Discuss and vote on Chapter 30 (Capital Projects Program) - Possible merger of the Planning and Zoning Commissions
- 2) Discuss and vote on Chapter 79 (Planning and Zoning Commissions) - Possible merger of Planning and Zoning Commissions

These two items were discussed simultaneously.

Mr. Livingston states the reasons for combining the Planning and Zoning Commissions is that "all the physical development decisions in the city should be based on a consistent set of policies and goals." He also stated having separate committees creates a disconnect between planning, land use and zoning.

Mr. Livingston asks Steve Kleppin to address workload concerns for the combined committee, and how legislation in Hartford will affect the joining of the committees.

Mr. Kleppin addressed how the workload will be distributed. The Planning Committee workload consists mainly of addressing zoning proposals and deciding if they fit within the city's plans, and 824 referrals, which concern improvements to city property. They also update the city wide plan, which is up to date. He also discussed the Planning Committee's role in the city budget. Lastly, he addressed concerns about changes to the enabling legislation - statute 8-2 which will be addressed at the next joint Planning and Zoning Committee meeting.

City of Norwalk
Ordinance Committee
Regular Meeting
Sep 20, 2021

Mr. Livingston asked Mr. Shulman for his thoughts. Mr. Shulman stated that his only concern was about workload and that was addressed in the proposal.

Ms. Shanahan asked if any committee members had questions.

Ms. Johnson asked about how legislation in Hartford will affect zoning regulations. Mr. Kleppin responded that the new zoning updates will be completed by next summer, and believes that the new regulations will be easier to follow.

Ms. Johnson then asked about if it made sense to pass the combining bill until the zoning changes in Hartford are complete. Mr. Kleppin responded that cities have the opportunity to opt out of the new regulations so there is no reason to postpone.

Ms. Johnson asked Mr. Kleppin to explain how checks and balances would work with regard to large building projects. Mr. Kleppin explained how there are many checks and balances already in place that wouldn't be affected by combining the Planning and Zoning Committees.

Mr. Huevelman thanked Ms. Shanahan and Mr. Livingston for putting this together. He then voiced concerns that it is necessary to keep in mind the overall plan for the city and not get caught up in the zoning alone. Mr. Kleppin discussed the existence of a ten year plan.

Mr. Langella stressed the importance of workload for the combined committee given that many positions are volunteer. And he discussed the existence of checks and balances.

Mr. Keegan clarified that nine people and three alternates would be on the newly combined committee with restrictions on the number of party members and council district locations. He then asked Mr. Kleppin to discuss the Planning Subcommittee.

Mr. Livingston recommended that the last clause of Chapter 79 section two be removed. And suggested adding the word agency in Chapter 30 - 5.

****MS. SHANAHAN MOVED TO VOTE ON TAKING CHAPTER 30 TO THE COMMON COUNCIL. IT PASSED UNANIMOUSLY**

****MS. SHANAHAN MOVED TO VOTE ON TAKING CHAPTER 79 TO THE COMMON COUNCIL. IT PASSED UNANIMOUSLY.**

3) Discuss and vote on Chapter 112 - Trees

Ms. Shanahan introduced this as an action item that came through the planning summit in an effort to better protect trees and shrubs in the city of Norwalk. Norwalk is a Tree City USA as defined by the Arbor Society. Ms. Shanahan discussed the steps taken to research and create

City of Norwalk
Ordinance Committee
Regular Meeting
Sep 20, 2021

a tree management plan. She then thanked the many people who shared their experience and insight in its creation. Ms. Shanahan read aloud the purpose of the Ordinance.

Ms. Shanahan defined public vs. private trees, and defined the meaning of shrub.

Mr. Livingston discussed how the ordinance strengthened and reinforces the role of the Tree Warden.

Ms. Shanahan discussed the Tree Advisory Committee. It is made up of people with expertise, and they have the goal of creating a tree management plan including plans for a tree inventory, tree canopy, tree diversity, and tree maintenance. They will also create a yearly state of the forest document for accountability.

Mr. Livingston discussed the need for staggered terms in the Tree Advisory committee. Mr. Heuvelman asked if this was necessary, or should be removed. Ms. Shanahan and Mr. Livingston both stated that the clause on staggered terms is necessary.

