

City Manager Authority -- the following language has been worked out with the CM:

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

A. The City Manager has authority over the disposition of all trees located on City property and has the power to plant, maintain, or remove trees on City property. The City Manager shall give due consideration to the urban forest preservation principles embodied in this chapter, and apply the same criteria in this chapter for tree removal and tree protection decisions regarding trees on City property as are required of private persons, but such decisions are not subject to appeal to the Tree Commission. Documentation showing the application of the criteria of this chapter for tree removal and tree protection shall be available for public review and such notice shall be posted on City property in a visible location near the affected tree seven days in advance of taking action to remove or otherwise impact a tree unless a determination has been made by the City Manager that immediate action is needed.

Delete D

E. The City Manager shall manage City [publicly] owned forested areas, which are designated for protection as natural areas by resolution or open space plan, consistent with the terms of the applicable resolution or plan and [the goals of] this ordinance, except where there is a threat to public health, safety, or welfare.

Legislative Findings Equity Language -- Kacy and Kate draft language:

1212.010

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

C. Stewardship of the City's urban forest is a **shared** community effort requiring the involvement of the entire community, and the regulation of actions affecting the urban forest provides benefits to residents, and property and business owners;

(G). The City's urban forest policies and tree canopy goals shall be pursued in a **racially-equitable** manner **to address** ~~that takes into account and~~ inequities that exist in tree canopy coverage across City neighborhoods and that seeks to protect and plant trees with a focus on the health and sustainability of the urban forest as a whole **to help ensure that the benefits of tree canopy are distributed equitably and that racial equity is prioritized in the development and implementation of regulations and procedures.**

Reports to Council (12.12.140, page 42 of current draft)

B1. A description of the condition of the urban forest, **including a record of the location and species of trees planted by the City or by regulation established by the City;** and

B2. The amount of funds the City has received from fines and forfeited security bonds [under this ordinance/chapter].

B4. A description of the City's progress in meeting the Council's tree canopy goals as set forth from time to time by resolution of the Council, including actions to address differences and inequities that exist in tree canopy coverage across City neighborhoods **and participatory planning processes**;

B7. The number and percentage of native trees and climate adapted trees relative to the total number of trees purchased with City funds."

C. Prepare and, every five to six years, update a master tree plan focused on protecting and maintaining the urban tree canopy, which plan shall consist of a tree canopy assessment, future planting plans, including planting to replace trees removed by permit with no individual replacement requirements and utilize the most recent LIDAR data.
QUESTION: 5-6 years realistic?

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

"Vermin" definition (12.04.010, page 4 of current draft)

"Vermin" means small animals, including insects, that are prolific and destructive or injurious to the health of people and plants.

Other

Section 12.12.030 B1C (line 15, page 14): Currently says "notify the department" should that be UFM?

Typo Section 12.12.050 A (line 32, page 17) delete "the following"

Use of Tree Canopy Fund (12.12.100(G): "The tree canopy fund may be used to: 1) plant trees on public and private property, with a focus on planting of native species, and, where appropriate, climate-adapted species, except when no native or climate adapted species is well-suited and available; 2) maintain trees planted with funds from the Tree Canopy Fund; or 3) other purposes that promote the urban forest.

12.12.080 Tree removal Permit standards and process.

A. Except as otherwise provided in this section, if the City Manager determines that the criteria set forth in section 12.12.080.A.1., have been met and that the conditions for issuance of a tree removal permit set forth in 12.12.080.A.2., have been met, and, if applicable, the requirements for removal of more than ten trees set forth in section 12.12.080(A)(3), have been met, then the City Manager shall notify the applicant that the City has granted preliminary approval of the application. The preliminary approval of the application does not authorize the applicant to take any action regarding an urban forest tree unless and until a tree removal permit is issued.

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

a. The general health and condition of the tree;

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

c. The impact of the reduction in tree cover on the property where the tree is located, adjacent properties and the surrounding neighborhood and the extent to which said areas would be subject to environmental degradation;

d. The location of the tree in relation to targets (people or property that may be subject to injury or damage due to a tree's failure) or utilities above ground or below ground upon which the tree may have an adverse impact at present or in the future;

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

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

2. The following conditions shall be considered and applied in accordance with this Code and other applicable law prior to the issuance of a tree removal permit:

a. Compliance with the tree replacement requirements of section 12.12.100;

b. Approval of a tree protection plan and/or inspection of the property by the City to verify that all required tree protection devices for trees other than the tree to be removed are in place;

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

d. Submission of a Historic Area Work Permit if required for the removal of the tree;

e. Posting of a bond or other security for tree replacement; and

f. Other applicable conditions.

