



**TREE BOARD MEETING
AGENDA
FEBRUARY 27, 2024
Starting at 6:30 PM**

- I. Call to order and roll call.
- II. Pledge of Allegiance.
- III. Approval of the agenda.
- IV. Public comment on any item on the agenda.

X. Unfinished Business

XI. New Business

1. The Town of Chesapeake Beach Tree Board to consider approving the following hearing procedures:

Hearing procedure:

The Town of Chesapeake Beach Tree Board will set a public hearing upon being notified of a violation of the Urban Forest ordinance Chapter 263 of the Town of Chesapeake Beach code. The property owner in violation has the right to attend and be heard by the Tree Board as to the circumstances of the violation.

1. Introduction by the Chair
2. The Chairman or Board's shall swear staff, the applicant, and all witnesses who intend to testify at the beginning of the scheduled agenda item. The following oath shall be administered. Those testifying should raise their right hand: **Do you solemnly swear or affirm under the penalties of perjury that the testimony you are about to give and the responses and statements you are about to make will be the whole truth and nothing but the truth.**
3. Staff provides a summary of the violation and enters the case violation file into the record.
4. Give orientation to the site and surrounding zoning.
5. Review location/premise address map and aerial Imagery.



6. Present staff photos.
 7. Staff recommendation for mitigation and potential fines.
 8. The property owner is provided with an opportunity to respond.
 9. Town staff are provided with an opportunity to respond to property owners' statements.
 10. Public comment.
 11. The Tree Board members provided an opportunity to ask questions of staff or the property owner.
 12. Closing of the public hearing.
 13. Tree Board deliberation.
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2. Hearing on Tree Board Case # 2024-01 a hearing of the Tree board to review the removal of an estimated 62 tree from 3090 Cox Road without permits as required by Chapter 263 of the Town Code.

XII. Public Comment

XIV. Adjournment



To: The Honorable Town of Chesapeake Beach Tree Board

From: Holly Wahl, Town Administrator

Subject: Tree Removal Violations in Accordance with Town Code

Date: February 26, 2024

I. BACKGROUND:

On February 12, 2024, the Town of Chesapeake Beach Public Works and Code Enforcement staff identified a substantial clearing of trees at a property located at 3090 Cox Rd without permits or defined mitigation per Town code. The Town's Code Enforcement Officer began capturing images of the removal per section 263-4(G) "Prohibited acts and permits" whereas the Town code states, "Upon any evidence of a violation, the municipal arborist or other agent designated by the Town shall notify the Tree Board. The Town and the Tree Board shall investigate and if warranted the Town will issue a citation of municipal infraction." The Town Administrator notified the Tree Board on February 16, 2024, when the report was received by the Town Administrator from Code Enforcement and Public Works staff. The Town Administrator called the property owner to notify them that no further trees should be removed from the property and that mitigation for the removal will be required. The Town Administrator reported the tree removal service to the State of Maryland for violations of proper permitting processes. In addition, the Public Works Administrator contacted the tree removal service company directly who claimed that they only removed one tree.

Figure 1: Image of the parcel of property referenced.



II. TREE REMOVAL:

In total there were 62 trees cut down. No trees, vines or bushes that were removed under 2" in diameter were included in the count. Of the tree stumps that remained there were 4 over 50 inch in circumference and three over 75 inch in circumference. These measurements were taken at the highest point on the remaining stump, on average this point was 12 to 24 inches above ground level. Of the 7 substantial large trees, 6 of them were Pines



and one was a Cherry tree, the rest of the 55 trees ranged in circumference of under 50 inches down to 12 inches.

Notably, part of this property has a steep slope, specifically the area parallel to Cox Rd. In this area all vegetation and trees were removed to the ground.

Included in this report are aerial satellite and google street view imagery to show pre-existing and current conditions. The 4 attachments are views from last summer and the current view from the approx. same location.

Figure 2: Image of the property from Cox Rd. from the time of last summer:



Figure 3: Image of the property entrance from the time of last summer:

