

1 **Proposed Amendments to the Takoma Park Tree Ordinance (Redlined)**

2 **January 31, 2020**

3 **Chapter 12.04**  
4 **GENERAL PROVISIONS**

5 **12.04.010 Definitions.**

6 As used in this chapter:

7 "Basal area" means the area of a tree trunk's cross section, measured outside the bark.

8 "Caliper" means the diameter measurement of the trunk of nursery stock trees, taken at caliper height.

9 "Caliper height" means 6" above the ground in the case of trees less than 4" in diameter at 6" above the  
10 ground and 12" above the ground in the case of all other trees.

11 "Canopy" means the combined crowns of all trees on a tract of land.

12 "City Manager" means the City Manager of the City of Takoma Park or ~~his or her~~[their](#) designee.

13 "City Property" means City rights-of-way, City parks, median strips, and other City-owned or controlled  
14 property.

15 "Critical root zone" means the protection zone for an individual tree or an area defined by a circle with a  
16 diameter 36 times the [diameter at breast height](#) (DBH) of the tree (or 1.5' of radius for each inch of DBH)  
17 or such smaller area as determined by the City Manager in a tree impact assessment.

18 "Crown" means the volume defined by the spread of the branches and foliage of a tree.

19 "Department" means the Department of Public Works of the City of Takoma Park.

20 "Diameter at breast height" or "DBH" of a tree means the measurement of the average diameter of the  
21 tree taken at 4 1/2' above the ground.

22 ["Ecosystem services" means the material or energy outputs from ecosystems, including, but not limited](#)  
23 [to, climate regulation, storm water runoff avoided, carbon sequestered, air pollution removed, water](#)  
24 [purification, avoided energy use, wildlife habitat, and recreation benefits.](#)

25 "Hazardous," in relation to a tree or tree part, means defective, diseased or dead, and posing an  
26 unreasonable risk of failure or fracture with the potential to cause injury to people or damage to property.

27 [An entire tree is not hazardous if the hazard can be addressed via pruning or other tree maintenance](#)  
28 [measures.](#)

29 ["Invasive species" means a species that is non-native to the City's ecosystem and whose introduction](#)  
30 [causes or is likely to cause economic or environmental harm or harm to human health.](#)

31 "Nursery stock tree" means a tree ~~which~~[that](#) meets the standards established by the American Standard  
32 for Nursery Stock published by the American Association of Nurserymen (Publication No. ANSI Z60.1-  
33 1996).

34 "Open space" means undeveloped City owned property that is not parkland or right-of-way.

35 "Owner" means any person who, alone or jointly or severally with others:

36 1. Has a legal or equitable ownership interest in a real property, including a contract purchaser of  
37 property;

38 2. Has a legal, equitable or beneficial interest in a corporation, limited liability company,  
39 partnership, limited partnership, limited liability partnership, trust or other entity that has a legal or  
40 equitable ownership interest in a rental facility; or

41 3. Has charge, care or control of real property as personal representative, executor,  
42 administrator, trustee, guardian, or conservator of the estate of the owner.

43 "Person" means an individual, corporation, limited liability company, partnership, limited partnership,  
44 limited liability partnership, trust, association, organization, or any other legal entity, but does not include  
45 the City.

46 ["Target" means people or property that may be subject to injury or damage as a result of a tree's failure.](#)

47 "Tree Commission" means the ~~citizen~~[resident](#) commission established by the Council to preserve, protect,  
48 and promote the urban forest of the City and to hear appeals from [preliminary](#) permit decisions.

49 "Tree cover" means area covered by canopy, expressed in square feet or as a percentage of the area of  
50 a tract of land.

51 "Tree ~~Protection Plan~~[protection plan](#)" means a site plan that delineates tree save areas and details  
52 measures to be taken to ensure survivability of trees to be saved prior to and during construction.

53 ["Urban Forest Manager" means the City of Takoma Park Urban Forest Manager or their designee.](#)

54 "Urban forest tree" means a tree as defined in Section [12.12.020-12.12.020](#).

55 "Vermin" means small animals, including insects, that are prolific and destructive or injurious to health.

56 "Woody vegetation" means vegetation with stems of wood (other than vines) and includes trees and  
57 bushes.

58 **12.04.020 Interpretation.**

59 This [C](#)chapter is intended to supplement and not to contradict or supersede any applicable provisions of  
60 the law and regulations of the State of Maryland, and is to be interpreted as such.

61 **12.04.030 Authority of City Manager to adopt regulations.**

62 The City Manager may adopt regulations to implement this chapter, in accordance with the provisions of  
63 Chapter 2.12, Administrative Regulations.

64 **12.04.040 Interference prohibited.**

65 A person who prevents, delays, or interferes with the City Manager while ~~he or she is~~[they are](#) carrying out  
66 the provisions of this chapter in or upon any City property, public highway or public space commits a  
67 Class C municipal infraction.

68 **12.04.050 Enforcement—Stop work orders.**

69 A. The Department has primary responsibility for the administration and enforcement of this chapter.

70 B. Representatives of the Department, the ~~City Arborist~~[Urban Forest Manager](#), and Code Enforcement  
71 Officers may serve as the City Manager's designee, with full authority to enforce all municipal infraction  
72 provisions of this chapter.

73 C. In addition to all other means of enforcement provided for by law and in this chapter, the City  
74 Manager, Code Enforcement officers, or police officers may issue a "stop work order" to any person who  
75 violates any provision of this chapter. A stop work order also may be issued on the basis of information  
76 received setting forth the facts of the alleged violation.

77 ~~1.—~~ Any person who receives such a stop work order shall immediately cease the activity that constitutes  
78 the violation. The person shall comply with all terms and conditions imposed by the person issuing the  
79 order before the activity may resume.

80 ~~2.—A person who receives a stop work order may appeal the issuance of the stop work order to~~  
81 ~~the Tree Commission pursuant to Section 12.12.110 within 15 days after the issuance of the stop~~  
82 ~~work order, as if the issuance were a denial of a tree permit.~~

83 **12.04.060 Procedure to be followed in case of infractions.**

84 A. In the case of violations of this chapter, the City may issue a warning notice, giving the person an  
85 appropriate period of time to correct the violation before a municipal infraction citation is issued. No  
86 additional warning notices are issued for continuing or subsequent violations for which a warning notice  
87 was issued.

88 B. Failure to abate a violation for which a municipal infraction citation has been issued by the due date  
89 of the fine, as set forth on the municipal infraction citation, causes continuing or subsequent violations to  
90 be treated as repeat offenses.

91 C. In addition to the fine for a municipal infraction, the City may obtain a court order for the owner to  
92 abate the violation or for the City to abate the violation at the expense of the owner.

93 **12.04.070 Charges for City taking corrective action.**

94 A. Where the City has taken corrective action to bring a property into compliance with this chapter, the  
95 City Manager shall send the owner a bill for the cost of the corrective action. The bill is sent by regular  
96 mail to the owner's last known address or delivered by any other means reasonably calculated to bring  
97 the bill to such person's attention. If the owner does not pay the bill within one month after it is presented,  
98 the City Manager may certify the cost of such corrective action to the ~~City Treasurer~~Finance Director.

99 B. The ~~City Treasurer~~Finance Director shall send a bill for the costs of such corrective action to the  
100 owner of the real property, as listed in the City property tax records. The ~~City Treasurer~~Finance Director  
101 also may send a copy of the bill for the costs of the corrective action to a lender under a mortgage or  
102 deed of trust made by the owner and secured by the real property, as listed in the City property tax  
103 records. The bill is sent by regular mail to the last-known address of the owner or lender or delivered by  
104 any other means reasonably calculated to bring the bill to such person's attention. If the bill is not paid  
105 within one month after it is presented, then the cost becomes a lien against the real property ~~which that~~  
106 may be collected and enforced in the same manner as are taxes, special assessments, and other liens  
107 against real property or collected by a ~~law suit~~lawsuit against the owner.

108 **12.04.080 City Manager to have decision-making authority for all trees on City property.**

109 A. The City Manager, as an agent of the sovereign City government, has authority over the disposition  
110 of all trees located on City property and has the power to plant, maintain, or remove trees on City  
111 property. The City Manager shall give due consideration to the urban forest preservation principles  
112 embodied in this chapter ~~when making decisions regarding trees on City property, apply the criteria for~~  
113 tree removal permit decisions applicable to private persons, and undertake all reasonable tree protection  
114 measures when making decisions regarding trees on City property, as is required of private persons

115 [under this chapter. The City Manager shall apply for tree impact assessments, tree protection plan](#)  
116 [permits, and tree removal permits when making decisions regarding trees on City property, but such](#)  
117 [decisions are not subject to appeal to the Tree Commission.](#)

118 B. The City Manager may order the removal of any tree or part of a tree on City property that:

119 1. Poses a threat to safety;

120 2. May cause damage to [sewers-utilities](#) or other public improvements;

121 3. Is diseased or infested and poses a danger to other healthy trees, if removal is the only  
122 practical solution;

123 4. ~~Seriously impairs the appearance of City property; or~~

124 ~~5.~~ Interferes with the exercise of any power conveyed by the Charter of the City of Takoma Park,  
125 including the construction and alteration of buildings and public ways and sidewalks.

126 C. If the City ~~Manager orders the removal of~~removes a tree ~~pursuant to subsection (B) of this~~  
127 ~~section from City property~~, the City must replace the tree in accordance with Section ~~12.12.100.12.12.100.~~

128 ~~D.~~ [The City shall post written notice of the proposed removal of trees from City property adjacent to the](#)  
129 [public right of way closest to the trees to be removed at least seven days prior to the removal unless the](#)  
130 [City Manager determines that immediate removal of the tree is necessary, in which case such notice shall](#)  
131 [be posted as soon as possible.](#)

132 ~~DE.~~ The City Manager shall manage forest located on open spaces to preserve the natural state except  
133 where there is a threat to the public health, safety, or welfare.

