

Introduced by: Councilmember Snipper

First Reading: June 14, 2010
Second Reading: June 21, 2010
Effective Date: July 1, 2010

**CITY OF TAKOMA PARK, MARYLAND
ORDINANCE NO. 2010-27**

AMENDING CHAPTER 12.12, URBAN FOREST, OF THE *TAKOMA PARK CODE* TO INCREASE PERMIT FEES AND TO CLARIFY THE ACTIVITIES WHICH REQUIRE A TREE IMPACT ASSESSMENT AND A TREE PROTECTION PLAN PERMIT

WHEREAS, a review of certain fees imposed by the City was conducted during the development of the Fiscal Year 2011 budget; and

WHEREAS, said fees included those assessed for the processing of applications for tree permits, waivers, and tree protection plans; and

WHEREAS, the current application processing fees for permits, waivers, and tree protection plans do not mirror the staff time associated with these activities; and

WHEREAS, the City Council has determined that an increase in the processing fees for tree permit or waiver applications and tree protection plan applications is justified at this time; and

WHEREAS, the City Council also wishes to clarify the activities which require a tree impact assessment or a tree protection plan permit.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:

SECTION 1. Title 12, Trees and Vegetation, Chapter 12.12, Urban Forest, of the *Takoma Park Code* is amended as follows:

12.12.030 Tree impact assessment.

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

1. Land disturbing activities, such as raising or lowering existing grade, or excavating more than 3 inches in depth over an area ~~Regrading, with any material, 3" or more above or below existing grade~~ in excess of 25 square feet within 50' feet of an urban forest tree.
2. Activity within the critical root zone of an urban forest tree that may destroy a significant portion of the roots of a tree or endanger the water supply to the roots.

3. Construction or placement of a structure other than a fence within 50' feet of an urban forest tree; or
- ~~3~~ 4. Paving in excess of 25 square feet with an impervious surface within 50' feet of an urban forest tree; or
- 45 Removing, relocating, destroying, or topping an urban forest tree or pruning more than 5% of the live canopy of an urban forest tree, or pruning live limbs with significant diameter in relation to the size of the tree, or other action which would significantly and permanently detract from an urban forest tree's health or growth.

B. A tree impact assessment shall not be required for action required on an emergency basis (with no time to obtain an assessment) to prevent harm to life or property, for actions performed at the written request of a utility company such as PEPCO, ~~Bell Atlantic~~ Verizon, WSSC, or Washington Gas, or for actions performed by a utility company in accordance with a memorandum of understanding between the utility and the City.

C. The City Arborist shall conduct a tree impact assessment at the request of any person intending to conduct an activity described in subsection (A) of this section. Following the tree impact assessment, the City Arborist will advise the person requesting the assessment of the permits required under this chapter to proceed with the proposed activity.

D. The fee for a tree impact assessment is \$50.00 payable to the City with the application.

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

12.12.040 Tree removal permit required.

A. Except as provided in Subsection (B) of this section, a tree removal permit is required for the removal, relocation, or destruction, ~~topping, pruning of limbs with significant diameter in relation to the size of the tree, or other action which would significantly and permanently detract from an urban forest tree's health or growth.~~ of an urban forest tree.

- B. No permit is required:
1. When the City Manager grants a tree permit waiver under Section 12.12.060; or
 2. For action required on an emergency basis (with no time to apply for a tree permit or a tree permit waiver) to prevent harm to life or property; or
 3. Where the removal, destruction, cutting or trimming of an urban forest tree that has branches or roots which obstruct or interfere with utility

pipes, lines, and wires is performed by a utility company such as PEPCO, Verizon, WSSC or Washington Gas in accordance with any applicable memorandum of understanding between the City and the utility company, or at the written request of a utility company.

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

12.12.050 Tree protection plan permit required.

A. Except as provided in subsection (B) of this section, a tree protection plan permit is may be required for the following: ~~activity within the critical root zone of an urban forest tree that may destroy a significant portion of the roots of a tree or endanger the water supply to the roots. These activities may include excavation, depositing of a significant amount of fill dirt or other materials, construction of a structure, or paving of a significant area.~~

1. Land disturbing activities, such as raising or lowering existing grade, or excavating more than 3 inches in depth over an area in excess of 25 square feet within 50 feet of an urban forest tree.
2. Activity within the critical root zone of an urban forest tree that may destroy a significant portion of the roots of a tree or endanger the water supply to the roots.
3. Construction or placement of a structure other than a fence within 50 feet of an urban forest tree; or
4. Paving in excess of 25 square feet with an impervious surface within 50 feet of an urban forest tree.

B. No tree protection plan permit is required:

1. Where a tree permit waiver is obtained under Section 12.12.060; or
2. For action required on an emergency basis (with no time to apply for a tree protection plan permit or a waiver) to prevent harm to life or property.

12.12.060 Permit waivers.

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

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

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

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

~~D~~E. The City Manager shall:

1. Make a copy of each waiver application available for public inspection; and
2. Provide an at-cost copy of a waiver application to any person requesting one.

12.12.070 Permit applications.

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

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

1. If all necessary permits, licenses, and approvals have not been granted as of the date the application is filed, then the City Manager, in his or her sole discretion, may accept other satisfactory evidence that all necessary permits and approvals for the construction or development will be granted and may begin acting on the application.
2. An applicant for a tree removal permit shall pay a processing fee of \$50.00 to the City with the application. If the applicant had previously applied for a waiver for the same tree and it was denied, the fee for a permit will be \$25.00. An applicant for a~~or~~ tree protection plan permit shall pay a processing fee of ~~\$25.00~~100.00 to the City with the application. If there has been a prior Tree Impact Assessment performed for the project, the tree protection plan permit fee shall be \$50.00.

- C. The City Manager shall:
1. Make a copy of each application for a tree removal permit or tree protection plan permit available for public inspection; and
 2. Provide an at-cost copy of an application to any person requesting one.

SECTION 2. This Ordinance shall be effective on July 1, 2010.

Adopted this 21st day of June, 2010 by the Council of the City of Takoma Park, Maryland, by roll-call vote as follows:

AYE: Williams, Wright, Clay, Robinson, Seamens, Snipper, Schultz
NAY: None
ABSTAIN: None
ABSENT: None

EXPLANATORY NOTE

Additions to the existing language of the *Takoma Park Code* are shown in red and underlined.

~~Deletions~~ to the existing language of the *Takoma Park Code* are shown by ~~strikeout~~.