Mr. Livingston discussed legacy trees. The Tree Advisory Committee will create a list of legacy trees, and once the list is created, the town will be responsible for these trees.

Ms. Shanahan discussed planting trees and shrubs. The goal is more trees and shrubs, and a creation of protocol for planting and maintaining trees and shrubs.

Mr. Livingston discussed protecting existing trees and shrubs.

Ms. Shanahan discussed protecting trees during construction projects. The Tree Warden is responsible for enforcing protections.

Mr. Livingston discussed the provision for replacing trees that need to be taken down. There are size requirements for replacement trees. Or if no replacement is planned, a monetary payment will be made to the Norwalk Tree Account to be used to plant other trees.

Ms. Shanahan discussed the section that empowers the Tree Warden to work with utility companies to protect trees and replace trees and shrubs that the utility companies need to take down.

Mr. Livingston discussed how the ordinance will be enforced. He also discussed the last section that discusses removing trees that pose a risk to citizens.

Ms. Shanahan discussed that if a citizen has a dispute with the Tree Warden they can take it to court in Norwalk or Stamford.

Chris Torre discussed how the new ordinance will benefit Norwalk's quality of life, and home values.

Mr. Keegan asked for clarification about confusion homeowners may have about tree ownership. Mr. Torre responded that he or a deputy will visit the property to determine who owns the tree. It was also noted that you can plant a tree on you property, but if it grows onto city property it becomes a city owned tree.

Mr. Langella thanked the committee for working on this project and shared his support for section 112 which refers to replacing trees.

Mr. Huevelman stated that he was pleased with the strengthening of the construction clause. He asked about whether the tree inventory will include trees that grow on private property. Mr. Torre replied that it would.

Kadeem Roberts thanked the committee for their work and for valuing the importance of trees.

Mr. Torre told the story of the Lighthouse Tree as an example of a legacy tree, and mentioned that a piece of it is still in the DPW office.

Mr. Candela gave more examples of legacy trees in Gettysburg.

****MR. LANGELLA MADE A MOTION TO MOVE CHAPTER 12 - TREES TO A PUBLIC HEARING. THE VOTE WAS UNANIMOUS.**

- 4) Discuss Chapter 45 Article IV - Outdoor Dining, Standards and Guidelines for Outdoor Dining.

Jessica Vonashek discussed that now is the time to update the ordinance concerning outdoor dining. The goal is to update the ordinance, with concerns as to what is working, what is not working. The guidelines and standards were separated from the ordinance to allow for flexibility. The changes were shared with DPW, the police, fire department, building, zoning and health, tmp and legal departments. The timeline is to be finished by April 2022.

Ms. Shanahan thanked all involved and said the changes to the ordinance will be discussed at next month's meeting.

Mr. Huevelman asked if specific streets would be addressed in the guidance. Ms. Vonashek responded that they would be addressed in respect to noise ordinances in commercial and residential mixed neighborhoods. Mr. Huevelman asked if restaurants would be allowed to use curb/parklet areas. Ms. Vonashek responded that there is language in the ordinance that allows for a separate permitting process for these spaces.

City of Norwalk
Ordinance Committee
Regular Meeting
Sep 20, 2021

Mr. Huevelman asked what the difference is between a permit and a license. Mr. Candela responded that for outdoor dining you do need a permit in addition to a license that goes through council. Ms. Vonashek mentioned that since Covid, the entire process can be done on line which will continue.

Mr. Keegan asked if there was flexibility in the dates for outdoor dining. Ms. Vonashek said that no one has asked for a permit outside the dates available, but flexibility is available.

Ms. Johnson asked about the definition of the type of eating establishments that is allowed outdoor dining. Ms. Vonashek answered that all food must be prepared indoors and carried out to the diner. The language in the ordinance wants to include all types of food of establishments.

****MR. KEEGAN MADE A MOTION TO DISCUSS CHAPTER 45, ARTICLE IV - OUTDOOR DINING AT THE NEXT MEETING. THE VOTE WAS UNANIMOUS.**

VII. NEW BUSINESS

There was no new business to discuss.

VIII. DISCUSSION ITEM

There were no further discussion items.

IX. ADJOURNMENT

Ms. Shanahan adjourned the meeting at 9:00.