134 **12.04.090 Inspection for insects and disease—Taking of specimens.**

135 A. The City Manager is authorized to inspect any woody vegetation that appears to be or is reported to  
136 be infected with a fungus, virus, bacterium, or other pathogen or infested with insects or other parasites  
137 which, due to such infection or infestation, may cause damage to other woody vegetation or other  
138 property, and may take specimens from the woody vegetation if necessary to determine the existence of  
139 such infection or infestation.

140 B. If the City Manager cannot determine with certainty the existence of infection or infestation in any  
141 woody vegetation, the City Manager shall send any such specimens for examination, diagnosis and  
142 report to the Cooperative Extension Service, Home and Garden Information Center, University of

143 Maryland or other laboratory, and shall base further action on such extension service or other laboratory  
144 report.

145 **12.04.100 Permission required to prune, spray, plant or remove from City property.**

146 A. Except as provided in subsection (B) of this section, a person who sprays, prunes, cuts, removes, or  
147 plants any vegetation on City property, without obtaining prior written permission from the Department,  
148 commits a Class B municipal infraction.

149 B. Permission is not required to plant or maintain non-woody vegetation less than 24" in height on  
150 planting strips or City rights-of-way located adjacent to the person's property (e.g., between the front yard  
151 or the sidewalk and the Street), unless the City Manager informs the person of the City Manager's  
152 objection to the planting or maintenance.

153 **12.04.110 Requirement for supervision by a tree expert.**

154 A. No person shall perform tree pruning, tree removal or other tree work for hire, including consulting,  
155 insect and disease mitigation, abiotic mitigation, and tree preservation, without supervision, involving a  
156 site visit, by a Licensed Tree Expert (LTE) in good standing with the Maryland Department of Natural  
157 Resources.

158 B. No person shall perform tree care consulting for hire without being a Licensed Tree Expert (LTE) in  
159 good standing with the Maryland Department of Natural Resources.

160 C. All tree work and consulting will be done according to arboriculture industry guidelines: ANSI A300  
161 (Parts 1 and 2) and ANSI Z133.1 (as amended).

162 D. A violation of this section is a Class B municipal infraction.

163 **12.04.120 Exemption from County eCode.**

164 Pursuant to the authority conferred by Section 4-111 of the local government article of the Annotated  
165 Code of Maryland and by Section 1-203 of the Montgomery County Code, the City of Takoma Park  
166 specifically exempts itself from the following sections of the Montgomery County Code relating to tree  
167 protection and tree canopy preservation:

168 A. Section 8-26(n) and (o);

169 B. Section 19-71;

170 C. Section 49-35;

171 D. Section 49-36A;

172 E. Sections 55-1 through 55-11.

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**Chapter 12.08**  
**PROHIBITIONS ON MAINTAINING UNDESIRABLE VEGETATION**

176 **12.08.010 Infected or infested woody vegetation on private property.**

177 A. A person who maintains on private property woody vegetation found to be infected with a fungus,  
178 virus, bacterium, or other pathogen or found to be infested with insects or other parasites which, due to  
179 such infection or infestation, may cause damage to other woody vegetation or may pose a threat to  
180 persons or the property of others commits a Class C municipal infraction.

181 B. The City Manager may promulgate regulations requiring certification of proper disposal of infested  
182 trees to prevent the spread of infestation.

183 **12.08.020 Fallen or dangerous trees on private property.**

184 A. No person shall permit a tree or tree part, dead or alive (including a stump displaced from the  
185 ground), to stand on private property if it is hazardous.

186 B. No person shall maintain a fallen tree, brushwood, or part of a fallen tree on private property that  
187 constitutes a harborage place for vermin or disease.

188 C. A violation of this section is a Class C municipal infraction.

189 **12.08.025 Vegetation not to obscure intersection.**

190 A. Vegetation taller than 3' above a street surface, except an urban forest tree, is not permitted within  
191 20' of the corner of a property located at an intersection of 2 streets. If the vegetation is located on top of  
192 a retaining wall, the retaining wall is considered part of the 3'.

193 B. A violation of this section is a Class D municipal infraction.

194 **12.08.030 Vegetation not to obstruct sidewalks or traffic.**

195 A person who permits any vegetation on private property to encroach on, impede vehicular or pedestrian  
196 passage upon, or to overhang within 8' above any street or sidewalk, or obstruct any traffic control device  
197 commits a Class D municipal infraction.

198 **12.08.040 Noxious growths.**

199 A. No person shall maintain on private property poison ivy (*Rhus radicans* or *Toxicodendron radicans*),  
200 poison oak (*Rhus toxicodendron* or *Toxicodendron quercifolium*), poison sumac (*Rhus vernix* or  
201 *Toxicodendron vernix*), ragweed (*Ambrosia artemisiifolia*) or similar vegetation. Failure to make continued  
202 good faith efforts to eradicate such vegetation in accordance with Department regulations is a Class D  
203 municipal infraction. The City shall not maintain such vegetation in City parks but shall not be required to  
204 remove such vegetation from any City property designated as an open space.

205 B. All persons must control the growth of [invasive species or other vines or vegetation that may damage](#)  
206 [trees, native vegetation, or structures, including, but not limited to,](#) bamboo, kudzu-vine (*Pueraria lobata*),  
207 non-native honeysuckle, wisteria, [and multi flora rose \(\*Rosa multiflora\*\)](#) ~~or other vines or vegetation that~~  
208 [may damage trees, native vegetation, or structures. Allowing vines to reach the limbs of trees is a  
209 violation of this subsection. Failure to make continued good faith efforts to control the growth of such  
210 vegetation in accordance with Department regulations is a Class D municipal infraction.](#)

211 C. No person shall allow any vine or vegetation ~~listed prohibited~~ in subsections (A) and (B) of this  
212 section or any other vine or vegetation that may cause a threat to public safety or damage to trees,  
213 structures, or native vegetation to spread to an adjoining property over the objection of the adjoining  
214 property owner. Failure to make continued good faith efforts to control such growth in accordance with  
215 Department regulations is a Class C municipal infraction.

216 **12.08.050 Uncontrolled growth of vegetation on vacant lots.**

217 A. The owner of a vacant lot that does not have at least 60% tree cover is required to keep the natural  
218 non-woody vegetation on the lot to within 10 inches of the ground.

219 B. A violation of this section is a Class D municipal infraction.

220 **12.08.060 Uncontrolled growth of lawns on private property.**

221 A person who allows 30% or more of a lawn to reach or exceed the height of 10 inches commits a Class  
222 D municipal infraction.

223 **12.08.070 Notice to correct prohibited conditions.**

224 A. Whenever any condition prohibited by Sections 12.08.010 through ~~12.08.070~~[12.08.060](#) is found  
225 within the City, the City Manager shall give notice to the owner or occupant of the property or the person  
226 responsible for such condition to correct such condition within such reasonable time as may be specified  
227 in such notice.

228 B. If any person fails or refuses to correct or abate any prohibited condition after receipt of notice  
229 pursuant to subsection (A) of this section, such condition may be corrected by the City at the expense of



230 the person named in such notice. Correction or abatement by the City shall not prevent or excuse any  
231 prosecution of the person responsible for the condition abated by the City.

232  
233 **Chapter 12.12**  
234 **URBAN FOREST**

235 **12.12.010 Legislative findings and purpose.**

236 ~~The Council of the City of Takoma Park hereby finds that it is in the interest of the citizens/residents of the~~  
237 ~~City to protect, preserve, and promote the City's urban forest. Stewardship of our urban forest is a~~  
238 ~~community effort. The City's urban forest is part of a larger ecosystem that supports/provides valuable~~  
239 ~~ecosystem services, including supporting wildlife and contributes significantly to reducing air, noise, and~~  
240 ~~visual pollution control, and reduces the City's contribution to climate change. The existence of shade~~  
241 ~~providing trees moderates climatic extremes and reduces energy consumption. The City's urban forest is~~  
242 ~~part of the watershed of Long Branch, Takoma Branch, and Sligo Creeks and therefore plays an~~  
243 ~~important role in controlling stormwater run-off and supports the biologic and hydrologic integrity of these~~  
244 ~~watersheds. The urban forest has significant aesthetic value, which affects property values and the~~  
245 ~~quality of life of the community. Regulation of actions affecting the urban forest provides mutual benefits~~  
246 ~~to City residents and property owners. The purpose of this chapter is to protect healthy trees of desirable~~  
247 ~~species and it shall be administered in a manner that seeks to protect such trees at every~~  
248 ~~opportunity promote a sustainable tree canopy through community stewardship of existing trees and the~~  
249 ~~planting of new trees of diverse native species that are adaptable to the impacts of climate change.~~

250 **12.12.010 Legislative findings and purpose.**

251 The Council of the City of Takoma Park hereby finds (or states/declares/determines/affirms) that --

- 252 a) it is in the interest of the residents of the City to protect, preserve, promote, and to the extent  
253 feasible expand Takoma Park's urban forest;
- 254 b) the purpose of this chapter is to promote a diverse, resilient, sustainable urban forest through  
255 community and individual stewardship of existing trees, and the planting of new trees with a focus  
256 on [ ] that are adaptable to the impacts of climate change;
- 257 c) stewardship of the City's urban forest is a community effort requiring the involvement of the entire  
258 community, and the regulation of actions affecting the urban forest provides benefits to residents,  
259 and property and business owners;
- 260 d) a health, biodiverse, and demographically balanced urban forest provides valuable ecosystem  
261 services, including preserving wildlife habitat; reducing air, noise, and visual pollution; improving  
262 water quality, reducing the City's contribution to climate change; assisting in climate change

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263 mitigation, adaptation and resilience; lowering summer temperatures and moderating climatic  
264 extremes; and reducing energy use in buildings;  
265 e) the urban forest is part of the watershed of Long Branch, Takoma Branch, and Sligo Creeks and  
266 as such plays an important role in controlling stormwater run-off, and supports the biologic and  
267 hydrologic integrity of downstream watersheds;  
268 f) the urban forest contributes to the beauty of our neighborhoods, which enhances property values,  
269 and improves the quality of life in the community and the health of residents; and  
270 g) the City's forest policies and tree canopy goals should be pursued in a manner that addresses  
271 differences and inequities that may exist in tree canopy coverage across City neighborhoods and  
272 seeks to protect and replace trees with a focus on the health and sustainability of the urban forest  
273 as a whole.

