

Town of Lexington



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**EXCERPT OF THE TOWN OF LEXINGTON
ANNUAL TOWN MEETING
HELD MONDAY, MARCH 18, 2024, 7:30 P.M.
CARY MEMORIAL BUILDING – BATTIN HALL
WITH ADJOURNED SESSIONS HELD
MARCH 20, 22, 27, and APRIL 1, 3, 8, 10, 24**

ARTICLE 34 AMEND GENERAL BYLAWS – TREE BYLAW - TREE PROTECTION PLAN

MOTION: That the Town’s Tree Bylaw, Chapter 120 Sections 3A, 8B, and 8D of the Code of the Town of Lexington, be amended as follows where ~~struck through~~ text is to be removed and **bolded** text is to be added:

1. Amend § 120-3(A) **Definitions** to add the following definition:

CERTIFIED ARBORIST

An arborist who is certified by the International Society of Arboriculture or through the Massachusetts Certified Arborist Program of the Massachusetts Arborists Association.

2. Amend § 120-8(B), (B)(2), and (2) **Protected trees**, as follows (only sections being changed are included below)

(B) Procedures. When major construction or demolition is planned, the owner of the property shall submit to the **Tree Warden, the Building Commissioner or designee** as part of the application for a building or demolition permit a site plan drawn and stamped by a registered land surveyor, showing all existing trees on the property of six-inch DBH or greater. The owner shall also submit the tree species, if known, location, DBH for all trees on the property of six-inch DBH or greater, whether or not they are proposed to be removed, and for any trees six inches DBH or greater that are proposed to be removed, the reason for removal and alternatives to removal considered. **The owner shall also submit to the Town a tree protection plan prepared by a Certified Arborist for any Protected Trees that are to be retained on the site and for any trees in the Town right of way (including public shade trees).**

[Amended 4-4-2007 ATM by Art. 13; 3-19-2008 ATM by Art. 37; 3-27-2019 ATM by Art. 34; 4-14-2021 ATM

by Art. 33]

(2)

~~The Building Commissioner shall refer the tree proposal to the Tree Warden.~~ The Tree Warden shall conduct

a site visit. If the applicant's proposal is consistent with the mitigation **and tree protection** requirements herein and the rules, regulations or manuals issued by the Select Board, the Tree Warden will issue a permit within ~~10~~ **20** business days of receipt by the Tree Warden of the proposal to authorize the tree work. If the proposal does not meet or satisfy these requirements, the Tree Warden shall so notify the applicant and deny the permit.

D.

Trees not removed. Trees that are to be left on the site **and trees in the Town right-of-way** must be protected as specified in Section VIII B in the Tree Management Manual. **These protection measures shall be delineated within the Tree Protection Plan prepared by a Certified Arborist and submitted to the Town, shall be installed prior to commencement of any demolition or site work, and shall remain in place until the site is ready for final landscaping. The applicant shall submit to the Town written documentation, prepared, dated and signed by a Certified Arborist, certifying that the required tree protections identified in the Tree Protection Plan have been installed. The Tree Protection Plan (or any amendment thereto) may allow for temporary encroachment within the critical root zone or drip-line of a Protected Tree, as necessary, provided the Tree Protection Plan specifies mitigating measures the applicant shall take, including a maintenance plan for the tree.**

(1)

Each Protected Tree or Town Tree retained under a Tree Protection Plan shall be maintained in good health for a period of no less than twelve (12) months from the date of issuance of the Certificate of Occupancy for an associated project. Should the tree die or be removed within this twelve (12) month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree or Town Tree as contained in this bylaw within nine (9) months from the death or removal of the original tree.

[Added 4-4-2007 ATM by Art. 13; amended 4-5-2017 ATM by Art. 37]

3. Add a new § 120-8(E)(5) as follows:.

(5)

Upon notice from the Tree Warden that work on any property on which a Protected Tree is located is being performed contrary to any applicable Tree Protection Plan or any provision of this Chapter, such work may be immediately stopped by the Tree Warden or a designee of the Tree Warden. The stop work order shall be in writing, and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.

Following remote electronic vote tallying, the Moderator declared that:

Motion to Approve Article 34 Amend General Bylaws – Tree Bylaw- Tree Protection Plan

Adopted by a vote of:

Yes	No	Abstain
146	12	4

MOTION CARRIES