Respectfully submitted,

Amy Chaple
Telesca Secretarial Services

City of Norwalk
Ordinance Committee
Regular Meeting
Sep 20, 2021

Testimony submitted to the Norwalk Ordinance Committee, Sept. 13, 2021
From Bruce Kimmel
9 Toilsome Avenue, Norwalk, Ct. 06851
917 207 6612

Time to Combine Planning and Zoning Commissions

By Bruce Kimmel

I am pleased the Ordinance Committee of the Norwalk Common Council, following the recommendation of the city's Plan of Conservation and Development (POCD), is examining the merits of combining the Planning and Zoning Commissions. I support this effort and hope the two commissions are combined.

The new POCD also calls for a major overhaul of the city's antiquated zoning regulations, which is long overdue. I served on the Common Council for 14 years and was perplexed as residents repeatedly were forced to come to City Hall to voice their opposition to projects that made little sense to them but conformed to antiquated zoning regulations.

Planning should always be the driver of development; zoning regulations need to support the goals of the city's long-term plans. Sadly, that was not the case in Norwalk for many years.

Until 2014, when Mayor Rilling took office, members of the Common Council with reservations about our cumbersome and non-existent planning process did not have the support necessary to push for major changes. For most of my time on the Council (1997-2005) and (2011-2017), four separate agencies handled the land-use issues that found their way into City Hall.

The Common Council's Planning Committee: Until recently, this committee was staffed not by the city's top planning official, but by the head of our Redevelopment Agency. As a result, much of what that committee addressed had virtually nothing to do with long-term planning. Its members spent the bulk of their time dealing with issues in urban areas under the purview of the Redevelopment Agency.

The Redevelopment Agency: This quasi-independent agency focuses primarily on areas of the city that the U.S. Department of Housing and Urban Development deems to need further development. Members spend much of their time on the copious paperwork required when receiving federal dollars. This agency does not deal with the city's overall long-term development.

The Planning Commission: This commission reviews land-use initiatives to ensure they conform to the ten-year, state-mandated Plan of Conservation and Development. Trouble was, until recently, these ten-year plans were so general, so devoid of priorities and specifics, virtually anything conformed to the plan and was thus passed along to Zoning. The Commission is also tasked with reviewing capital budget requests to ensure they dovetail with the POCD.

The Zoning Commission: This commission ensures that all land use projects conform to existing zoning regulations. It's common knowledge that many of these regulations are

antiquated and make no sense, but that's irrelevant. Thus, the Zoning Commission, for years operating without a long-term vision (because the city had none) has been forced to rely on questionable regulations when evaluating projects.

A few years back, at one of the first meetings of the task force put together by Mayor Rilling to create the new POCD, I asked, "What do we want Norwalk to look like in ten years, twenty years?" Some of the folks in the room looked at me as if I were crazy.

Fortunately, things have begun to change for the better, but slowly. Soon after the 2013 election, the mayor and other elected officials realized our zoning regulations needed an overhaul and a task force was formed to examine them and make recommendations. But the problems were too numerous and too complicated for volunteers to address, and the effort fizzled. Consultants were then hired to do a comprehensive review, with resident input, and come up with a new set of regulations. That review is happening right now.

Mayor Rilling also hired top staff with credentials in planning, and they have been working with city agencies to devise a more cohesive long-term approach to planning. Part of this effort was the creation – for the first time – of a new POCD that was specific, prioritized and set out a long-term vision of where we want to go as a city. The plan contains timelines and benchmarks that require periodic departmental review.

The Council's Ordinance Committee is addressing another piece of the puzzle: For too many years, the absence of serious planning allowed zoning to drive development. Now that we have a credible POCD, we should combine the Planning and Zoning Commissions to ensure that our soon-to-be-updated zoning regulations conform to the specific and prioritized goals set out in the POCD.



CITY OF NORWALK
TREE ADVISORY COMMITTEE
Norwalk City Hall
125 East Avenue, PO Box 5125
Room 225
Norwalk, CT 06856-5125
P: 203-854-7791 / F: 203-857-0143

TREE ADVISORY COMMITTEE

September 17, 2021

Council Member Shanahan
Chairperson – Ordinance Committee
City of Norwalk Common Council
125 East Avenue
Norwalk, CT 06856

Ms. Shanahan:

The members of the Tree Advisory Committee (TAC) want to thank you and your fellow Ordinance Committee members for your interest and dedication to improving the urban forest in the City of Norwalk. It appears that both Committees have the common goals of not only protecting, but also improving the City's tree canopy. We have reviewed the revisions to Chapter 112 that have currently been proposed by the Ordinance Committee and have several comments that we would like to share with you prior to the adoption of the revised ordinance. We have listed those comments below.

