

## **Title 12 Trees and Vegetation**

### **Ch. 12.12 Urban Forest**

#### 12.12.010 Legislative Findings and Purpose

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B. The purpose of this chapter is to promote a diverse, resilient, sustainable urban forest through shared community and individual stewardship of existing trees and the planting of new trees **with a focus on native trees and desirable trees that are adaptable to the impacts of climate change;**

#### 12.12.040 Tree Protection Permit Required Permit Required

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D. If, at any time after receiving a tree protection plan permit application, the City Manager determines it is substantively inadequate, the City Manager may require that the tree protection plan be prepared by a licensed or certified professional who has demonstrable expertise in the preparation of tree protection plans. Factors the City Manager may consider in making this determination include:

1. The scope of the proposed activity;
2. The proximity of the proposed activity to or potential impact upon one or more urban forest trees;
3. **The size or species of the potentially impacted urban forest tree or trees;**
4. Whether the activity presents a significant risk to one or more urban forest trees and that the measures necessary to protect one or more urban forest trees that may be impacted by the activity are complex; or
5. Other reasonable factors that may be unique to the circumstances. (Ord. 2020-22, 2020/Ord. 2010-27 § 1 (part), 2010/Ord. 2003-40 (part), 2004)

#### 12.12.050 Tree removal permit required

A. Except as provided in subsection (B) of this section, a tree removal permit shall be required for removal, relocation, or destruction of an urban forest tree.

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C. In addition to the permits required under this chapter, property owners in the Takoma Park historic district may also have to obtain a historic area work permit from the Historic Preservation Commission before removing or destroying a tree. In such cases, the City shall not issue a tree removal permit until a copy of the historic area work permit is provided to the City. (Ord. 2020-22, 2020/Ord. 2010-27 § 1 (part), 2010/Ord. 2003-40 (part), 2004)

*(NOTE from Louise: I included this section C because a tree may arguably have historic value. However, I have not researched the Historic Preservation Commission authority or requirements. I believe that some cities in Maryland specifically define and protect historic trees – will look into this further.)*

## 12.12.080 Tree removal permit standards and process

A. Except as otherwise provided in this section, if the City Manager determines that the criteria set forth in subsection (A)(1) of this section have been met and that the conditions for issuance of a tree removal permit set forth in subsection (A)(2) of this section have been met, and, if applicable, the requirements for removal of more than 10 trees set forth in subsection (A)(3) of this section are met, then the City Manager shall notify the applicant that the City has granted preliminary approval of the application. The preliminary approval of the application does not authorize the applicant to take any action regarding an urban forest tree unless and until a tree removal permit is issued.

1. The City Manager or, upon appeal, the Tree Commission shall issue a tree removal permit if so indicated only after taking into consideration the tree removal permit factors set forth in subsections (A)(1)(a) through (g) of this section. The tree removal permit factors are as follows:

- a. The general health and condition of the tree;
- b. The desirability of preserving the tree by reason of its age, size, species, or other outstanding quality;
- c. The impact of the reduction in tree cover on the property where the tree is located, adjacent properties and the surrounding neighborhood and the extent to which said areas would be subject to environmental degradation;
- d. The location of the tree in relation to targets (people or property that may be subject to injury or damage due to a tree's failure);
- e. A utility or permanent structure above ground or below ground upon which the tree may have an adverse impact at present or in the future;

f. Any compelling reasons for the removal that the applicant has demonstrated, including hardship, and whether a reasonable alternative to removal of the tree exists; or

g. The extent to which tree clearing is necessary to achieve the proposed development or land use.

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#### 12.12.100 Tree replacement required.

A. Tree replacement as specified in this section is required in the following cases:

1. The applicant's agreement to replace removed urban forest trees shall be required as a condition of issuance of a tree removal permit, except as stated in Section [12.12.080\(C\)\(2\)](#) through (4), and may be required as a condition of issuance of a tree protection plan permit for activity that is likely to lead to destruction of a tree.

2. In accordance with subsection (D)(3) of this section, applicants are required to replace trees originally indicated and intended to be saved in a tree protection plan when such trees are excessively damaged or removed, including such trees that are on property adjacent to the applicant's property.

3. Any person who removes or excessively damages a tree in violation of this chapter is required to replace the tree within six months.