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274 **12.12.020 Urban forest trees.**

275 An urban forest tree is a tree in the City which that:

- 276 A. Measures 24 inches or more in circumference at four and one-half feet above ground level or  
277 measures seven and five-eighths inches or more DBH; or
- 278 B. Is required to be planted or maintained, pursuant to governmental order, agreement, stipulation,  
279 covenant, easement, or a tree protection plan, or as a condition of issuance of a tree removal permit; or
- 280 C. Is planted with government funding or under a government program.

281 **12.12.030 Tree impact assessment required.**

282 A.—Except as provided in subsection (B) of this section, a tree impact assessment is required prior to  
283 conducting any of the following:

284 A. A tree impact assessment is a process provided by the City to assist property owners in preventing  
285 unnecessary harm to trees, avoiding violations of this chapter, and quickly and efficiently navigating the  
286 tree removal permit and tree protection plan permit processes when applicable. A tree impact  
287 assessment is a site visit by the Urban Forest Manager for the purpose of assessing the potential adverse  
288 impact of proposed activity in the vicinity of an urban forest tree, advising the property owner or the  
289 property owner's agent of the potential adverse impact of the project upon urban forest trees and how  
290 such impact may be mitigated or prevented and advising whether a tree removal permit or tree protection  
291 plan permit will be required for the proposed activity. The Urban Forest Manager does not serve as the  
292 arborist for property owners and does not prepare tree protection plans on behalf of property owners.  
293 Except as provided in subsection (B) of this section, a tree impact assessment is required prior to  
294 conducting any of the following:

- 295 1. Land disturbing activities, such as raising or lowering existing grade, or excavating more than  
296 three inches in depth over an area in excess of 25 square feet, within 50 feet of an urban forest  
297 tree;
- 298 2. ~~Activity~~Any activity within ~~the critical root zone~~50 feet of an urban forest tree that may destroy a  
299 ~~significant portion of the roots of a tree, compact the soil or endanger the~~impede water  
300 ~~supply uptake, including, but not limited to the roots, the operation or parking of vehicles or heavy~~  
301 ~~equipment, storage of materials, and trenching~~;
- 302 3. Construction or placement of a structure other than a fence within 50 feet of an urban forest  
303 tree;
- 304 4. Paving in excess of 25 square feet with an impervious surface within 50 feet of an urban forest  
305 tree; or
- 306 5. Removing, relocating, destroying, or topping an urban forest tree or pruning more than 510% of  
307 the live canopy of an urban forest tree, or pruning live limbs with significant diameter in relation to  
308 the size of the tree, or other action which would significantly and permanently detract from an urban  
309 forest tree's health or growth.

310 B. Exceptions to tree impact assessment requirements.

- 311 1. A tree impact assessment shall not be required for ~~action~~the following:
- 312 a. actions required ~~on an emergency basis (with no time to obtain an~~  
313 assessment)~~immediately~~ to prevent harm to life or ~~significant harm to~~ property ~~for~~;
- 314 b. actions performed at the written request of a utility company such as PEPCO,  
315 Verizon, WSSC, or Washington Gas, ~~or for~~
- 316 c. actions performed by a utility company in accordance with a memorandum of  
317 understanding between the utility and the City.
- 318 2. When an emergency action is taken pursuant to paragraph (1)(a) of this subsection, the  
319 person engaging in the activity must document the existence of an emergency, request a tree  
320 impact assessment no later than the first business day following the commencement of the  
321 emergency action, and cease construction activity when the risk of harm to life or property is  
322 eliminated until the City Manager determines that no tree protection plan permit is required in  
323 connection with the work or the City Manager issues a tree protection plan permit.

324 C. The ~~City Arborist~~Urban Forest Manager shall conduct a tree impact assessment ~~at the request of~~  
325 upon submission of an application by any person intending to conduct an activity described in subsection  
326 (A) of this section. Following the tree impact assessment, the ~~City Arborist~~Urban Forest Manager will  
327 advise the person requesting the assessment in writing of the permits required under this chapter to  
328 proceed with the proposed activity. ~~and any suggestions to reduce the adverse impact of the proposed~~  
329 activity on the trees in the area.

330 D. The fee for a tree impact assessment ~~is \$50.00 payable to the City with the application~~shall be  
331 established via regulation.

332 E. Failure to obtain a tree impact assessment before conducting any of the activities described in this  
333 subsection shall constitute a Class AA municipal infraction.

334 **12.12.040 Tree ~~removal~~protection plan permit required.**

335 A. Except as provided in ~~Subsection~~subsection (B) of this section, a tree protection plan permit may be  
336 required for the following:

337 1. Land disturbing activities, such as raising or lowering existing grade, or excavating more than 3  
338 inches in depth over an area in excess of 25 square feet within 50 feet of an urban forest tree;

339 2. Activity within 50 feet of an urban forest tree that may destroy the roots of a tree or endanger  
340 the water supply to the roots;

341 3. Construction or placement of a structure other than a fence within 50 feet of an urban forest  
342 tree; or

343 4. Paving in excess of 25 square feet with an impervious surface within 50 feet of an urban forest  
344 tree.

345 B. No tree protection plan permit is required for actions required immediately to prevent harm to life or  
346 significant harm to property. When an emergency action is taken pursuant to this paragraph, the person  
347 engaging in the activity must notify the Department immediately, or, if the emergency occurs when City  
348 offices are closed, no later than the first business day following the commencement of the emergency  
349 action, and must cease construction activity when the risk of harm to life or property is eliminated until the  
350 City Manager determines that no tree protection plan permit is required in connection with the work or the  
351 City Manager issues a tree protection plan permit.

352 C. If, at any time after receiving a tree protection plan permit application that indicates a lack of  
353 understanding of the impact of construction activity on trees, the City Manager determines that, because

354 of the scope of the proposed activity, the proximity of the proposed activity to or potential impact upon  
355 one or more urban forest trees, or the size or species of the potentially impacted urban forest tree or  
356 trees, the activity presents a significant risk to the trees and that the measures necessary to protect one  
357 or more urban forest trees that may be impacted by the activity are complex, the City Manager may  
358 require that the tree protection plan be prepared by a licensed or certified professional who has  
359 demonstrable expertise in the preparation of tree protection plans.

360 **12.12.050 Tree removal permit required.**

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

363 B. No permit is required:

364 1. ~~When the City Manager grants a tree permit waiver under Section 12.12.060; or~~

365 ~~2.—For actions required on an emergency basis (with no time to apply for a tree permit or a tree~~  
366 ~~permit waiver) immediately to prevent harm to life or significant harm to property; or~~

367 ~~3.~~ Where the removal, destruction, cutting or trimming of an urban forest tree that has branches  
368 or roots ~~which~~that obstruct or interfere with utility pipes, lines, and wires is performed by a utility  
369 company such as PEPCO, Verizon, WSSC or Washington Gas in accordance with any applicable  
370 memorandum of understanding between the City and the utility company, or at the written request  
371 of a utility company.

372 C. In addition to the permits required under this chapter, property owners in the Takoma Park Historic  
373 District may also have to obtain a Historic Area Work Permit from the Historic Preservation Commission  
374 before removing or destroying a tree.

375 **12.12.060 Reserved.**

376 **12.12.060 Permit waivers.**

377 ~~A.—Upon receipt of an application for a tree permit waiver, the City Manager may issue a written~~  
378 ~~determination (referred to as a tree permit waiver), waiving the requirement to obtain a tree permit for the~~  
379 ~~removal of a tree if the City Manager determines that the tree is dead or that the tree is hazardous.~~

380 ~~B.—An applicant for a tree permit waiver shall pay a processing fee of \$25.00 to the City with the~~  
381 ~~application.~~

382 C. Upon issuance of a tree permit waiver, the City Manager shall inform the applicant that the City  
383 encourages the planting of replacement trees on a voluntary basis.

384 D. The property owner shall post notice of the waiver on the property beginning upon receipt of the  
385 waiver and continuing until the completion of the tree removal or the expiration of 7 days, whichever shall  
386 first occur. The notice shall state that residents with comments or questions regarding the impact of the  
387 activity on the trees on or near the property may contact the City Manager and shall provide the City  
388 Manager's address and telephone number.

389 E. The City Manager shall:

390 1. Make a copy of each waiver application available for public inspection; and

391 2. Provide an at-cost copy of a waiver application to any person requesting one.

392 **12.12.070 Tree removal and tree protection plan permit applications.**

393 A. A property owner may apply for a tree removal permit or tree protection plan permit covering action  
394 relating to an urban forest tree or trees on or near the owner's property. The application is made under  
395 procedures specified in this Code and by the City Manager.

396 B. A property owner may not reapply for a tree removal permit or tree protection plan permit for the  
397 removal of the same tree or the same construction activity within two years of the denial of a permit  
398 application without first demonstrating a substantial change in circumstances that warrants consideration  
399 of the new permit application.

400 C. An applicant for a tree removal or tree protection plan permit shall pay processing fees established  
401 by regulation with the application.

402 D. The City Manager shall:

403 1. Make a copy of each application for a tree removal permit or tree protection plan permit  
404 available for public inspection; and

405 2. Provide an at-cost copy of an application to any person requesting one.