- Please see the attached Word file that contains detailed comments from Peter Viteretto related to specific sections of the proposed ordinance revisions.
- The way that TAC member terms are set up now is fine, but if someone resigns prior to their term ending and a replacement is appointed, that person should not simply be finishing out the predecessor term, but should have their 3-year time clock that starts upon appointment. Then there would be no need to make them go through being appointed again after being an interim.
- The TAC should not be charged developing a master tree plan and creating annual state of the forest reports.
- There is no mention of the Neighborhood Tree Liaison Program, which should fall under the TAC. It is listed in the current ordinance. We all work very hard to cultivate and maintain this subgroup, it is an important component to the success of the tree planting program, and it should not be removed.
- The TAC is not sure why we are including shrubs along with trees, we are aware that we have both on our Tree Planting list, but do we really want to get involved in managing shrub pruning and removal?

- The TAC is never opposed to collaborating and our meetings are always open to any other resident and City department however there is much talk about merging Planning and Zoning into one group, so maybe it's best to let that play out before it becomes part of the TAC and the new tree ordinance. Instead, perhaps wording that states that the TAC should be privy to plantings within Norwalk parks and private land, including grants that propose tree plantings—whether thru a City department or local conservation organization. (See below).
- There is no mention of the tree inventory the TAC has been charged with this and have been working tirelessly on this and even has a volunteer from NCC.
- During our most recent Neighborhood Tree Liaison Training Program, we presented a PowerPoint slide that outlined the TAC. This is clearly how WE see ourselves and our contribution to the City. They feel that it is a great summary of their work. This was cut and pasted directly from the PowerPoint slide.
 - The Tree Advisory Committee (TAC) recommends a Tree Management Plan; recommends policies concerning the selection, planting, maintenance and removal of public street trees and public park trees within the City and suggests community educational programs.
 - TAC works with various City departments, the Tree Warden, Common Council members, local businesses, conservation organizations and residents to help improve urban forest management and neighborhood treescapes.
 - TAC circulates a newsletter called the Charter Oak that is sent out digitally to help increase awareness.
 - TAC curates a tree inventory.
 - TAC maintains the City Tree City USA status.
 - TAC holds monthly meetings.
 - TAC recruits and trains Neighborhood Tree Liaisons.

We look forward to discussing these items and resolving them prior to discussing them in public so that both Committees can show a united front to the public when dealing with the critically important issue of tree management in our City. If you have any questions, please don't hesitate to contact us.

Regards,

Erica Kipp
Chairperson
Tree Advisory Committee

Rich Whitehead
Vice-Chairperson
Tree Advisory Committee

DRAFT
8/6/21

Chapter 112. Trees and Shrubs

PV Comments in Mark up

§ 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 publicly owned properties in the City of Norwalk and to provide for new public trees and shrubs to be planted for the benefit of present and future generations. Public trees and public 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 CO₂, 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, enhancing property values.

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 pPruning/shaping of a Tree or Shrub necessary for normal growth habit and form. Modification of tree canopy by topping/pollarding/pleaching or in any manner that prevents the tree from obtaining the nominal growth and habit of the species.

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 reviewing 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 and Shrub canopy, the importance of the particular Tree or Shrub, the health of the Tree or Shrub and its impact on the health, safety, and welfare of the general public and the overall impact that the loss of the Tree or Shrub would have on the City's urban forest.

CITY TREE means a Public Tree and, depending on the relevant facts, may include a Streetscape Tree, inclusive of trees in parks, school grounds, conservation lands, planted

Commented [V1]: The introduction / rational for including shrubs in a parallel discussion as trees in some ways burdens the language -- If they were pulled out as a section it might be make the issues a bit clearer and enforceable as to why and when shrub material is important. Example: are we more concerned about individual shrubs or shrub massing?