B. Replacement trees must be equal to or superior to the removed trees in terms of species quality, shade potential, and other characteristics identified in the species list prepared by the Urban Forest Manager, unless the City Manager authorizes deviation from this requirement to facilitate planting replacement trees on site. Replacement trees are nursery stock trees with a size of one-and-one-half to three inches in caliper for deciduous trees, or six to 10 feet in height for evergreen trees and guaranteed for one year.

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G. Permissible Uses of Tree Fund. The tree fund may be used to:

1. Plant trees on public and private property, with a focus on planting native species and, where appropriate, climate adapted species, except when no native or climate adapted species is well suited and available;

2. Maintain trees planted with funds from the tree fund; or

3. For any other purpose that promotes the urban forest. (Ord. 2020-22, 2020/Ord. 2011-28 § 1 (part), 2011/Ord. 2003-40 (part), 2004)

## 12.12.125 Notification of tree protection laws required prior to sale of real property

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D. Except as provided in subsection (C) of this section, the notice shall be included in or attached to all real property contracts of sale and shall be in substantially the form set forth below:

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### NOTICE OF TREE PRESERVATION AND REPLACEMENT REQUIREMENTS – CITY OF TAKOMA PARK:

1. The Buyer is notified that Chapter [12.12](#), Urban Forest, of the Takoma Park Code imposes restrictions and procedural requirements relating to activity on properties located in the City of Takoma Park (“City”) that may affect urban forest trees on the property or on neighboring properties. An “urban forest tree” is a tree which: a) measures 24 inches or more in circumference at 4-1/2 feet above ground level or measures 7-5/8 inches or more in diameter at breast height (“DBH”) (note: additional requirements may apply if the property is located in the Takoma Park Historic District); b) is required to be planted or maintained pursuant to governmental order, agreement, covenant, easement or a tree protection plan, or as a condition of the issuance of a City tree removal permit; or c) is planted with government funding or under a government program. See Takoma Park Code §[12.12.020](#).

*(Note from Louise: this section is not as specific as it might be. It would be better if the notice would specifically state that the code may impose restrictions on a property owner’s choice of species and other qualities of replacement trees. )*

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## 12.12.140 Reports to Council

The City of Takoma Park, through the Urban Forest Manager and other designees as defined by the City Manager, shall:

- A. Administer the provisions of this title and develop regulations for administering this title.
- B. Prepare and submit an annual report to the Council that consists of the following information for the preceding year:
  1. A description of the condition of the urban forest, including a record of the location and species of trees planted by the City or by permittees pursuant to this title;
  2. The number of applications received, tree removal permits, and tree protection plan permits issued by the City Manager, and a summary of each decision of the Tree Commission;

3. A description of the City's progress in meeting the Council's tree canopy goals as set forth from time to time by resolution of the Council, including actions to address differences and inequities that exist in tree canopy coverage across City neighborhoods and participatory planning processes;
4. Recommending, as needed, changes in law or other action the Council may wish to take to protect and promote the urban forest in Takoma Park or to help meet tree canopy goals;
5. The status of the City's education and outreach strategy, along with any recommended changes;
6. The amount of funds the City has received from fines and forfeited security bonds under this title; and
7. The number and percentage of native trees and climate adapted trees relative to the total number of trees purchased with City funds.

C. No later than every six years, prepare and update the City's master tree plan. The master tree plan shall provide an assessment of the City's implementation of the most recent master tree plan along with an assessment of the implementation of goals for a healthy urban forest and urban forest policies established by Council from time to time. The master tree plan shall include specific recommendations for improving each part of the urban forest, protecting and maintaining the existing urban tree canopy, increasing biodiversity, increasing tree canopy coverage in areas that have less coverage, and improving community involvement and public outreach and education. In preparing and updating the City's master tree plan, the Urban Forest Manager shall utilize best urban forestry management practices and the best available technology that is reasonably affordable to assess the City's existing tree canopy and health of the urban forest.

D. Maintain and publicize a species list for selection of trees to be planted on private and public property pursuant to the requirements of this title, with a focus on native species and climate adapted species. Such list shall be periodically reviewed and modified with input from urban forest experts from the State and County governments, area universities, other organizations, and the community.

E. Notify the Council of significant events related to the urban forest on an as-needed basis. (Ord. 2020-22, 2020/Ord. 2003-40 (part), 2004)