406 **12.12.070 Permit applications.**

407 A. An owner may apply for a tree removal permit or tree protection plan permit covering action relating  
408 to an urban forest tree or trees on or near the owner's property. The application is made under  
409 procedures specified by the City Manager.

410 B. — In the case of an applicant who requests a tree removal permit or tree protection plan permit for the  
411 purpose of constructing on or developing property, the City Manager may require the applicant to submit  
412 copies of all permits, licenses, and approvals which are required for the construction or the development  
413 to take place before any action is taken on the application. This may include, but is not limited to, county  
414 building permit, builders' license, grading permit, sediment control permit, stormwater management  
415 permit, zoning variance, special exception, and site plan review.

416 1. — If all necessary permits, licenses, and approvals have not been granted as of the date the  
417 application is filed, then the City Manager, in his or her sole discretion, may accept other  
418 satisfactory evidence that all necessary permits and approvals for the construction or development  
419 will be granted and may begin acting on the application.

420 2. — An applicant for a tree removal permit shall pay a processing fee of \$50.00 to the City with the  
421 application. If the applicant had previously applied for a waiver for the same tree and it was denied,  
422 the fee for a permit will be \$25.00. An applicant for a tree protection plan permit shall pay a  
423 processing fee of \$100.00 to the City with the application. If there has been a prior Tree Impact  
424 Assessment performed for the project, the tree protection plan permit fee shall be \$50.00.

425 C. — The City Manager shall:

426 1. — Make a copy of each application for a tree removal permit or tree protection plan permit  
427 available for public inspection; and

428 2. — Provide an at cost copy of an application to any person requesting one.

429 **12.12.080 Tree removal permit standards and process.**

430 **A. Tree Removal Permits.**

431 1. Criteria for tree removal permit decisions. The City Manager or, upon appeal, the Tree  
432 Commission shall issue a tree removal permit if so indicated by the factors set forth in paragraphs  
433 (a)-(f) of this subsection. The Tree Commission may approve the permit, disapprove the permit, or  
434 approve the permit with modifications and/or conditions.

435 a. The general health and condition of the tree.

436 b. The desirability of preserving the tree by reason of its age, size or other outstanding  
437 quality.

- 438 c. The impact of the reduction in tree cover on the property where the tree is located,  
439 adjacent properties and the surrounding neighborhood and the extent to which said areas  
440 would be further subject to environmental degradation.
- 441 d. The location of the tree in relation to targets.
- 442 e. Any compelling reasons for the removal that the applicant has demonstrated and  
443 whether a reasonable alternative to removal of the tree exists.
- 444 f. The extent to which tree clearing is necessary to achieve the proposed development or  
445 land use.
- 446 2. Conditions for the issuance of a tree removal permit may include, but are not limited to:
- 447 a. Compliance with the tree replacement requirements of Section 12.12.100;
- 448 b. Approval of a tree protection plan and/or inspection of the property by the City to verify  
449 that all required tree protection devices for trees other than the tree to be removed are in  
450 place;
- 451 c. Submission to the City of all necessary County and other permits, licenses, and approvals  
452 that are required for the construction or development of the property;
- 453 d. Submission of a Historic Area Work Permit if required for the removal of the tree; and
- 454 e. Posting of a bond or other security for tree replacement.
- 455
- 456 3. Applicants receiving tree removal permits pursuant to paragraphs (a) through (d) of this  
457 subsection shall post notice of the issuance of the tree removal permit on the property ~~beginning at~~  
458 ~~least seven days~~ before the tree removal commences and continuing until seven days after the  
459 completion of the removal. The notice shall state that residents with comments or questions  
460 regarding the activity may contact the City Manager and shall provide the City Manager's address,  
461 email address, and telephone number, but there shall be no appeals from the City Manager's  
462 decision.
- 463 a. Where an owner proposes removing one or more urban forest trees of a species  
464 identified as an undesirable species by City regulation, the owner agrees to replace the tree  
465 or trees in accordance with Section 12.12.100, and the City Manager determines that the tree



466 or trees are undesirable because of their location, condition, or effect on other trees, the City  
467 Manager shall issue a tree removal permit.

468 b. Where an owner proposes removing an urban forest tree that the City Manager has  
469 determined to be dead or in imminent decline because of a significant defect or infestation  
470 that cannot reasonably be ameliorated.

471 c. Where an owner proposes, or is required to remove a tree that is hazardous and the  
472 hazard can only be eliminated by removing the tree.

473 d. Where an owner proposes removing a tree when a part of the tree is damaging a  
474 permanent structure and further damage cannot be prevented via pruning or other  
475 reasonable tree maintenance measures.

476 4. Preliminary decisions. Except as provided in paragraph (3) of this subsection, if the City  
477 Manager determines that the criteria set forth in section 12.12.080(A)(1) indicate that the applicant  
478 is entitled to a tree removal permit, and that the conditions for issuance of a tree removal permit  
479 have been met, then the City Manager shall notify the applicant that the City has granted  
480 preliminary approval of the application. The preliminary approval of the application does not  
481 authorize the applicant to take any action regarding an urban forest tree. If the City Manager  
482 determines that the criteria set forth in paragraph (2) of this subsection indicate that the applicant is  
483 not entitled to a tree removal permit, they shall notify the applicant that the City had preliminarily  
484 denied the application.

485 5. Except as to tree removal permits issued pursuant to section 12.12.080(A)(3), within two  
486 working days of this notification, the Department shall post notice of the preliminary approval of the  
487 application on the property in question in plain view from the public right-of-way and on the City's  
488 web site for a concurrent period. The notice must describe the procedure and time limit for filing an  
489 appeal from the preliminary approval of the application. If no appeal is filed within 15 days after the  
490 notice has been posted, the City Manager shall issue a tree removal permit upon satisfaction of any  
491 conditions on the issuance of the permit. If an appeal from the preliminary approval of an  
492 application is filed, then no permit is issued until the appeal has been decided and any conditions  
493 satisfied. The applicant is responsible for maintaining the notice for the entire posting period. The  
494 City Manager may extend the posting period up to an additional 15 days if they determine that the  
495 applicant failed to maintain the notice for the entire posting period.

496 B. Appeals from preliminary tree removal permit decisions.

497 1. A notice of appeal must be in writing, state the reasons for the appeal, the name, address,  
498 and email address of the appellant and the nature of the interest of the appellant. Appeal notices  
499 shall be filed with the City Manager, who shall forward the notice to the Department.

500 2. Appeals from preliminary tree removal permit denials. The permit applicant may appeal the  
501 denial of a tree removal permit within 15 days after the date that the City Manager notifies the  
502 applicant of the preliminary denial of an application for a tree removal permit.

503 3. Appeals from preliminary tree removal permit approvals. Any resident of the City or owner of  
504 property in the City may appeal the preliminary approval of an application for a tree removal  
505 permit within the 15-day notice period. If a notice of appeal is filed during such 15-day notice  
506 period, then no permit is issued until the Tree Commission has conducted a fact-finding hearing  
507 and issued its final decision on the appeal and all conditions on the issuance of the permit have  
508 been satisfied.

509 4. There is no appeal from the tree replacement requirement calculation of the City Manager.

510 5. For hearings on appeals from preliminary tree removal permit decisions, the Department  
511 shall provide written notice of the time, date, and location of the hearing to the permit applicant  
512 and all persons that timely file a written notice of appeal and shall post notice of the hearing on  
513 the property in question in plain view from the public right-of-way and on the City's web site for at  
514 least 15 consecutive days prior to the hearing date. The applicant is responsible for maintaining  
515 the notice on their property for the entire posting period. The City Manager may continue the  
516 hearing until a later date and immediately post notice of the continuation if they determine that the  
517 applicant failed to make good faith efforts to maintain the notice for the entire posting period.

518 6. If the appealing party unreasonably fails to cooperate with the scheduling of a hearing within  
519 45 days of the filing of the notice of appeal, the appeal will be dismissed.

520 **12.12.080 Permit approval.**

521 **A. Tree Permit Approval Subject to Appeal.**

522 ~~4. If the City Manager determines that the tree permit application is complete, that the criteria set~~  
523 ~~forth in Section 12.12.120(B) indicate that the applicant is entitled to a tree permit, and that the~~  
524 ~~conditions for issuance of a tree permit have been met, then the City Manager shall notify the~~  
525 ~~applicant that the City has granted preliminary approval of the application. The preliminary approval~~  
526 ~~of the application does not authorize the applicant to take any action regarding an urban forest tree.~~

527 2.—Except as provided in subsection (B) of this section, within two working days of this notification,  
528 the Department shall post notice of the preliminary approval of the application on the property in  
529 question in plain view from the public right-of-way. A copy of the notice is posted on a bulletin board  
530 at the Municipal Building and on the City's web site for a concurrent period. The notice must  
531 describe the procedure and time limit for filing an appeal from the preliminary approval of the  
532 application. If no appeal is filed within 15 days after the notice has been posted, the City Manager  
533 shall issue a tree permit. If an appeal from the preliminary approval of an application is filed in  
534 accordance with Section 12.12.120, then no permit is issued until the appeal has been decided.  
535 The applicant is responsible for maintaining the notice for the entire posting period. The City  
536 Manager may extend the posting period up to an additional 15 days if he or she determines that the  
537 applicant failed to maintain the notice for the entire posting period.

538 3.—Conditions for the issuance of a tree permit may include, but are not limited to:

539 a.—Compliance with the tree replacement requirements of Section 12.12.100;

540 b.—Approval of a tree protection plan and/or inspection of the property by the City to verify  
541 that all required tree protection devices are in place;

542 c.—Submission to the City of all necessary County and other permits, licenses, and approvals  
543 which are required for the construction or development of the property; and

544 d.—Posting of a bond or other security for tree replacement.

