



Takoma Park City Council Meeting – October 16, 2019 Agenda Item 10

Work Session

Discussion of Ongoing Council Review and Potential Changes to the Tree Ordinance, Tree Canopy Goal, and Outreach Efforts

Recommended Council Action

Discuss first set of tree policy issues, including clearer and faster process and information, tree impact assessment, tree protection plans, and appeals. Note that there will be further discussions, with a focus on additional tree policy issues, as part of work sessions in the October 23 and 30 Council meetings.

Context with Key Issues

The FY19 and FY20 City Council Priorities include goals to review the City's Tree Ordinance policies and procedures, consider tree canopy goals for the City, and explore ways of improving community outreach and education on tree related matters. The Council began this process with a work session on October 24, 2018, to establish a strategy for moving the effort forward.

Then, in the spring the City hosted a public workshop on results of a citywide tree canopy assessment by the University of Vermont. The Council sought and received comments and suggestions from many residents through the online Tree Ordinance Survey (with over 500 responses), detailed feedback from several groups of residents and individuals, public and written comments at Council meetings, and neighborhood meetings.

At a June 19, 2019, work session, the City's Urban Forest Manager and Public Works Director provided an overview of the current Tree Ordinance process, formally presented the tree canopy assessment, and shared the results of the Tree Ordinance survey. A July 22, 2019, work session with the Tree Commission and several members of the Committee on the Environment produced numerous recommendations for modifications.

In a work session on September 11, 2019, the Council conducted an in depth review of a detailed "starter list" of suggestions for action on tree policies. The contents of the starter list were derived from a wide range of sources, including the resident survey results, remarks presented to the Council during public comment periods, resident emails, community meetings, input from relevant City staff, data on tree permit applications, recommendations from members of the Committee on the Environment and the Tree Commission, and other information. The starter list was a first attempt to group the feedback from these many sources into a logical format that would enable a productive Council discussion. It included issues for possible modification of the City Ordinance and grouped policies into thematic areas.

At the September 11, 2019 work session the Council discussed items on the starter list with the aim of identifying the key issues that require a more focused review, as opposed to more minor suggested technical changes. The three work sessions in October will be devoted to in-depth discussions of those key starter list issues. The following is a tentative list of the broad topics for each of the October work sessions:

October 16, Work Session #1

General Discussion
Clearer and Faster Process and Information
Tree Impact Assessment
Tree Protection Plan
Appeals

October 23, Work Session #2

Removal of Trees and Hazardous Trees
Goals of the Ordinance
Tree Canopy Goal
Tree Rating Chart
Replanting Requirements

October 30, Work Session #3

Pre-planting Programs & Incentives
Fees & Funding
Urban Forest Manager Role, Education & Outreach
Wrap-up on hazardous trees

Other issues

Neither the starter list nor the broad agendas for the three October work sessions are meant to be exhaustive. The Council is still in the discussion phase of this process. It's anticipated that the Committee on the Environment and the Tree Commission will submit recommendations regarding tree canopy goals and resident outreach and education this month. Residents will be able to continue their participation in the process by speaking during the City Council public comment periods, sending emails to the City Clerk (which are shared with all Councilmembers), and contacting the Mayor or Councilmembers directly.

After completion of the three October sessions, the Council will announce next steps, including potential time tables for developing legislative language and a tentative voting schedule. At this time, there is another work session scheduled tentatively for November 13 to discuss potential draft language for the Tree Ordinance amendments with the City Attorney. A work session in early January is also anticipated. Materials from the previous Council meetings on these topics are available through the links below.

Council Priority

Environmentally Sustainable Community, Engaged, Responsive & Service-oriented Government

Environmental Considerations

The Tree Ordinance establishes the protection and preservation of trees as a fundamental goal in the City. As noted in the Takoma Park Tree Canopy Assessment, "Trees provide many benefits to communities, such as improving water quality, reducing stormwater runoff, lowering summer temperatures, reducing energy use in buildings, removing air pollution, enhancing property values, improving human health, providing wildlife habitat, and aesthetic benefits." In light of the ongoing concerns about climate change -- which the Council recognized formally through its adoption of a resolution declaring a climate emergency -- taking thoughtful action to develop tree canopy goals and ensuring that the tree ordinance functions well take on added importance. Additionally, challenges such as the current die-off affecting many oaks in the City -- which is having a negative effect on older trees that contribute significantly to carbon sequestration (among other benefits) --

underline the need to ensure that we have in place policies that can give our trees the necessary resilience to cope with changing weather patterns, harmful pests, and other threats.