Commented [V2]: This paragraph talks about 2 adverse alterations -- one of the environment for the tree and 2 the individual tree -- not certain that is clear here

along city streets in residential neighborhoods, commercial districts and not limited to urban centers.

Commented [V3]: Identifying a streetscape vs trees in our parks, cemeteries, conservation lands and school grounds thinking all need to cited to be clearer

CITY SHRUB means a Public Shrub.

Formatted: Font: Bold

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 ~~d~~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 or Shrub 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 or Shrub 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 and/or Damage 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 and/or ~~d~~Damage to the health, safety and/or welfare of the general public, public property, private property or utility wires or other infrastructure.

LEGACY SHRUB means any Shrub 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.

LEGACY TREE means any Tree as determined by the Tree Advisory Committee ~~Commission~~ 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, (SEE NOTES BELOW)

Formatted: Highlight

PERSON means any individual, firm, partnership, association, company, trust, corporation, or organization of any kind. [If we keep this definition we need to capitalize Person in the sections below]

PRUNING (TRIMMING) to cut off or ~~Remove~~ dead or living parts or branches of a ~~t~~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 City 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 SHRUB means any Shrub in a Public Place.

PUBLIC TREE means any Tree in a Public Place.

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 two five-year period.

RIGHT-OF-WAY means the area ~~owned and/or controlled by the City of Norwalk that abuts any City street~~ between the street lines reserved for the street (paved/sidewalk area) and the adjacent property that abuts the City street which 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 ~~private and/or public and/or private~~ property with a base that originates, in whole or in part, in the City Right-of-Way, and, in the sole and absolute judgment and/or discretion of the Tree Warden, serves as part of the tree line or Shrub 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 where trees have been lost, removed or have failed and may be replanted, without a Tree or Shrub that could reasonably accommodate a Streetscape Tree.

Commented [V4]: Remove shrub from this –to Inventory all shrubs ? and why locations where trees may go that would be more the Issued of a tree master plan

SUPER-HAZARDOUS TREE is an ~~otherwise Hazardous Tree which has been ordered removed by the Tree Warden or other employees of the City of Norwalk on an emergency basis because it represents so immediate a hazard to public safety that removal cannot be deferred and the structure cannot be protected, secured, or stabilized by reasonable measures specified by the Tree Warden.~~

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 be considered a Tree or sShrub and whether a Tree or Shrub is a Hazardous Tree or Hazardous Shrub or a Super-Hazardous Tree, and is hereby authorized to ~~Remove~~ or ~~Prune~~ the same in accordance with 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/Shrub canopy of Norwalk, which may include a description of the Tree/Shrub canopy and a description of the extent and condition of Trees and Shrubs in Norwalk, including those on private property, in parks, and other Public Places. This assessment of the Tree/Shrub 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 or City Shrub 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.

Commented [SP5]: Assessing value of a tree is a complicated time consuming process that needs to be discussed.

Commented [SP6]: This needs to be discussed in detail.

§ 112-4. Tree Advisory Committee.

A. The Tree Advisory Committee shall be composed of five members to be 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 resign or otherwise be terminated 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.

Commented [SP7]: Related to the review and enforcement of planting for private developments and private development work impacting City trees?

Formatted: Highlight

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/Shrub-related issues in the City and promoting awareness of Tree/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 attainable targets for Tree/Shrub canopy cover and Tree/Shrub diversity, including targets for native and non-native hybrid species, based upon available space for planting trees and installing the "Right Tree In The Right Place." It may also reference standards for Tree or Shrub planting and Tree or Shrub maintenance and include guidelines for specifications relating to Trees or Shrubs and Tree/Shrub care and for contract Tree/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.

Commented [SP8]: Attainable or achievable targets based upon available funding.

Commented [SP9]: Will this be done by a consultant? Will there be a guaranteed budget allocated each year to pay for this work such as a separate Capital Budget Line Item for Tree Studies and Reports (guaranteed each year). Or is this an unfunded mandate?

If Capital Budget line item is not funded will this be waived until it is funded?

Commented [SP10]: Clearly define inequities so there is no confusion. Number of trees, size of trees, % of coverage in that area of the City?

Commented [SP11]: Is it going to be a Committee as it currently is, or will it be a commission?