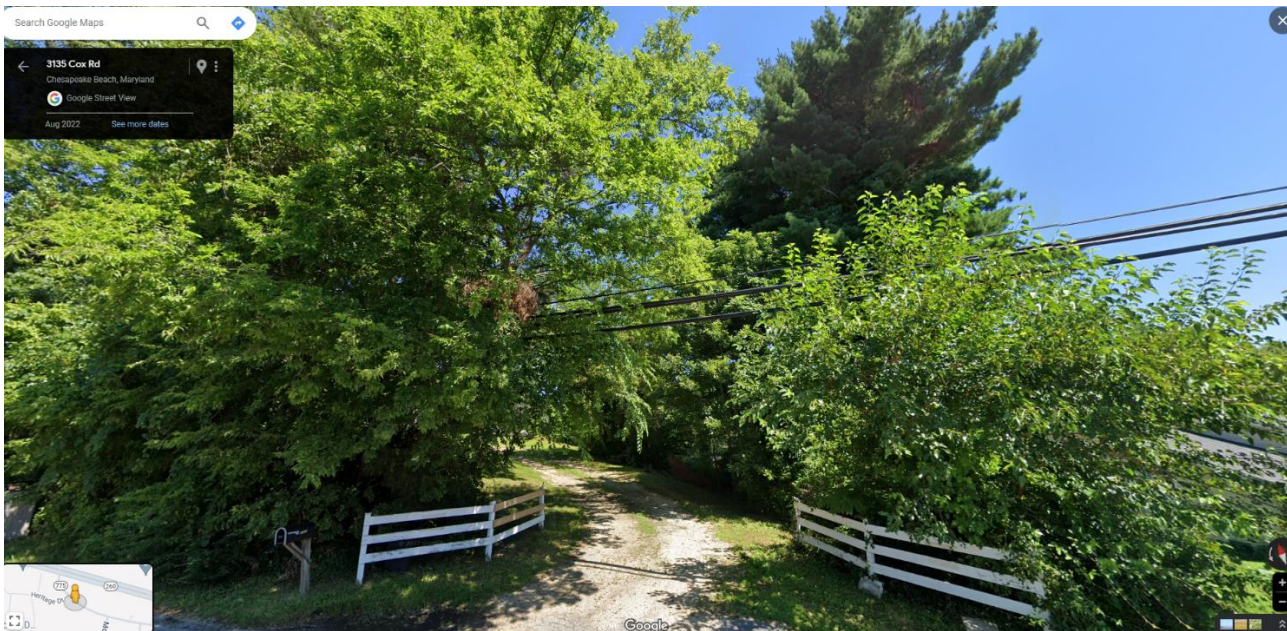




Figure 4: Image of the property after the clearing from Cox Rd.



III. URBAN FOREST ORDINANCE:

The Town Council adopted the Urban Forest Ordinance on July 20, 2023, by Ordinance Number O-23-18. The Tree Board was formed with members appointed by the Mayor and confirmed by the Town Council on September 21st with the Tree Board holding its first meeting on January 23, 2024. The purpose of the Urban Forest ordinance is to protect, preserve and promote the urban forest of Chesapeake Beach, which is part of a larger ecosystem which contributes significantly to air, noise and visual pollution control, moderates climate extremes, promotes sound energy conservation, and has significant aesthetic value affecting property values and the community's quality of life; and to establish a Tree Board to regulate the planting, maintenance and removal of trees in public places, and certain trees located on private property.

IV. RECOMMENDATIONS:

It is recommended that the Tree Board review the memo from the Town Planner dated February 23, 2024, that provides opportunities to mitigate the removal and proposes potential fines per Town code.

Mitigation of plantings should be bonded for a minimum of three years to ensure that any new plantings take root, are established and any that do not should be replaced to ensure a regrowth of the tree canopy. The bond should be issued in an amount equal to not less than 125% of tree planting expenses, including materials and labor.

MEMO

To: Town of Chesapeake Beach Tree Board
From: Sarah Franklin, Town Planner
CC: Holly Wahl, Town Manager
Date: 2/23/2024
Regarding: 3090 Cox Road

VIOLATION

An estimated 62 trees were removed from 3090 Cox Road without permits as required by Chapter 263 of the Town Code. This section of the code exists to protect the urban forest present in Chesapeake Beach. Trees that are protected and were removed are estimated at:

263-2(A)(2) *Trees worthy of preservation which are:*

<i>(a) Trees on private property with trunks that measure at least 50 inches in circumference at 4 1/2 feet above ground level if located less than or equal to 50 feet from a public street or sidewalk.</i>	4
<i>(b) Trees on private property with trunks that measure at least 75 inches in circumference at 4 1/2 feet above ground level, if located more than 50 feet from a public street or sidewalk.</i>	3

Exact measurements are not available for the trees removed and it is possible there are additional trees subject to this Chapter of the Town of Chesapeake Beach Code. Town staff should be permitted to enter this property to take complete measurements of removed trees.

PERMIT CONSIDERATIONS

Removal of trees protected by Chapter 263 is permitted with a town permit prior to removal under certain circumstances. Without a permit application or access to the trees we cannot be certain if these trees would have met the relevant criteria. However, they do not appear to from what town staff are able to see from the public right-of-way.

263-5(A) The Town shall ordinarily issue a permit if one of the following conditions applies:

<i>(1) The tree is diseased beyond restoration, insect-infested beyond restoration, or injured beyond restoration.</i>	Does not appear to be applicable
<i>(2) The tree is dead or dying.</i>	Does not appear to be applicable
<i>(3) The tree constitutes a hazard to the safety of persons or property that cannot be addressed by using current tree care ANSI Z Standards (American National Standard Institute).</i>	Does not appear to be applicable
<i>(4) The tree or its roots are encroaching on or could cause damage to Town infrastructure.</i>	Not Applicable

The Tree board is asked to consider additional factors in deciding whether a permit would be issued for the tree removal.

263-5(B) The Town shall also consider the following factors before deciding on a permit:

- (1) The overall health of the tree.*
- (2) The potential hazards associated with the tree.*
- (3) The desirability of preserving the tree by reason of its age, size or outstanding quality, such as uniqueness, rarity or status as a landmark or species variety.*
- (4) The degree of hardship suffered by the landowner.*
- (5) The extent to which the area would be subject to environmental degradation due to removal of the tree or trees.*
- (6) The extent of the tree canopy in the immediate area.*
- (7) The applicable Town zoning, county, and state law.*

Considering these factors, it would not be recommended to permit the removal of these trees.