Fiscal Considerations

Fiscal considerations will be examined as the Tree Ordinance and the other tree-related matters being studied are discussed. The FY20 Budget for the Urban Forest Division is \$267,330, including staff, consultant services, tree purchases and services. Substantial changes to the ordinance administration or requirements may require a change in the funding level in order to be accomplished. The cost of tree maintenance for an individual property owner is ongoing and similar to any other ongoing home maintenance expense. Energy savings and increased property values may offset or exceed these costs. The costs of complying with the Tree Ordinance can be substantial when a construction project is proposed, when a property owner wishes to remove a tree that is not dead or imminently hazardous, or when trees suddenly decline. The City's tree emergency fund is available for residents with financial need who must remove hazardous trees. The extent to which that fund is sufficient will be part of this review.

Racial Equity Considerations

Tree canopy is not spread equally across the City of Takoma Park and the costs and benefits of tree canopy vary by location and type of property, which can have a race equity component. In addition, heavier tree canopy coverage in residential areas has generally been found in areas with a higher percentage of single family homes as opposed to multi-family residences. 75% of the respondents to the Tree Ordinance Survey were residents of Wards 1, 2, and 3. These three wards are majority white and have fewer multifamily properties than do Wards 4, 5, and 6.

Attachments and Links

- City Tree Ordinance – Changes Suggested for Consideration
- Tree Commission Recommendations from July meeting (attached)
- [Tree Ordinance Review and Canopy Goal Project Page](#)
- [Agenda June 19, 2019, meeting agenda with links to various materials](#) (Agenda Item 7)
- [Agenda for the July 22, 2019, meeting agenda](#)
- [Agenda September 11, 2019, meeting agenda with links to various materials](#) (Agenda Item 4)
- Starter List (attached)

Recommendations to the Council of the City of Takoma Park for revisions to Municipal Code Title 12: Trees and Vegetation

July 22, 2019

12.04.010 Add definition of Ecosystem Services

Add definition of Invasive Species

12.04.080 Clarify responsibility to the City Manager's management of city property. Articulate the requirement to the process outlined in permitting structure, which is a requirement in the determination of replacement trees.

Some but not all Commissioners request that the City articulate its commitment to the appeal process for interested community members.

12.08.070 Review for sufficiency of process; determine if application of law is consistent with lawn maintenance provisions

12.12.010 See sample in Appendix A. General philosophy to be amended to reflect a desire to increase canopy through dynamic management. Reflect stewardship as a community responsibility for the good of a public benefit.

12.12.30 5% limitation is too restrictive. Recommend increasing to 10% Consider if "significant" can be better defined.

Modify fee to \$25 for tree impact assessment applications.

Tree impact assessment is required for approval of a tree removal permit filed for purposes of development indicated in section 12.12.40

12.12.40 Incorporate Tree Waiver into Removal permit requirements. Cost average application fee at \$40.

12.12.80 Commissioners arrived at several different determinations on rights of appeals. Questions have been raised regarding the right of appeal on removal for declining health of a tree held on private property. This can be addressed by removal of right to appeal in this instance, or alternatively delimited by adjacency or if the appellant's property is potentially affected.

Change undesirable to invasive

Allow UFM the discretion in requiring an independent arborist evaluation for complex plans pursuant to section 12.04.110.

12.12.90 In instances where a preliminary approval is granted for development purposes, authorize the Urban Forest Manager to allow for extensions of deadlines without further right of appeal.

12.12.100 See modified formula Appendix B

Consider authorizing the Urban Forest Manager the capacity to reduce replanting requirements to incentivize planting on site. Consider how this would be financed.

Consider expansion of waiver, to potentially include trees evaluated to be in decline with less than 10 years of life. Consider how this would be financed.

Fee Formula should include provision for maintenance for a period of 2 years, with language broad enough to cover deer protection.

Change undesirable to invasive

12.12.105 Repeal Pre-planting credit program

12.12.120 Authorize the City Attorney, in consultation with the Urban Forest Manager and the Tree Commission, the ability to rewrite criteria for consideration permit applications for clarification/simplification.