Commented [V12]: Are we establishing a position of a city forester? This like the Master Plan requires tracking of trees perhaps with more intensity than currently

Commented [V13]: "DANGER WILL ROBINSON" LOOK AT PAUL'S COMMENT - the tree advisory committee to track and map changes in the urban forest not so easy and would be consumptive for volunteers - "need a forester on staff

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 Commission shall present this report to the Mayor and Common Council for their review.

Commented [SP14]: Should there be a set criteria for a legacy tree?

§ 112-5. Legacy Trees/Shrubs Program.

A. The Tree Advisory Committee shall establish a Legacy Tree/~~Shrub~~ Program in order to catalog Legacy Trees and Legacy Shrubs in the City and include the records of the Norwalk Tree Alliance Legacy Tree Program. The public shall be encouraged to give input to the Committee about which Trees or Shrubs should be included in the Program.

B. The Tree Warden shall keep a record of all Trees or Shrubs designated as Legacy Trees or Legacy Shrubs and their locations.

§ 112-6. Planting ~~€~~Trees or Shrubs in Public ~~Places~~.

Commented [SP15]: Discussion Item

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

B. Any ~~p~~Person wishing to plant a Tree or Shrub in a Public Place or a Right-of-Way shall apply in writing for a permit to the Tree ~~Warden~~ Advisory Committee prior to taking such action. The application shall include a Tree/~~Shrub~~ planting and maintenance plan, specifying the size, species and location of all new Trees/~~Shrubs~~ as well as the plan and responsible party of the maintenance of the €Tree or Shrub for two (2) years.

C. After reviewing such application and conducting a site inspection, the Tree ~~Warden~~ 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~~.

Commented [SP16]: Discussion Item. This will be extremely difficult to manage based upon what could be requested.

D. Once such a Tree or Shrub is planted in a Public ~~Place~~ or City Right-of-Way, the Tree or Shrub shall become the property of the City of Norwalk after the maintenance period.

Commented [V17]: Public place or public property ?

Formatted: List Paragraph, No bullets or numbering

~~D.E.~~ Whenever any Tree or Shrub shall be planted in inappropriate/non authorized locations withimproperly in any Public Place in violation of this ordinance 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 involved or the Person responsible for the improper planting. 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.

Commented [V18]: Are we saying improperly- as not planted using correct industry standards or In a non-appropriate location

§ 112-7. Altering or Damaging City Trees or City Shrubs.

A. No ~~p~~Person shall Alter or Damage a City Tree or City Shrub without a permit from the Tree Warden.

B. Any pPerson wishing to Alter or Damage a City Tree or City Shrub shall apply in writing for a permit to the Tree Warden prior to taking such action. Each application to Alter or Damage a City Tree or City Shrub 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 (30) days of receipt of a complete application.

D. Any pPerson who violates the provisions of this section shall be subject to a fine up to two hundred fifty dollars (\$250.00) per Tree or Shrub, per violation. The Tree Warden or his, her or their designee shall have the authority to issue a citation for violations.

E. It shall be an affirmative defense that it was necessary to Alter or Damage a Tree or Shrub without a permit from the Tree Warden because a super-hazard existed such that action was required due to the threat of imminent harm. ~~I thought we were scrapping this section (see section 112-8(f)).~~

~~E.F.~~ Do we want to add a section about nuisance? (see Groton ordinance § 15.5-37) Do we want to add a section about Hazardous Trees? (see Hartford ordinance § 28-159(g))

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: List Paragraph, No bullets or numbering

§ 112-8. Tree or Shrub Removal.

A. No pPerson shall Remove a City Tree or City Shrub with a DBH of six two (26) inches or more without a permit from the Tree Warden, except for any RRemoval that has been permitted pursuant to the applicable provisions of Connecticut General Statutes § 23-65. To grant permission to any other pPerson to rRemove a fTree or Shrub, the Tree Warden must determine, within thirty (30) days of receiving a complete application, that (1) the Tree/Shrub is in poor health or diseased with an expected life-span of less than two years; (2) the Tree/Shrub's removal is unavoidable because the Tree/Shrub poses a threat to human health, safety, and welfare, or (3) the negative impact on the urban canopy caused by the Tree/Shrub's removal can be mitigated.