545 B.—Tree Permit Approval Not Subject to Appeal. Applicants receiving tree permits pursuant to  
546 paragraphs (1) and (2) of this section shall post notice of the issuance of the tree permit on the property  
547 beginning at least seven days before the tree removal and continuing until the completion of the removal.  
548 The notice states that residents with comments or questions regarding the activity may contact the City  
549 Manager and provides the City Manager's address and telephone number.

550 1.—Where an owner proposes removing one or more urban forest trees of a species identified as  
551 an undesirable species by City regulation, the owner agrees to replace the tree or trees in  
552 accordance with Section 12.12.100, and the City Manager determines that the tree or trees are  
553 undesirable because of their location, condition, or effect on other trees, the City Manager shall  
554 issue a tree permit.

555 2.—Where an owner proposes removing one or more urban forest trees that the City Manager has  
556 determined to be diseased or infested beyond recovery, and the owner agrees to replace the tree  
557 or trees in accordance with Section 12.12.100, the City Manager shall issue a tree permit.

558 C.—Tree Protection Plan Permit Approval.

559 1.—If the City Manager determines that a tree protection plan permit application is complete, that  
560 the applicant has agreed to abide by a tree protection plan approved by the City Manager, and that  
561 all conditions for the issuance of a tree protection plan permit have been met, then the City  
562 Manager shall notify the applicant that the City has granted preliminary approval of the application.  
563 The preliminary approval of the application does not authorize the applicant to take any action  
564 regarding an urban forest tree.

565 2.—Within two working days of this notification, the Department shall send to the address of the  
566 owner(s) of record of all properties sharing a common property line with the property notice of the  
567 preliminary approval of the application. The notice must describe the procedure and time limit for  
568 filing an appeal from the preliminary approval of the application. If no appeal is filed within 15 days  
569 after the notice has been mailed, the City Manager shall issue a tree protection plan permit. If an  
570 appeal from the preliminary approval of an application is filed in accordance with  
571 Section 12.12.110, then no permit is issued until the appeal has been decided.

572 3.—Tree Protection Plans. The City Manager shall approve tree protection plans on a case by case  
573 basis. Tree protection plans may include, but shall not be limited to, the following elements:

574 a.—Protection of roots from heavy equipment;

575 b.—Prevention of soil compaction;

576 c.—Prevention of silt runoff onto roots;

577 d.—Prevention of grade changes;

578 e.—Prevention of root damage by requiring proper root pruning or tunneling under roots;

579 f.—Creation of a tree protection zone;

580 g.—Fertilization and watering requirements; and

581 h.—Protection of tree trunks.

582 The City Manager shall approve only such tree protection plans that prescribe all reasonable measures to  
583 protect any trees required to be preserved under this chapter.

584 4. Conditions for issuance of a tree protection permit may include, but are not limited to:

585 a. Inspection of the property by the City to verify that all required tree protection devices are  
586 in place;

587 b. Submission to the City of all necessary County and other permits, licenses, and approvals  
588 that are required for the construction and development of the property; and

589 c. Posting of a bond or other security for tree replacement.

590 **12.12.085 Tree protection plan permit standards and process.**

591 A. The City Manager shall approve tree protection plans on a case by case basis. Tree protection plans  
592 may include, but shall not be limited to, the following elements:

593 1. Protection of roots from heavy equipment;

594 2. Prevention of soil compaction;

595 3. Prevention of silt runoff onto roots;

596 4. Prevention of grade changes;

597 5. Prevention of root damage by requiring proper root pruning or tunneling under roots;

598 6. Creation of a tree protection zone;

599 7. Fertilization, watering and treatment requirements; and

600 8. Protection of tree trunks.

601 B. The City Manager shall approve only such tree protection plans that prescribe all reasonable  
602 measures to protect any trees required to be preserved under this chapter. If the City Manager rejects a  
603 proposed tree protection plan, when reasonably feasible, the City Manager will advise the applicant in  
604 writing of additional tree protection measures necessary for approval of the plan and explain why such  
605 measures are necessary.

606 C. Conditions for issuance of a tree protection permit may include, but are not limited to:

607 1. Inspection of the property by the City to verify that all required tree protection devices are in  
608 place;

609 2. Submission to the City of all necessary County and other permits, licenses, and approvals that  
610 are required for the construction and development of the property; and

611 3. Posting of a bond or other security for tree removal, replacement and/or preservation.

612 4. Pneumatic excavation to determine the location of roots.

613 D. Preliminary tree protection plan permit decisions. When an applicant submits a tree protection plan  
614 permit application as required by section 12.12.04, the City Manager shall issue a preliminary decision on  
615 the application.

616 1. Preliminary tree protection plan permit approval.

617 a. If the City Manager determines that a tree protection plan permit application is  
618 complete and that the applicant has agreed to abide by a tree protection plan approved  
619 by the City Manager, then the City Manager shall notify the applicant that the City has  
620 granted preliminary approval of the application. The preliminary approval of the  
621 application does not authorize the applicant to take any action regarding an urban forest  
622 tree.

623 b. Within two working days of this notification, the Department shall send notice of the  
624 preliminary approval of the application to the address of the owner(s) of record of all  
625 properties adjoining the applicant's property. If no appeal is filed within 15 days after the  
626 notice has been mailed, the City Manager shall issue a tree protection plan permit. If an  
627 appeal from the preliminary approval of an application is filed in accordance with  
628 subsection (D) of this section, then no permit is issued until the appeal has been decided.

629 2. Preliminary tree protection plan permit denial.

630 a. If the City Manager determines that a tree protection plan permit application is  
631 incomplete or that the applicant has not agreed to abide by a tree protection plan  
632 approved by the City Manager, then the City Manager promptly shall notify the applicant  
633 that the City has preliminarily denied the application.

634 b. The notice must describe the procedure and time limit for filing an appeal from the  
635 preliminary denial of the application. If no appeal is filed within 15 days after the notice  
636 has been mailed, no tree protection plan permit shall issue.

637 E. Tree protection plan permit appeals.

638 1. A notice of appeal must be in writing, state the reasons for the appeal, the name, address,  
639 and email address of the appellant, the nature of the interest of the appellant, and satisfy the  
640 requirements of paragraph 2 of this subsection. Appeal notices shall be filed with the City  
641 Manager, who shall forward the notice to the Department.

642 2. Appeals from preliminary tree protection plan permit decisions. The permit applicant or the  
643 owner(s) of record of all properties on which an urban forest tree that is likely to be substantially  
644 impacted by the applicant's proposed activity is located, as determined by the City Manager, may  
645 appeal the preliminary decision on an application for a tree protection plan permit within the 15-  
646 day notice period. Persons filing an appeal must authorize the City Manager to enter their  
647 property for the purpose of determining their standing to appeal or their appeal will not be  
648 accepted. A notice of appeal from the preliminary approval of an application for a tree protection  
649 plan permit must allege with particularity facts upon which the Tree Commission could determine  
650 that the tree protection plan is insufficient to protect the trees to be protected under the plan. If a  
651 notice of appeal containing the requisite factual allegations is timely filed by a person who has  
652 standing to appeal, then no permit is issued until the Tree Commission has conducted a fact-  
653 finding hearing and has issued its final decision on the appeal.

654 3. Hearing Notices. For hearings on appeals from preliminary tree protection plan permit  
655 decisions, the Department shall send written notice of the time, date, and location of the hearing  
656 to the permit applicant and to the address of the owner(s) of record of all properties on which an  
657 urban forest tree that is likely to be substantially impacted by the applicant's proposed activity is  
658 located, as determined by the City Manager. Such notice shall be sent at least 15 days before the  
659 scheduled hearing date.

660  
661 **12.12.087 Tree removal and tree protection plan permit appeal hearings and decisions.**

662 A. There is a rebuttable presumption that the decision of the City Manager with respect to a tree  
663 removal or tree protection plan permit application is correct. Any decision by the Tree Commission to  
664 impose conditions upon an applicant or reverse or modify a decision of the City Manager with respect to a

665 permit application must be based upon substantial evidence in the record. Substantial evidence means  
666 such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

667 B. The Commission may dismiss an appeal if the person filing the notice of appeal, or their  
668 representative, fails to appear at the hearing.

669 C. The Tree Commission shall conduct a fact-finding hearing on an appeal from a preliminary permit  
670 decision. At the hearing, any interested party may present testimony and evidence to substantiate any  
671 material point. All testimony shall be given under oath or by affirmation. The burden of proof shall be on  
672 the party filing the appeal and shall be met by a preponderance of the evidence. The parties may also  
673 cross-examine opposing witnesses presenting testimony at the hearing. A verbatim record of the hearing  
674 shall be made. The record shall be open to inspection by any person. Upon request, the Department  
675 shall furnish such person with an at-cost copy of the hearing record.

676 D. On appeal from the preliminary decision on a tree removal permit application, after due consideration  
677 of the evidence and testimony and the criteria for tree removal permit decisions set forth in Section  
678 12.12.080(A)(1), the Tree Commission shall issue its decision on the appeal and shall give notice to all  
679 interested parties.

680 E. On appeal from a preliminary decision on a tree protection plan permit application, after due  
681 consideration of the evidence and testimony and application of the standard for approval of tree  
682 protection plans set forth in Section 12.12.085, the Tree Commission shall issue a decision on the appeal  
683 affirming or modifying the decision and shall give notice to all interested parties.

684 F. Within 30 days of the date of the issuance of a decision of the Tree Commission, a person who was  
685 a party to the proceedings before the Tree Commission and who is aggrieved by the decision may seek  
686 judicial review of the decision by filing a petition for judicial review in accordance with Title 7, Chapter  
687 200, Judicial Review of Administrative Agency Decisions, of the Maryland Rules of Procedure, or any  
688 subsequent amendments thereto.