12.12.140 Recommend including education and outreach in master plan. Retain Annual report. Retain replanting plan and modify inventory to once every five years concurrent with canopy assessment on both private and public lands, to set canopy goals. Establish implementation plan for canopy goals and review/revise on a 5-year cycle.

Ancillary Recommendations:

Consider fiscal modifications created by amendments to replanting requirements, in order to reflect the community stewardship component of the vision statement. To the extent it is determined this is not possible to increase funding base, expand funding of the tree emergency fund to accommodate requests for tree replacements to remove trees within 10 years of life, for residents that demonstrate need.

The Urban Forest Management Office should conduct a top-down evaluation, to include external review of all regulations, including but not limited to invasive tree list, preferred tree list, and permit applications and processes. Such evaluations should be made public and include methodology. This transparency serves to support the quality of evaluation the resident applicants receive from the City.

Ensure the Urban Forest Management Office is adequately resourced in the execution of both strategic and operational functions. Set a threshold for permit volume that, when exceeded triggers contract services, to ensure timely customer service to permit applicants. Continue to consider the incorporation of Green Infrastructure and explore areas of cooperation and cost sharing with the Sustainability Office.

The fee in lieu charge should reflect the actual cost of replacement. This represents an increase in the cost of purchasing the tree, in addition to deer protection and water/maintenance for the first two years post planting.

Concurrent with the annual report, recommend establishment of an annual work session to set goals for the year between the Tree Commission, Urban Forest Manager, City Manager and Council to take place in September of each year, in the spirit of the Green Team meeting. Stepped up enforcement on strategic initiatives and periodic reporting requirements.

Explore both opportunities for increased vendor engagement and vendor enforcement that the law allows.

Explore ways residents may be incentivized to preserve volunteer/small trees based on land preservation.

Authorize the City Attorney, in consultation with the Tree Commission, to correct errors in the code. Change all references to the Arborist to Urban Forest Manager.

Appendix A: 12.12.010 Legislative Findings

The Council of the City of Takoma Park finds that it is in the interest of the citizens of the City to protect, preserve, and enhance the City's urban forest. Stewardship of our urban forest is a community effort. A healthy, biodiverse and demographically balanced urban forest sequesters carbon to help mitigate global warming, reduces energy consumption, mitigates temperature extremes, promotes health through control of air, noise, and visual pollution, supports wildlife, and enhances aesthetics of the cityscape. The City's urban plays an important role in controlling storm water run-off, thereby supporting the biologic and hydrologic integrity of downstream watersheds. Regulation of actions affecting the urban forest provides mutual benefits to City residents and property owners. The purpose of this chapter is to promote a diverse, resilient urban forest of desirable species, and it shall be administered in a manner that seeks to protect and replace such trees at every opportunity. (Ord. 2003-40 (part), 2004)

Appendix B: 12.12.100 Tree evaluation Matrix for determination of replanting requirements

CRITERION	VALUE		RATING
	5 or 4	3 or 2	1
Target	No Target or within 2X Height	Target within 1X height/ or within dripline with target zone rarely occupied	Target within dripline/target zone is frequently occupied
Site Factor	Optimal no site changes favorable soil conditions	Grade change/compacted soil/soil saturation	Limited soil volume/severely compacted/planting box restriction/history of failures in close proximity evident
Trunk/Root Collar	Sound and solid/ root collar in tact	Sections of bark missing/root damage	Extensive bark loss and hollow/ evidence of fungal bodies/ root cuts and/or significant root damage clearly evident
Structure/Crown Health	Normal foliage and full and balanced crown	1 Major/structural limbs dead or dying/ normal to sparse foliage/ presence of vines	2 or more major limbs dead/ significant structural deadwood/sparse necrotic or chlorotic foliage in crown/ vine inundation
Insects/Diseases	Normal pest presence	Past or current pest activity not significantly inhibiting vitality	Active activity or infestation negatively impacting tree health
Life Expectancy	Over 30 years	10 to 30 years	Less than 10 years
			Total Rating

D. Using the above scale, trees are to be replaced according to the following formula, with the actual number of replacement trees required rounded up to the next whole number:

Total Rating of Tree to Be Removed	Percentage of Basal Area to Be Replaced contingent on increasing the tree replacement costs expecting fewer trees to be replaced	
	Invasive Species Removed per § 12.12.080(B)(1) Encourage removal of undesirables as agreed to by the group	All Other Trees
6 to 15	.25%	1%
16 to 24	.5%	3%
25 to 30	1.5%	5%

City Tree Ordinance– Changes Suggested for Consideration

This starter list of suggested changes to the city tree ordinance, permit process, and tree canopy goals is based on the many suggestions the city council has received during this review process. This list is a first attempt to group many of these suggestions together, by topic and ordinance suggestion, for discussion purposes only. It does not represent any Council decisions or inclinations of policy direction. This list will evolve as issues are added and removed during Council discussions. Before any Council votes on the ordinance itself, a more specific set of draft language changes will be prepared.

Overview/Goals

Reword 12.12.010 Legislative Findings. Possible changes:

- Tree canopy focus
- Sustainability
- Climate change
- Native tree species

Definitions (12.04.010)

- Add definition of “ecosystem services” (12.04.010)
- Add definition of “invasive species” (12.04.0100)
- Add definition of “undesirable” (12.04.010)
- Change definition of “critical root zone” (12.04.010 or 12.12.020); consider any differences needed based on species
- Change definition of “hazardous tree” (12.04.010 or 12.12.020) (See also: the section on Removal of Trees for additional “hazardous tree” considerations)

Clearer and Faster Process and Information

- Supply applicants with completed tree rating chart when notified of an Urban Forest Manager (UFM) decision regarding their tree (improved transparency and clarity)
- Create an online application process and allow for credit-card payment
- Speed up the process:
 - Allow residents to get signed approval from neighbors to move forward with a tree permit without waiting 15 days
 - Change requirement for posting from 15 days to 7 days (12.12.080)
 - Set a threshold for permit volume that, when exceeded, triggers contract services to ensure timely service

Administrative Code Changes

- Streamline code structure to make it clearer and more concise
- Move procedural elements to administrative regulations when reasonable

- Change all mentions of “citizen” to “resident”
- Change all mentions of City “arborist” to “Urban Forest Manager”
- 12.08.070 Review for sufficiency of process and determine if application of law is consistent with lawn maintenance provisions concerning shrubs and trees
- 12.12.030 Rewrite this section for clarity. Should “significant” be better defined? Mention of safety and climate change added to permit criteria?
- 12.12.090 Authorize the UFM to allow deadline extension beyond a year in instances where preliminary approval is granted for development purposes (hence, there may be an extended timeline)
- 12.12.080 Do not require submission to the City of County and other permits, licenses, etc
- 12.04.080 Clarify City Manager’s role and permitting process for trees on City property
- 12.12.120 Tree Commission recommends: Authorize the City Attorney, in consultation with the Urban Forest Manager and the Tree Commission, to rewrite criteria for consideration of permit applications for clarification/simplification

Tree Impact Assessment

- Allow for trimming of live branches up to 10% (change from 5%) without an assessment (12.12.030)
- Require that suggestions made by the UFM during assessment be provided in writing
- Allow for digging up to 6 inches (change from 3 inches) without requiring an assessment or Tree Protection Plan (12.12.030 and 12.12.050)
- Allow for paving or other activities impacting up to 10% of critical root zone without assessment

Tree Protection Plan

- Provide an explanation when possible on why a certain protection measure is required and list other options if applicable (i.e. air spading, hand digging, etc)
- Allow residents to prepare their own tree protection plans rather than use a third-party arborist
- Take into consideration cost and delay as factors in requiring tree protection measures

Tree Rating Chart

- Make the tree rating charge more detailed so it is clearer how decisions are made
- Modify the chart, based on Tree Commission recs, to skew the replacement requirements lower than current standards for trees in decline, and higher for healthy trees removed for development purposes (See also: the section on Removal of Trees for additional related discussion)

Removal of Trees

- Add requirements to consider the hazardousness of a tree and risk to life and limb when making tree removal permit decisions (12.12.120)
- Allow for the requirement of a statement by a certified arborist that a tree is hazardous with an application to remove a hazardous tree

- Allow a waiver for trees assessed to be in decline
- Allow a waiver or reduced replanting requirements for trees impacting or about to impact a building
- Allow tree removals in some circumstances related to renewable energy generation