Commented [SP19]: Currently it is eight (8) inches to be consistent with CGS guidelines for posting trees. Also specified in section 112-8 D below.

Commented [V20]: Is a size necessary – we are installing new trees at 3 to 3.5 inch. Under this the tree may be removed?

Commented [SP21]: This is difficult to determine and predict.

B. Any pPerson wishing to rRemove a City Tree or City Shrub 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) or Shrub(s) that he, she or they has applied for a Tree/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 rRemoval of the City Tree or City Shrub is in the bBest iInterest 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 ~~r~~Removal of any Public Tree or Public Shrub with a DBH of ~~(eight-8)~~ eight (8)-inches or more shall be posted by the Tree Warden, or his, her or their designee, on the affected Tree(s) or Shrub(s) at least ten days prior to such Removal. The ten-day period shall commence from the date of such posting. The Tree/Shrub Removal posting shall be in the form of a brightly colored sign at least ~~eight and a half 8-1/2~~ eight and a half 8-1/2-inches by ~~eleven 11~~ 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) or Shrub(s).

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

F. ~~It shall be an affirmative defense that it was necessary to Remove a Tree without a permit from the Tree Warden because a super hazard existed such that action was required due to the threat of imminent harm.~~

Commented [SP22]: This will be very difficult to enforce and has the potential to be abused.

How can this be determined after the tree has been removed.

§ 112-9. Protection during construction.

A. Property owners and other ~~p~~Persons responsible for construction, ~~earthwork and excavation, utility installation, etc.~~ projects in whole or in part within the Critical Root Zone (CRZ) ~~Drip Line~~ of any City Tree or City Shrub 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. ~~A tree protection plan shall be submitted to the tree Warden for approval and attached to the building permit when applicable~~

Commented [V23]: We are tending to talk to critical root zones which is close to the drip line but not always the same and generally further out -- the definition of CRZ vs Drip line could use a bit more discussion having ramifications when it come to how to protect and work within tree root zones

Commented [V24]: This is the ordinance -- submission of a tree protection plan is necessary in order to enforce this -- can that instituted here or does it need to be part of the permit process in the building department and or both -- tree protection can required fencing, ground protection and air raking

B. The Tree Warden or his, her or their designee shall have the authority to issue a citation to a property owner and other ~~p~~Person responsible, in the amount of two hundred fifty dollars (\$250.00) per day, per Tree or per Shrub-affected, for each instance of an action inconsistent with the ~~t~~Tree/Shrub care standards referred to in this section.

C. Any ~~p~~Person found in violation of this section for which the Tree Warden determines there is substantial danger of Damage to a Tree or Shrub shall post a five ~~(5)~~ year bond in the amount of the ~~Assessed Value~~ of such Tree or Shrub. Such bond shall be forfeited if the Tree Warden determines that the Tree or Shrub is dead or moribund within the five year period.

Commented [SP25]: Calculating the bonds for private development related trees will be extremely time consuming. Developers will complain the Mayor about the potential cost.

§ 112-10. Tree or Shrub replacement.

Commented [SP26]: Section needs to be discussed. May be unpractical.

A. A property owner or other ~~p~~Person responsible for replacement of a Tree or Shrub pursuant to this chapter shall follow the provisions of this section. A property owner or other ~~p~~Person responsible for the removal of any City Tree or City Shrub with DBH of ~~six~~

Commented [V27]: As per note above -- any tree would require replacing yes?

two inches ~~(62)~~ or more shall be required to replace such Tree ~~or Shrub~~ and such ~~pPerson~~ or ~~pPersons~~ shall also follow the provisions of this section.

Commented [SP28]: Should this be eight (8) inches to be consistent with CGS guidelines for posting trees. Also specified in section 112-8 D above.

B. The acceptable methods of replacement for a Tree ~~or Shrub~~ other than a Legacy Tree ~~or Legacy Shrub~~ are:

Commented [V29]: We need a different replacement value schedule for shrubs - the callper measurement is not applicable -

- (1) Replacement of the Tree ~~or Shrub~~ with a Tree ~~or Shrub~~ of equal or greater DBH at the location of the Tree ~~or Shrub~~ being replaced or at a different location identified or approved by the Tree ~~Warden~~;
- (2) An inch-for-inch replacement of the Tree ~~or Shrub~~ with a number of replacement Trees ~~or Shrubs~~ with DBH of ~~three two (32)~~ inches or more totaling the DBH of the original Tree ~~or Shrub~~ at a location or locations identified or approved by the Tree Warden. For example, if a Tree ~~or Shrub~~ with a DBH of twenty-four inches is ~~Removed~~, it may be replaced with six Trees ~~or Shrubs~~ with DBHs of four inches; or
- (3) A payment to the Norwalk Tree Account, established in accordance with this chapter, in the amount of the Tree/~~Shrub~~'s Assessed Value.

