



Tree Permit Process Overview

**Takoma Park City Council
June 19, 2019**

**Presented by Jan van Zutphen,
Urban Forest Manager**

Takoma Park Municipal Code: Title 12 Trees and Vegetation

- Enacted in 1983
- Amended 10 times since

Objectives of Chapter 12.12

- Protect, preserve, and promote the City's urban forest
- Support a thriving urban forest for the many environmental, economic, health and lifestyle benefits
- Protect healthy trees of desirable species and to protect such trees at every opportunity

Definition of Urban Forest Tree

- 24 inches or more in circumference at 4 ½ feet above ground level; 7 5/8 in. or in DBH (diameter at breast height); or
- required to be planted or maintained, pursuant to governmental order, agreement, stipulation, covenant, easement, or a tree protection plan, or as a condition of issuance of a tree permit; or
- planted with government funding or under a government program

Three Types of Tree Permits

- 1. TREE REMOVAL PERMIT** – to remove an Urban Forest Tree. City's Urban Forest Manager performs a Level II assessment of the tree to determine if a permit or waiver is required, or if the removal will be denied.
- 2. TREE IMPACT ASSESSMENT** - needed before pruning of live branches (>5% of canopy); or any land disturbing activity over 25 sq ft in area, within 50 feet of a tree; or construction work within 50 feet of a tree; or any activity that may destroy roots or endanger water supply. The assessment determines if a Tree Protection Plan is required.
- 3. TREE PROTECTION PLAN AGREEMENT** – a detailed plan for protecting trees on a property when construction or other activities may impact an urban forest tree's roots or affect its water supply.

Tree Removal Permit

A permit is required for removal, relocation, or destruction of an urban forest tree

Application and fee (\$50) received by Public Works Dept.

Tree inspection by Urban Forest Manager; evaluation is based on the criteria in City Code section 12.12.120 (next page)

Three possible outcomes:

A. **Waiver** is issued if the tree is dead or hazardous:

- No replanting requirement, no public notice and no option to appeal

B. **Preliminary Approval** of tree removal request:

- Applicant notified by mail and is informed of replanting requirement
- Property posted for 15 calendar days (anyone can appeal)
- If no appeals are received, permit can be issued. If appealed, Tree Commission hearing scheduled, Commission makes decision
- Permit issued once City receives signed replanting agreement or payment of fee in lieu

C. **Denial** of request

- Applicant may appeal the denial within 15 calendar days of the decision

Criteria for Tree Removal Evaluation

1. The extent to which tree clearing is necessary to achieve proposed development or land use, and, when appropriate, the potential ameliorating effects of any tree protection plan that has been submitted or approved.
2. The number and type of replacement trees and, if appropriate, any reforestation plan proposed as mitigation for the tree or trees to be removed.
3. Any hardship which the applicant will suffer from a modification or rejection of the permit application.
4. The desirability of preserving any tree by reason of its age, size, or outstanding quality.
5. The extent to which the area would be subject to environmental degradation due to removal of the tree or trees.
6. The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or trees are located.
7. The general health and condition of the tree or trees.
8. The desirability of the tree species as a permanent part of the City's urban forest.
9. The placement of the tree or trees in relation to utilities, structures and the use of the property.

Replanting Requirement Calculation

- City Code Section 12.12.100
- Tree is rated using criteria in the Code (next page)
- Deciduous replacement trees to be at least 1 ½" in diameter when planted
- Evergreen trees to be at least 6' in height when planted
- Intention is to replace canopy from removed tree within 25 years
- Replanting requirements for undesirable tree species are half the normal replanting requirements

(Undesirable tree species include: white & red mulberry, mimosa, box elder, ailanthus, bradford pear, russian or autumn olive, ginko (female), norway maple)

Tree Assessment & Replanting Calculations

- Trees are evaluated using 6 criteria:

Trunk

Annual Growth Rate

Structure

Insects/Disease

Crown Development

Life Expectancy

- Each criteria has a value of 1 to 5
- Rating is completed and points are totaled
- Scores of 6 to 15 = 1% canopy replacement
16 to 24 = 2% canopy replacement
25 to 30 = 3% canopy replacement
- Diameter of tree plus % replacement determines # of trees to be replanted

Appeal Process

City Code section 12.12.110

What can be appealed?

- Preliminary tree removal approval (within 15 day posting period) by any resident or property owner in the City
- Denial of tree removal by applicant
- Preliminary tree protection plan approval (within 15 day posting period) by a property owner of an adjoining property

What can not be appealed?