689 **12.12.090 Application and permit validity time period.**

690 A. When tree replacement or ~~tree replacement~~the posting of security is required by the City Manager  
691 ~~pursuant to Section 12.12.100,~~ permit applicants must ~~post security or~~ sign a tree replacement  
692 agreement ~~or post security~~ approved by the City Manager within 6 months of submitting their application,  
693 or their application will be denied. ~~or their preliminary approval revoked.~~

694 1. Applicants that execute a tree replacement agreement must file a certification of compliance  
695 with the tree replacement agreement on a form prepared by the City Manager and a photograph



696 [of each tree planted pursuant to the agreement within six months of the issuance of the tree](#)  
697 [removal permit.](#)

698 [2. Failure timely to submit the certification will result in the issuance of a municipal infraction](#)  
699 [citation for failure to comply with the tree replacement requirements of this chapter.](#)

700 B. Permits are valid for one year from the date of issuance—[unless extended by the City Manager for](#)  
701 [good cause when an extension is consistent with the purposes of this chapter.](#)

702 **12.12.100 Tree replacement required.**

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

704 1. The applicant's agreement to replace removed urban forest trees shall be required as a  
705 condition of issuance of [a tree removal permit to remove a tree under Section 12.12.040](#), and may  
706 be required as a condition of issuance of a [tree protection plan](#) permit for [other actions under](#)  
707 [Section 12.12.050 activity](#) that [are is](#) likely to lead to destruction of a tree.

708 2. Applicants are required to replace trees originally indicated and intended to be saved in a tree  
709 protection plan when such trees are excessively damaged or removed, including such trees that  
710 are on property adjacent to the applicant's property.

711 3. Any person who removes or excessively damages a tree in violation of [Section 12.12.040 this](#)  
712 [chapter](#) is required to replace the tree within six months.

713 B. Replacement trees [are must be](#) equal to or superior to the removed trees in terms of species quality,  
714 shade potential, and other characteristics—[unless the City Manager authorizes deviation from this](#)  
715 [requirement to facilitate planting replacement trees on site](#). In the case of undesirable trees removed  
716 pursuant to Section [12.12.080\(B\)\(4\)12.12.080\(A\)\(3\)\(a\)](#), the replacement tree is of superior species quality.  
717 Replacement trees are nursery stock trees with a size of one and one-half to three inches in caliper for  
718 deciduous trees, or six to 10 feet in height for evergreen trees and guaranteed for one year.

719 C. The basal area of the replacement trees, measured at caliper height, must be no less than a  
720 percentage of the total basal area of the tree to be removed, measured at four and one-half feet above  
721 the ground. The percentage is determined using the following health quality analysis rating scale—[which](#)  
722 [shall be applied in accordance with International Society of Arboriculture standards.](#)

CRITERION	VALUE		RATING
	5 or 4	3 or 2	1

<u>Trunk</u> <u>Roots and Root Collar</u>	<u>Sound and solid</u> <u>Roots are healthy.</u> Root collar clearly visible and healthy.	<u>Sections of bark missing</u> <u>Some root damage/decay.</u> Root collar is somewhat buried and/or some root collar damage/decay.	<u>Extensive bark loss and hollow</u> <u>Significant root damage/decay.</u> Root collar is buried and/or significant root collar damage/decay.
<u>Growth/Rate per</u>	<u>More than 6 inch year twig elongation</u>	<u>2 to 6 inch twig elongation</u>	<u>Less than 2 inch twig elongation</u>
<u>Structure</u> <u>Trunk</u>	<u>Sound and solid.</u>	<u>1 major or several minor limbs</u> <u>dead</u> <u>Sections of bark missing.</u> <u>Some trunk/codominant stem</u> <u>damage/decay.</u>	<u>2 or more major limbs</u> <u>dead</u> <u>Extensive bark loss.</u> <u>Significant trunk/codominant stem</u> <u>damage/decay.</u>
<u>Insects/Diseases</u> <u>Crown/Branches</u>	<u>Normal pest presence</u> <u>Healthy, full and balanced crown.</u>	<u>Moderate affliction or infestation</u> <u>Crown has some health issues, is not entirely full, and/or is somewhat unbalanced. One major/structural limb is dead/dying and/or several</u>	<u>Severe affliction or infestation</u> <u>Crown has significant health issues, is very sparse and/or is very unbalanced. Two or more major/structural limbs are dead/dying and/or</u>

		<a href="#">smaller limbs are dead/dying.</a>	<a href="#">many smaller limbs are dead/dying.</a>
<a href="#">Crown/Development Tree Health and Species Profile</a>	<a href="#">Full and balanced Tree vigor is high. Foliage is healthy.</a>	<a href="#">Full but unbalanced Tree vigor is normal. Foliage shows some signs of biotic/abiotic damage. Species is somewhat prone to failure.</a>	<a href="#">Unbalanced and lacking a full crown Tree vigor is low. Foliage shows significant signs of biotic/abiotic damage. Species is very prone to failure.</a>
<a href="#">Life Expectancy</a>	<a href="#">Over 30 years</a>	<a href="#">5 to 30 years</a>	<a href="#">Less than 5 years</a>
			Total Rating

723

724 D. [Using Replacement calculation.](#)

725 [1. For trees rated 4-9 using the above scale, one replacement tree is required for each tree](#)  
726 [permitted for removal.](#)

727 [2. For trees rated 10-20 using](#) the above scale, trees are to be replaced according to the  
728 following formula, with the actual number of replacement trees required rounded up to the next  
729 whole number:

Total Rating of Tree to Be Removed	Percentage of Basal Area to Be Replaced		
	<table border="1"> <tr> <td><a href="#">Undesirable Species Removed per § 12.12.080(B)(1) Trees permitted for removal under §§ 12.12.080</a></td> <td>All Other Trees</td> </tr> </table>	<a href="#">Undesirable Species Removed per § 12.12.080(B)(1) Trees permitted for removal under §§ 12.12.080</a>	All Other Trees
<a href="#">Undesirable Species Removed per § 12.12.080(B)(1) Trees permitted for removal under §§ 12.12.080</a>	All Other Trees		

	(A)(3)(a) (undesirable species) and (d) (damaging structure)	
<del>6</del> <u>10</u> to <del>15</del> <u>16</u>	1.5%	<del>4</del> <u>3</u> %
<del>16 to 24</del>	1%	<del>2</del> %
<del>25</del> <u>17</u> to <del>30</del> <u>20</u>	<del>2.5</del> %	<del>3</del> <u>5</u> %

730

731 1. For trees removed or excessively damaged in violation of this chapter or an approved tree  
 732 protection plan, the total basal area of the replacement tree at caliper height must be no less than  
 733 10% of the basal area at four and one-half feet above the ground of the tree removed or damaged.

734 ~~2. In the case of an applicant's removing trees for the purpose of developing property, the~~  
 735 ~~replacement trees must be adequate to insure that the extent of tree cover at the time of~~  
 736 ~~development will be achieved by newly planted trees on or off site within 25 years.~~

737 E. Where it is not feasible or desirable to replace trees on site, the replacement requirement may be  
 738 satisfied by planting trees at another location approved by the City Manager within the City or by paying a  
 739 fee in lieu of planting replacement trees, ~~to be established by regulation, which shall be~~ equivalent to the  
 740 installed market value of the required replacement trees ~~plus two years of maintenance~~ to the City's ~~tree~~  
 741 ~~planting fund~~ ~~tree canopy fund~~. ~~The City Manager shall establish the fee amount via regulation.~~  
 742 ~~Maintenance expenses shall include, but not be limited to, watering, protection from infestation, and~~  
 743 ~~protection from deer.~~

744 F. As a condition precedent to the issuance of a tree ~~removal~~ permit or approval of a tree protection  
 745 plan, the City may require the applicant to post a bond, letter of credit, or other security acceptable to the  
 746 City or to deposit a sum of money with the City (hereafter referred to as "security"). The amount of the  
 747 security required to be posted or deposited with the City is equal to the tree replacement costs of trees for  
 748 which a tree removal permit has been issued and the cost of removing and replacing any tree or trees  
 749 covered by a tree protection plan ~~which that~~ die or become hazardous, including such trees that are on  
 750 properties adjacent to the applicant's property.

751 1. The security may be retained by the City until the later of the date that the tree replacement  
 752 requirements of this section are satisfied or, in the case of construction or development activities,

753 until two years following the completion of the construction or development on the property as  
754 evidenced by final inspection approval by the County or other applicable governmental agency or  
755 entity.

756 2. The security may be forfeited to the City, in whole or in part, if the tree replacement  
757 requirements are not timely met or if any tree or trees on the property or adjacent properties die,  
758 become hazardous, are excessively damaged, or are removed in violation of the terms of a tree  
759 [removal](#) permit or an approved tree protection plan for the property.

760 3. There is a presumption that the death, hazardous condition, or significant decline in the health  
761 of any tree on the property [which that](#) is covered by a tree protection plan, within two years following  
762 the completion of the construction or development, was caused by the construction or development  
763 activity. The burden of rebutting this presumption, by a preponderance of the evidence, is on the  
764 applicant.

765 4. The amount of the security [which that](#) is forfeited to the City is equal to the tree replacement  
766 costs of the tree or trees on the property or adjacent properties [which that](#) die, become hazardous,  
767 are excessively damaged, or are removed in violation of the terms of a tree [removal](#) permit or an  
768 approved tree protection plan for the property. In the case of construction or development activities  
769 on property, the amount of the security [which that](#) is forfeited to the City also may include the cost of  
770 removing any tree or trees covered by a tree protection plan that die or become hazardous. The  
771 forfeited security is added to the City's ~~tree planting fund~~ [tree canopy fund](#) or, with the agreement of  
772 the property owner and the City, maybe used to remove or replace the dead, damaged or  
773 hazardous tree or trees on the property.