Commented [SP30]: Who will propose the alternate location? This may be difficult if the proposed location is in front of another residents house.

C. The acceptable methods of replacement for a ~~Shrub~~ other than a Legacy Shrub are:

Commented [V31]: We need a different replacement value schedule for shrubs - the callper measurement is not applicable -

- (1) Replacement of the Shrub ~~td~~
- (2) An inch-for-inch replacement of the Shrub with a number of replacement Shrubs ~~td~~
- (3) A payment to the Norwalk Tree Account, established in accordance with this chapter, in the amount of the Tree/~~Shrub~~'s Assessed Value.

Formatted: Indent: Left: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.58" + Indent at: 0.83"

Formatted: Indent: Left: 0.33", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.58" + Indent at: 0.83"

Formatted: Indent: Left: 0.33", Hanging: 0.33", No bullets or numbering

C.D. The acceptable method of replacement for a Legacy Tree ~~or Legacy Shrubs~~ is:

Formatted: Indent: Left: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.58" + Indent at: 0.83"

- (1) Replacement of the Legacy Tree ~~or Legacy Shrub~~ with a number of replacement Trees ~~or Shrubs~~ with DBH of three ~~(3)~~ inches or more totaling four times the DBH of the original Tree ~~or Shrub~~ 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 ~~or Legacy Shrub~~.

Formatted: Indent: Left: 0.25", No bullets or numbering

Commented [V32]: As per note above - needs to have a differnt value schedule for replacement

D.E. Any replacement Tree ~~or Shrub~~ planted in accordance with this section must be maintained for at least a period of five ~~(5)~~ years from the date of planting by the responsible party. The responsible party, or the property owner if there is no responsible party, shall replace any Tree ~~or Shrub~~ that dies during this time period, and such replacement Tree ~~or Shrub~~ shall be maintained for at least a period of five ~~(5)~~ years from the date of planting by the responsible party.

Commented [SP33]: Do we want to use two (2) years as is our standard warranty in the Tree Planting program.

§ 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 tree-related educational activities.~~
- 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/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/Shrub Alteration or Removal work.
 - (2) Tree Removal list, identifying all Trees or Shrubs, greater than six (6) eight (8) inches DBH, which are proposed for Removal.
 - (3) Name and phone number of licensed arborist(s) performing such work.
 - (4) Name and phone number of utility contact pPerson supervising such work.
 - (5) Tree/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 ~~(30)~~ days prior to the start of any activity by said Public Utility. The Tree Warden shall review, modify and approve such plan within ~~thirty-thirty(30)~~ 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 pPerson 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 pPerson doing the work. Within seven ~~(7)~~ 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 pPerson doing the work, and the stop work order shall state the conditions under which work is permitted to resume. Any pPerson who continues work after having been served with a stop work order, except such work as that pPerson is directed by the Tree Warden or other City officials to perform to rRemove a violation or unsafe condition, shall be liable for a daily fine not exceeding two hundred fifty dollars (\$250.00) 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 perpetrator shall be liable for a civil penalty of up to three ~~(3)~~ times the Assessed Value of each affected Tree or Shrub.
- D. Whenever there is reasonable cause to believe that a pPerson 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 pPerson 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/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 in the amount of two hundred fifty dollars (\$250.00). 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 by the Tree Warden or other officials of the City of Norwalk on an emergency basis because the Tree is a Super-Hazardous Tree or Hazardous Shrub that represents so immediate a hazard to public safety or structure integrity that aAlteration or dDamage cannot be deferred and that such Super-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 decisionsDecisions.

Any pPerson 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 party aggrieved by the Tree Warden's decision, may appeal within ~~ten~~10 days to the Superior Court for the Stamford/Norwalk Judicial District.