- The number of trees required for replanting
- The arborists decision that a tree requires a permit versus a waiver for removal
- A waiver decision

The Tree Commission hears appeals and considers the same 9 criteria shown on slide 7 (Code section 12.12.120)

Appeal Process (continued)

- The Commission is made up of community members selected by the City Council and assisted by the City Attorney. The hearing is quasi judicial in nature
- Burden of proof is on the appellant
- City Urban Forest Manager presents evaluation information, applicant or appellant provides their information. Commission deliberates privately.
- Commission's decision is communicated by the City Attorney to all parties within 30 days of hearing.
- Appellant can take the matter to Circuit Court. To do so they must file a petition for judicial review within 30 days of issuance of the Tree Commission's decision.

Tree Impact Assessment – Section 12.12.030

A Tree Impact Assessment is *required* prior to any of the following:

1. Land disturbing activities, ie raising or lowering existing grade or excavating more than 3 inches in depth over an area greater than 25 square feet, within 50 feet of an urban forest tree;
2. Activity within the critical root zone of an urban forest tree that may destroy a significant portion of the roots or endanger their water supply;
3. Construction or placement of a structure (other than a fence) within 50 feet of an urban forest tree;
4. Paving more than 25 square feet with an impervious surface within 50 feet of an urban forest tree;
5. Removing, relocating, destroying, or topping an urban forest tree or pruning more than 5% of the live canopy, or pruning live limbs with significant diameter in relation to the size of the tree, or other action which would significantly and permanently detract from an urban forest tree's health or growth.

Tree Impact Assessment Process

- Application fee of \$50
- A sketch or plan and a brief narrative describing the project and how work is to be performed (ex. hand dug, heavy equipment, etc.)
- For more complicated projects, a site meeting with the contractor may be required to discuss intended activity
- Urban Forest Manager reviews application and submitted information, visits site, may call applicant to discuss details.
- The applicant is notified if a Tree Protection Plan will be required

Tree Protection Plan Process

- Application fee of \$50 (if a Tree Impact Assessment has been completed) or \$100 if not
- Submittal requires detailed site plan drawings and completion of application
- Review of plans by Urban Forest Manager can take a few days to several weeks depending upon if application is complete or if UFM has any questions (revisions may be required, a bond may be required)
- For more complex projects a site visit with contractor and tree professional who is to perform tree protection measures may be required
- Once plan is approved, applicant is notified and adjoining property owners are notified and have 15 calendar days to comment on the application
- If no comments or objections are received, permit is issued
- If comments or objections are received the UFM determines if an agreement can be reached and/or the plans can be modified, if not then the case is sent to the Tree Commission to hear an appeal.

Components of a Tree Protection Plan

- Identification of critical root zone(s)
- Tree protection fence – welded wire or chain link
- Type of equipment to be used on site
- Type of excavation and proximity of it to trees
- Is silt fence required
- Root Pruning or tree pruning
- Protection of root areas, soil compaction mitigation
- May require air spading to determine location of specific roots in relation to excavation
- Storage and staging areas located away from root zones
- Construction entrance location

Tree Protection Plan Implementation

- May require pre-construction meeting
- Site inspection once tree protection measures have been installed
- Construction can start
- Periodic inspections

Bond Requirements

A bond may be required in certain cases
City Code section 12.12.090 F

- The amount of the bond is equal to the tree removal cost and replanting requirements for any tree(s) included in a Tree Protection Plan which dies or become hazardous within a two year period after project completion
- The amount of the bond is equal to the tree replacement costs of trees for which a tree removal permit has been issued
- The bond must be secured for two years
- The Urban Forest Manager determines if the bond can be released once work is completed and confirmed by inspection

Preplanting Credit

To address the concern about replanting costs and to encourage tree planting in general, the City Council amended the Tree Code to allow for credit for tree planting prior to a removal request.

- To request credit a property owner must complete the Preplanting Credit Application:

<http://permits-and-licenses-takomapark.s3.amazonaws.com/publicworks/preplanting-credit-application.pdf>

- the preplanted tree must be:
 - a minimum size of 1.5 inch caliper
 - purchased from a nursery
 - registered within 90 days of purchase (include copy of receipt)

Enforcement

- Inspections
- Stop Work Order (City Code section 12.04.050)
- Notice of Violation (City Code section 12.04.060)
- Citation (City Code sections 12.04.060 and 12.12.130)
- For trees removed or excessively damaged in violation of City Code chapter 12.12, or an approved Tree Protection Plan, the tree replacement requirement is 10% of the canopy (City Code section 12.12.100 D. 1)