774 [G. Permissible uses of tree ~~replacement fund~~ canopy fund. The tree ~~replacement fund~~ canopy fund may](#)  
775 [be used to plant trees on public and private property, and to maintain trees planted with the tree](#)  
776 [replacement fund canopy fund, or for other purposes that promote the urban forest.](#)

777 **[12.12.105 Preplanting of replacement trees.](#)**

778 ~~A. Subject to the conditions of this section, property owners may obtain tree replacement credits to~~  
779 ~~satisfy tree replacement conditions relating to future tree permits under Section [12.12.100\(A\)\(1\)](#) by~~  
780 ~~planting trees or contributing to the City's tree planting fund [tree canopy fund](#) before filing a permit~~  
781 ~~application.~~

782 ~~B. Preplanted replacement trees must satisfy the size, species quality, shade potential, and other~~  
783 ~~characteristic requirements of Section [12.12.100\(A\)\(1\)](#) as determined by the Department.~~

784 C.—Calculation of Preplanted Tree Replacement Credit.

785 1.—At the time a property owner applies for a tree permit, the basal area of preplanted  
786 replacement trees shall be calculated by taking the caliper of the tree at the time of planting, as  
787 indicated in the sales receipt for the preplanted tree or other documented and verifiable evidence of  
788 the caliper of the tree, and imputing a 10% annual growth rate. The imputed growth rate of 10% per  
789 year shall be based upon the initial caliper and shall not be compounded. For example, for a one-  
790 and-one-half-inch caliper deciduous tree, the initial basal area will be 1.76 square inches, and  
791 0.176 square inches of growth shall be imputed per year.

792 2.—If the purchase of a preplanted tree was subsidized by the City, the credit will be calculated by  
793 reducing the initial caliper by a percentage equal to the percentage of the purchase price paid by  
794 the City.

795 3.—If a property owner makes a contribution to the City's ~~tree planting fund~~tree canopy fund, the  
796 credit will be based upon an imputed one-and-one-half-inch caliper tree, with imputed annual  
797 growth calculated in accordance with subsection (C)(1) of this section, from the date of the  
798 contribution.

799 D.—Registration of Preplanted Trees.

800 1.—Owners may only register trees purchased from a nursery to receive preplanting credit.

801 2.—Owners must register preplanted trees within 90 days of the date of purchase as documented  
802 on the receipt or other verified evidence, which must be submitted with the registration form.

803 3.—The following documents and information must be included with the owner's preplanting  
804 registration.

805 a.—A receipt or other verifiable evidence that includes the tree's date of purchase, species,  
806 size, and the address of the property where the tree is to be installed.

807 b.—A site drawing of the property that identifies the replacement tree in relation to the street  
808 and the structures on the property.

809 c.—A photograph of the installed tree that indicates the location of the tree in relation to  
810 nearby streets or structures.

811 d.—Any other documents and information required by the Department.

812 E. Utilization of Preplanting Credit.

813 1.—When a property owner wishes to utilize a preplanted tree to satisfy the tree replacement  
814 conditions of a tree permit, the property owner shall attach a copy of the previously filed tree  
815 registration form to the application.

816 2.—If the applicant receives a tree permit that requires tree replacement, the Department shall  
817 inspect the preplanted tree to confirm that the tree is still alive, healthy, and structurally sound, and  
818 to determine whether the tree satisfies the species quality, shade potential, and other  
819 characteristics of the tree to be replaced. No credits shall be allowed for a preplanted tree that is  
820 dead, in significant decline, or structurally unsound.

821 3.—When a property owner has made an advance contribution to the ~~tree planting fund~~tree canopy  
822 fund, the tree planted will be presumed to be alive, structurally sound, and healthy at the time the  
823 property owner seeks to utilize the credit and will be presumed to be of the highest species quality  
824 and shade potential and to possess all necessary characteristics to replace any tree that the  
825 property owner seeks to remove.

826 4.—No single preplanted tree may be used to satisfy the replacement requirements for more than  
827 one urban forest tree removed by the property owner, regardless of whether the preplanted tree's  
828 imputed basal area exceeds the Department's calculation of the tree replacement requirements for  
829 the tree to be removed. However, the aggregate basal area of multiple preplanted trees can be  
830 used to satisfy the replacement requirement for a single tree to be removed.

831 5.—Registered preplanting tree replacement credits convey with the property and may be used by  
832 subsequent owners of the property. However, preplanting credits may not be transferred to  
833 properties other than the property on which the preplanted tree is located.

834 6.—Preplanting credits may not be used to satisfy a property owner's obligation to replace a tree  
835 that is required to be preserved under a tree protection plan permit.

836

837 **12.12.110 Appeals from permit decisions.**

838 A.—The permit applicant or any resident of the City or owner of property in the City may appeal the  
839 preliminary approval of an application for a tree permit within the 15-day notice period. The permit  
840 applicant or the owner of a property with a common property line may appeal the preliminary approval of  
841 an application for a tree protection plan permit within the 15-day notice period. If a notice of appeal is filed

842 during such 15-day notice period, then no permit is issued until the Tree Commission has conducted a  
843 fact-finding hearing and has issued its final decision on the appeal.

844 B.—A notice of appeal from the preliminary approval of an application for a tree protection plan permit  
845 must allege with particularity facts upon which the Tree Commission could determine that the tree  
846 protection plan is insufficient to protect the trees to be protected under the plan.

847 C.—The permit applicant also may appeal the denial of a permit within 15 days after the date that the City  
848 Manager notifies the applicant of the denial of a permit for the removal or destruction of a tree covered by  
849 this chapter.

850 D.—There is a rebuttable presumption that the decision of the City Manager with respect to a permit  
851 application is correct. Any decision by the Tree Commission to impose conditions upon an applicant or  
852 reverse or modify a decision of the City Manager with respect to a permit application must be based upon  
853 substantial evidence in the record. Substantial evidence means such relevant evidence as a reasonable  
854 mind might accept as adequate to support a conclusion.

855 E.—There is no appeal from the tree replacement requirement or from the granting or denial of a tree  
856 permit waiver by the City Manager.

857 F.—Notices of Appeal and Hearing Notices.

858 1.—A notice of appeal must be in writing, state the reasons for the appeal, the name, address, and  
859 email address of the appellant, and the nature of the interest of the appellant. Appeal notices shall  
860 be filed with the City Manager, who shall forward the notice to the Department and the Tree  
861 Commission.

862 2.—Hearing Notices.

863 a.—For hearings on appeals from preliminary tree protection plan permit decisions, the  
864 Department shall send written notice of the time, date, and location of the hearing to the  
865 permit applicant and to the address of the owner(s) of record of all properties sharing a  
866 common property line with the property. Such notice shall be sent at least 15 days before the  
867 scheduled hearing date.

868 b.—For hearings on appeals from preliminary tree permit decisions, the Department shall provide written  
869 notice of the time, date, and location of the hearing to the permit applicant and all persons that timely file  
870 a written notice of appeal and shall post notice of the hearing on the property in question in plain view  
871 from the plant trees on public right-of-way, on a bulletin board at the Municipal Building, and on the City's



872 web site for at least 15 consecutive days prior to the hearing date. The applicant is responsible for  
873 maintaining the notice on his or her property for the entire posting period. The City Manager may continue  
874 the hearing until a later date and immediately post notice of the continuation if he or she determines that  
875 the applicant failed to make good faith efforts and private property and to maintain the notice for the entire  
876 posting period trees planted with the tree replacement fund canopy fund.

877 G.—The Commission may dismiss an appeal if the person filing the notice of appeal, or his or her  
878 representative, fails to appear at the hearing.

879 H.—The Tree Commission shall conduct a fact-finding hearing on an appeal from a permit decision or  
880 issuance of a stop work order after giving reasonable notice of the hearing to all interested parties in  
881 accordance with the Tree Commission's rules. At the hearing, any interested party may present testimony  
882 and evidence to substantiate any material point. All testimony shall be given under oath or by affirmation.  
883 The burden of proof shall be on the party filing the appeal and shall be met by a preponderance of the  
884 evidence. The parties may also cross-examine opposing witnesses presenting testimony at the hearing. A  
885 verbatim record of the hearing shall be made. The record shall be open to inspection by any person and,  
886 upon request, the Tree Commission shall furnish such person with an at-cost copy of the hearing record.

887 I.—1. The Tree Commission may view a property that is the subject of an appeal. All parties to the appeal  
888 have the right to be present during the viewing.

889 2.—At the hearing, the Commission must notify the parties of the Commission's intent to view the  
890 property and the parties' right to be present at the viewing. Any party may waive their right to be  
891 present during the viewing. Parties that fail to appear at the hearing are deemed to have waived  
892 their right to be present at the viewing. The Commission and the parties that have not waived their  
893 right to be present shall schedule the viewing of the property to occur no later than ten days after  
894 the hearing.

895 3.—All Tree Commissioners participating in the decision of the appeal must be present for the  
896 viewing.

897 4.—The parties shall not communicate with the Commissioners regarding the subject matter of the  
898 appeal during the viewing.

899 5.—The Tree Commission must file a written report in the record of the proceeding stating the facts  
900 observed during the viewing upon which its decision and order is based.

901 J.—On appeal from the preliminary decision on a tree permit application, after due consideration of the  
902 evidence and testimony and the criteria for permit decisions set forth in Section 12.12.120, the Tree  
903 Commission shall issue its decision on the appeal and shall give notice to all interested parties.

904 K.—On appeal from a preliminary decision on a tree protection plan permit application, after due  
905 consideration of the evidence and testimony and application of the standard for approval of tree  
906 protection plans set forth in Section 12.12.080(c)(3), the Tree Commission shall issue a decision on the  
907 appeal affirming or modifying the decision and shall give notice to all interested parties.

908 L.—Within 30 days of the date of the issuance of a decision of the Tree Commission, a person who was a  
909 party to the proceedings before the Tree Commission and who is aggrieved by the decision may seek  
910 judicial review of the decision by filing a petition for judicial review in accordance with Title 7, Chapter  
911 200, Judicial Review of Administrative Agency Decisions, of the Maryland Rules of Procedure, or any  
912 subsequent amendments thereto.