With regard to 263-5(B)(5) - The subject property contains steep slopes. Tree roots and other vegetation help to stabilize these sensitive environmentally sensitive areas. The removal of

these trees will increase erosion of these steep slopes as well as stormwater coming from the property. Increasing speed and volume of stormwater runoff from the subject property is likely to impact the neighboring properties with steep slopes and contribute to environmental degradation in the area.

With regard to 263-5(B)(6) - The area near Cox Road contains several areas of protected forest habitat. Habitats such as the one that existed before the removal of these approximately 62 trees contribute biodiversity in the area. Additionally the property is classified by MD DNR as a Tier 4, Moderately Significant for Biodiversity Conservation area in a system of areas identified as important in the State's Biodiversity Conservation network.

ADDITIONAL CONSIDERATIONS

110-11 - Steep Slopes

This property contains and is adjacent to steep slopes (defined as a slope greater than 15%). Disturbance to the site without a permit is not permitted.

§ 110-11 Global stability analysis and storm drain discharge and stormwater management plan required.

A. From and after June 1, 2018, in addition to any zoning permit required by Chapter 290, Zoning, of this Code, no construction, reconstruction, or demolition, of a principal structure or a retaining wall, or grading, filling or other similar site disturbance or development, or use of land that requires a site plan may be commenced or continued on a covered lot until the property owner or developer has obtained and the Town has approved, in writing, a storm drain discharge and stormwater management plan and a global stability analysis for the lot and the slopes adjoining or abutting the property to the east.

290-39 - Forest Conservation

This article could apply to this clearing depending on the extent of the clearing. The subject property is 67,213 Square Feet in size, if the clearing exceeded 40,000 square feet it could be subject to this ordinance.

RECOMMENDED FINES:

This tree removal constitutes a misdemeanor under Chapter 263-8(B) as more than three trees were removed in less than six months. The table below shows the estimated minimum fines with a misdemeanor charge. **Please note that the size of each tree will impact the fine. The Town should arrange to enter the property and measure the trees with the property owner or thier representative present for the purposes of calculating the actual fine.**

MINIMUM fines for misdemeanor [263-8(C)]

Estimated size of tree	Fine		
	per tree	Circumference > 50	Total
50	\$200	\$0	\$200
50	\$200	\$0	\$200
50	\$200	\$0	\$200
50	\$200	\$0	\$200
75	\$200	\$2,500	\$2,000
75	\$200	\$2,500	\$2,000
75	\$200	\$2,500	\$2,000
ESTIMATED MINIMUM TOTAL FINE			\$6,800

If the board wishes to consider charging the lesser municipal infraction the table below provides the estimated minimum for this.

MINIMUM fines for municipal infraction [268-3(A)]

Estimated size of tree	Fine		
	per tree	Circumference > 50	Total
50	\$300	\$0	\$300
50	\$300	\$0	\$300
50	\$300	\$0	\$300
50	\$300	\$0	\$300
75	\$300	\$1,250	\$1,000
75	\$300	\$1,250	\$1,000
75	\$300	\$1,250	\$1,000
ESTIMATED MINIMUM TOTAL FINE			\$4,200

268-3 Enforcement

A. Municipal infractions.

(1) Any of the following shall constitute a municipal infraction for which a citation may be issued:

(a) Doing any of the acts prohibited in § 263-4 without a written permit.

(b) Any noncompliance with the terms of an issued permit, including conditions regarding removal and replanting of trees.

(2) The fine for each violation of § 263-8A(1)(a) shall be \$300 per tree affected, plus \$50 per inch of tree circumference greater than 50 inches, measured at 4 1/2 feet above ground level, with a maximum fine of \$1,000 per tree affected; and a fine of \$1,000 for each repeat of that offense.

(3) The fine for failing to comply with the terms of a permit or failure to replace a tree if the tree was removed without a permit shall be \$300 per tree affected, plus \$50 per inch of tree circumference greater than 50 inches, measured at 4 1/2 feet above ground level, with a maximum fine of \$1,000 per tree affected; and a fine of \$1,000 for each repeat of that offense.

(4) In the event the tree has been removed so that no accurate measurements can be taken to assess the fine, the fine, at the discretion of the municipal arborist, shall not exceed \$1,000 per tree.

B. It shall be a misdemeanor to do any of the following:

(1) Any of the acts forbidden by § 263-4A of this chapter to three or more trees within six calendar months, whether such trees are located on the same property.

(2) Removal of or harm to any tree that was subject to a permit request after the permit has been denied.

C. A misdemeanor violation under § 263-8B shall be punishable by a mandatory fine for each tree affected of \$200 plus \$100 per inch of tree circumference greater than 50 inches, to a maximum per tree of \$2,000 or such other greater maximum as may be permitted by state law. The fine may be suspended only upon a finding that the violation was the first offense by the party charged, and that there was no willfulness involved.