Fees & Funding

- Change \$50 Tree Impact Assessment fee to \$25 (12.12.030)
- Tree waivers:
 - Set average application fee at \$40 for tree waiver (12.12.050); incorporate tree waiver into removal permit requirements
 - Remove the tree waiver (\$25) by not requiring a permit in certain instances instead of providing a waiver
- Expand uses of the Tree Emergency Fund to include payment for tree replacements when removing a tree in decline for residents in need
- Increase “fee in lieu” to reflect actual cost of replacement, including deer protection and water/maintenance for the first two years post-planting
- Eliminate the option of requiring security deposits (12.12.100 section F 1-4)

Appeals

- Eliminate the option of having the Tree Commission conduct a site visit to a property in connection with an appeal (12.12.080)
- Eliminate the right of neighbors to appeal the UFM’s decision to grant a Tree Protection Permit
- Remove the right of appeal for trees in declining health on private property, or limit it to property adjacency or if the appellant’s property is potentially affected (12.12.080)
- When should appeals be allowed, and why?
- Appeals related to granting or denial of a waiver

Replanting Requirements

- UFM reviews the list of invasive and preferred trees with input from Tree Commission, CoE, public
- “Undesirable” vs “invasive” definitions (12.12.080)
- Allow the UFM the discretion in requiring an independent arborist evaluation for complex plans pursuant to section 12.04.110 (12.12.080)
- Create system for petitioning to make changes to the invasive species and preferred trees list
- Clarify native vs non-native species
- Include species adapted for climate change and/or carbon absorption
- Shorter trees near power lines and other locations
- Allow trees not purchased from a nursery
- Incentives for replanting on property vs payment in lieu (esp multi-family buildings)
- Allow replacement trees that are not the same type as those removed

Pre-Planting Program & Incentives

- Incentives to preserve volunteer/small trees based on land preservation, and allow trees not purchased from nurseries
- Change requirements for registering a tree
- Provide credits for tree maintenance
- Provide credits for caring for City trees
- Rebate program to help pay for any positive canopy support (new plantings, maintenance, eventual removals)

Urban Forest Manager (UFM) Role & Reporting

- Include education and outreach in overall planning
- Require that annual reports include info on known damage to trees and causes
- Retain replanting plan and modify inventory to once every 5 years concurrent with canopy assessment (12.12.140)
- Regular evaluation of the process, policy, and planting requirements (publicly available)
- Outreach efforts:
 - Presentations to each ward on tree care and maintenance
 - Best-practices flyer, newsletter articles, website info
 - Outside expert presentations
 - Outreach with realtors
- Create duties for the UFM that promote tree canopy growth and tree maintenance:
- Proactively recommend removal of potentially hazardous trees
- Assist with neighborhood planning efforts to adjust/improve canopy
- Support and assist public land owners
- Develop incentives and programs to encourage canopy and focus on climate change
- Seek opportunities for cost-sharing and collaboration with Sustainability programs
- Staff capacity to manage existing and potentially new canopy/outreach efforts

Miscellaneous Suggestions

- City liability for trees identified by third-party arborist as “hazardous”?
- Yearly meeting in the spirit of the Green Team Meeting (or as part of it?) with Tree Commission, UFM, City Manager, and Council to discuss goals and progress
- “Explore both opportunities for increased vendor engagement and vendor enforcement that the law allows” (Tree Comm recommendation). Biannual “certification workshops” for arborists, builders, architects, other contractors

Tree Canopy Goals

In addition to the related elements listed above (including incentives to maintain trees, etc.):

- Base policy goal of “no net loss” of canopy
 - Develop plan for no net loss at next 5-year lidar review
 - Compile data on types of trees lost through permits, waivers, storms, etc.

- Info about smaller trees that don't show up on lidar
 - Consider annual survey?
- Realistic target for canopy increase (X percentage in Y number of years) – consider areas of City with less canopy, budget, racial equity, appropriate species, etc.
- Incentives to plant trees on private property (single-family, multi-family, and businesses)
- Maintenance information and outreach
- Appropriate species (native, climate-change adapted, etc.?)
- Improvements to ROW/street planting guidelines (species, responsibility of residents)
- Tree Fund growth and use (including donations)
- Proactive efforts to remove invasive species harmful to trees (including partnering with volunteer and community groups)