3. D. The City Manager shall not process an application for the removal of ten or more trees unless the potential applicant complies with following provisions: Permit Requirements and Appeals Process for Removal Applications for more than 105 Trees:

a. Prior to submitting an ~~When~~ application a person, company, organization or other entity applies for removal of more than ten ~~105~~ trees either as part of a single tree removal permit or as part of the same overall project, the potential applicant, in addition to meeting all the permit requirements in this ordinance ~~[chapter?]~~, shall within 30 days of submitting the permit or permits describe ~~[may need something better or more detailed than "describe"]~~ conduct the proposed tree removals in a City Council meeting and at a

community meeting for the purposes of presenting information regarding the proposed tree removal and allowing residents to seek additional information with residents who live near the site;

b. At least fifteen ~~15~~ days prior to the ~~before the date of such a~~ community meeting, the potential applicant must, at a minimum, send a written notice with information regarding the community meeting to ~~details on the meeting~~ adjoining properties, the City Manager, the applicable City Councilmember, and the Mayor in appropriate languages to residents living within 1,000 feet of the site of the proposed tree removals. The potential applicant shall cause public notice of the community meeting to be posted on the property in plain view from the public right-of-way. The written notice and the posting shall be ~~in~~ of a size and in a format, including appropriate languages, prescribed by the City Manager. The City shall utilize the best available means of communicating notice of the meeting through its various platforms;

c. After the completion of the community meeting, the potential applicant shall certify in writing to the City Manager that the mailing, posting, and community meeting were conducted in accordance with this section and the applicant shall provide to the City Manager a fair summary of the topics discussed at the community meeting. The City shall utilize the best available means of communicating the certification and fair summary of the meeting through its various platforms; and

d. Only after compliance with the provisions of this subsection may a potential applicant submit an application for removal of ten or more trees.

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

5. If the City Manager determines that the applicant is not entitled to a tree removal permit, the City Manager shall cause the applicant to be notified that the City has preliminarily denied the application.

B. A notice of appeal taken pursuant to subsection 12.12.080.A, must be in writing, state the reasons for the appeal, the name, address, and email address of the appellant and the nature of the interest of the appellant. Appeal notices shall be filed with the City Manager, who shall forward the notice to the Department.

1. All appeals shall be heard by the City of Takoma Park Tree Commission and in accordance with section 12.12.087 unless otherwise noted herein.

2. Appeals from preliminary tree removal permit approvals. Except for tree removal permits issued pursuant to section 12.12.080.C, any resident of the City or owner of property in the City may appeal the preliminary approval of an application for a tree removal permit. Any such appeal shall be made within 15 days after the date notice is posted on the property. If a notice of appeal is filed during such 15-day notice period, then no permit is issued until the Tree Commission has conducted a fact-finding hearing and issued its final decision on the appeal and all conditions on the issuance of the permit have been satisfied.

3. Appeals from preliminary tree removal permit denials. Only the permit applicant may appeal the denial of a tree removal permit. Any such appeal shall be made within 15 days after the date that the City Manager notifies the applicant of the preliminary denial of an application for a tree removal permit.

4. The City Manager's tree rating evaluation and tree replacement requirement calculation may not be appealed.

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

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

C. Applicants who received tree removal permits for the reasons identified in subparagraphs 1 through 4 of this subsection are not subject to the preliminary approval process set forth in section 12.12.080A and shall post notice of the issuance of the tree removal permit on the property before the tree removal commences and continuing until seven days after the completion of the removal. The notice shall state that residents with comments or questions regarding the activity may contact the City Manager and shall provide the City Manager's address, email address, and telephone number, but there shall be no appeals from the City Manager's decision under this subsection.

1. Where an owner proposes removing one or more urban forest trees of a species identified as an undesirable species by City regulation, the owner agrees to replace the tree or trees in accordance with section 12.12.100.

2. Where an owner proposes removing an urban forest tree that the City Manager has determined to be dead or in imminent decline because of a significant defect or infestation that cannot be ameliorated reasonably. Replacement is not required pursuant to section 12.12.100.

3. Where an owner proposes, or is required, to remove a tree that is hazardous and the hazard can only be eliminated by removing the tree. Replacement is not required pursuant to section 12.12.100.

4. Where an owner proposes removing a tree when a part of the tree is damaging a permanent structure and further damage cannot be prevented via pruning or other

reasonable tree maintenance measures. Replacement is not required pursuant to section 12.12.100.