913 **12.12.120 Criteria for tree permit decisions.**

914 A.—The City Manager or, upon appeal, the Tree Commission shall issue a tree permit pursuant to  
915 Section 12.12.080(A) if so indicated by the factors set forth in subsection (B) of this section. Upon appeal,  
916 the Tree Commission shall, taking into account the factors set forth in subsection (B) of this section,  
917 approve the permit, disapprove the permit, or approve the permit with modifications and/or conditions.

918 B.—The following factors are into account:

919 1.—The extent to which tree clearing is necessary to achieve proposed development or land use,  
920 and, when appropriate, the potential ameliorating effects of any tree protection plan that has been  
921 submitted or approved.

922 2.—The number and type of replacement trees and, if appropriate, any reforestation plan proposed  
923 as mitigation for the tree or trees to be removed.

924 3.—Any hardship which the applicant will suffer from a modification or rejection of the permit  
925 application.

926 4.—The desirability of preserving any tree by reason of its age, size, or outstanding quality.

927 5.—The extent to which the area would be subject to environmental degradation due to removal of  
928 the tree or trees.

- 929 ~~6.—The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood~~  
930 ~~and the property on which the tree or trees are located.~~
- 931 ~~7.—The general health and condition of the tree or trees.~~
- 932 ~~8.—The desirability of the tree species as a permanent part of the City's urban forest.~~
- 933 ~~9.—The placement of the tree or trees in relation to utilities, structures and the use of the property.~~

934 **12.12.125 Notification of tree protection laws required prior to sale of real property.**

935 A. On or before entering into a contract for the sale of real property in the City, the owner or agent of the  
936 property must provide the prospective buyer with a City of Takoma Park—Notice of Tree Preservation  
937 and Replacement Requirements (“notice”) in accordance with subsection (D) of this section.

938 B. At the time the notice in subsection (A) of this section is delivered, each buyer must sign and date a  
939 written acknowledgment of receipt of the notice. The notice shall be included in or attached to the contract  
940 of sale for the property.

941 C. The notice requirements established by this section do not apply to:

942 1. A sheriff's sale, tax sale, deed in lieu of foreclosure, or sale by foreclosure, partition, or court-  
943 appointed trustee;

944 2. A transfer of the property by a fiduciary in the course of the administration of a decedent's  
945 estate, guardianship, conservatorship or trust;

946 3. A transfer of the property or any interest therein, to a spouse, former spouse, domestic partner,  
947 former domestic partner, parent, sibling, child or grandchild; or

948 4. A transfer of property solely to provide a security or leasehold interest in real property.

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

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

953 1. The Buyer is notified that Chapter 12.12, Urban Forest, of the Takoma Park Code imposes  
954 restrictions and procedural requirements relating to activity on properties located in the City of Takoma  
955 Park (“City”) that may affect urban forest trees on the property or on neighboring properties. An “urban

956 forest tree" is a tree which: a) measures 24 inches or more in circumference at 4-1/2 feet above ground  
957 level or measures 7-5/8 inches or more diameter at breast height ("DBH") (note: additional  
958 requirements may apply if the property is located in the Takoma Park Historic District); b) is required to  
959 be planted or maintained pursuant to governmental order, agreement, covenant, easement or a tree  
960 protection plan, or as a condition of the issuance of a City tree [removal](#) permit; or c) is planted with  
961 government funding or under a government program. See Takoma Park Code §12.12.020.

962 2. The activities within 50 feet of an urban forest tree that may be regulated by Chapter 12.12, Urban  
963 Forest, of the Takoma Park Code include, but are not limited to, the construction or expansion of a  
964 structure, the operation of heavy equipment, land disturbing activities such as regrading or excavation,  
965 installation of paving or other hardscape, and the removal or pruning of roots or branches of trees.

966 3. A tree removal permit is required before a property owner may remove, relocate, or destroy an urban  
967 forest tree. The City may deny the tree removal permit and require that the tree remain in place, or may  
968 require the owner to plant multiple replacement trees or pay a tree replacement fee to the City as a  
969 condition of the issuance of a permit. [Tree permit waivers may also be granted allowing the removal of](#)  
970 [dead or hazardous urban forest trees.](#)

971 4. Before engaging in construction or other activities that may impact urban forest trees on or near the  
972 property, the property owner must contact the City Department of Public Works to request a tree impact  
973 assessment. Following a tree impact assessment, the Department will advise the property owner  
974 whether a tree protection plan permit is required before the activity may proceed. The owner and the  
975 owner's contractors may be required to take measures to reduce the impact of the activity upon the  
976 trees on or near the property. Such measures may add to the cost of the activity, delay the completion  
977 of the activity, or require modifications to the planned activity, including, but not limited to, the use of  
978 alternative hardscape materials and construction methods, and reductions or modifications to the  
979 footprint of additions or new construction.

980 5. Violation of Chapter 12.12 of the Takoma Park Code may subject property owners and their agents  
981 to civil and criminal penalties, including fines and imprisonment.

982 6. Additional information is available from the City of Takoma Park Department of Public Works at (301)  
983 891-7612 or at [www.takomaparkmd.gov](http://www.takomaparkmd.gov).

984 Buyer acknowledges receipt of this Notice of Tree Preservation and Replacement Requirements – City  
985 of Takoma Park.

986 \_\_\_\_\_ Buyer Date

987 \_\_\_\_\_ Buyer Date

988 E. A violation of this section is a Class B municipal infraction.

989 F. A buyer's failure to receive the notice required by this section does not excuse or waive compliance  
990 with the requirements of this chapter.

991 **12.12.130 Violations and penalties—Enforcement.**

992 A. Municipal Infractions.

993 1. Any of the following is a Class AA municipal infraction:

994 a. Doing any of the acts for which a permit is required under  
995 [Section ~~12.12.040~~Sections 12.12.040 or ~~12.12.050~~12.12.050](#) or performing any such act in  
996 relation to a dead or hazardous urban forest tree, without applying for a permit, after an  
997 application for a permit has been denied, or after applying for a permit but before a permit has  
998 been issued, ~~unless a permit waiver covering the act has been issued or the act is described~~  
999 ~~in Section [12.12.040\(B\)](#) or [12.12.050\(B\)](#).~~

1000 b. Failure to fulfill the [tree replacement](#) requirements of ~~Section [12.12.100](#)~~this chapter.

1001 c. Any violation of a decision or order of the Tree Commission, including but not limited to  
1002 the violation or nonperformance of conditions imposed in connection with the issuance of a  
1003 permit.

1004 d. Any violation of a requirement ~~for~~of a tree [removal](#) permit or tree protection plan.

1005 e. Any violation of a condition imposed in connection with the issuance of a tree [removal](#)  
1006 permit or tree protection plan permit.

1007 [f. Pruning more than 10% of the live canopy of an urban forest tree, or pruning live limbs](#)  
1008 [with significant diameter in relation to the size of the tree, or other action that would](#)  
1009 [significantly and permanently detract from an urban forest tree's health or growth, unless such](#)  
1010 [activity is authorized under a tree protection plan or tree removal permit.](#)

1011 B. Misdemeanors.

1012 1. It is a Class A misdemeanor to do any of the following:

1013 a. To do any of the acts specified in subsection (A) of this section in relation to three or more  
1014 urban forest trees, whether or not such urban forest trees are located on the same property,  
1015 within a three-month period.

1016 b. To do any of the acts specified in subsection (A) of this section in relation to any urban  
1017 forest tree ~~which that~~ has been designated by the Tree Commission or the City as having  
1018 special botanical, ecological or historical significance or as a landmark.

1019 c. To do any of the acts specified in subsection (A) of this section in relation to any tree,  
1020 ~~which that~~ is more than 33 inches in circumference at four and one-half feet above ground  
1021 level.

1022 d. To willfully or repeatedly violate this chapter or an order of the Tree Commission.

1023 e. To violate a stop work order issued pursuant to ~~Section 12.04.050(C)-this chapter.~~

1024 C. Each urban forest tree that is damaged or destroyed as a result of act(s) taken in violation of any  
1025 provision of this chapter is considered a separate violation of the appropriate section(s).

1026 D. In cases where a person has hired an individual or organization to perform tree work that is in  
1027 violation of any provision of this chapter, both the hired and the hirer maybe subject to the penalties set  
1028 forth in this chapter.

1029 E. Any person or organization that performs tree trimming or tree removal for hire within the City of  
1030 Takoma Park and who violates any provision of this chapter may be barred from contracting with or  
1031 performing work for the City of Takoma Park.

1032 F. Fines collected for violations of this chapter are deposited by the City's ~~tree planting fund~~tree canopy  
1033 fund.

1034 **12.12.140 Duties of ~~City Arborist~~Urban Forest Manager.**  
1035 The ~~City Arborist~~Urban Forest Manager shall prepare an annual report to the Council that includes a  
1036 description of the condition of the urban forest, the number of applications received and tree removal  
1037 permits, and tree protection plan permits, ~~and waivers~~ issued by the City Manager, and a summary of  
1038 each decision of the Tree Commission; prepare and, every five years, update, ~~at least biennially~~, a  
1039 master tree plan consisting of an inventory of trees on public space ~~and~~ a multi-year planting schedule,  
1040 revised canopy goals, and an education and outreach strategy; notify the Council of significant events  
1041 related to the urban forest; recommend, as needed, changes in law or other action the Council may wish  
1042 to take to protect and promote the urban forest in Takoma Park; prepare a quarterly report to the Council

Commented [KK2]: Council needs to further consider direction of this section

1043 listing the number of applications received and the number of tree [removal](#) permits, [and](#) tree protection  
1044 plan permits, [and waivers](#) issued by the City Manager; and perform any other related duties assigned by  
1045 the City Manager or by ordinance or resolution.