

## **CHAPTER 12B**

### **URBAN FOREST**

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#### **Section 12B-1. LEGISLATIVE FINDINGS**

The Mayor and Council of the City of Mt. Rainier hereby finds that it is in the best interest of the citizens of the City to protect, preserve, and promote the City's urban forest. The City's urban forest is part of a larger ecosystem and contributes significantly to air, noise, and visual pollution control. The existence of shade trees moderates climatic extremes and promotes sound energy conservation. Because the City's urban forest is part of the Anacostia watershed and ultimately the Chesapeake Bay watershed, it plays an important role in controlling water run-off and supports the biologic and hydrologic integrity of these watersheds. The urban forest has significant aesthetic value which affects property values and the quality of life necessary to a community. Regulation of actions affecting the urban forest provides mutual benefits to City residents and property owners.

#### **Section 12B-2. DEFINITIONS**

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

"Caliper height" means 6 inches above the ground, except that in a case of a tree that is 4 or more inches in diameter, "caliper height" means 12 inches above the ground. The diameter measurement of the tree is taken at 6 inches above the ground.

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

"City arborist" is an individual contracted in an ongoing, as need basis by the City, with expertise in tree maintenance and experience in utilizing available urban forest resources. The city arborist must have certification from the state to issue tree permits. Lacking a contract arborist, the City may rely on the services of the State Foresters.

"City property" means City rights-of-ways, City parks, median strips, and other City-owned property.

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

"Diameter at breast height" or "DBH" of a tree means the measurement of the average diameter of the tree taken at 4.5 feet above the ground.

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

"Nursery stock tree" means a tree which meets the standards established by the American Standard for Nursery Stock published by the American Association of Nurserymen (Publication No. ANSI Z60.1-1990), as revised and amended from time to time.

"Park trees" are defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and in all areas owned by the City, or to which the public has free access as a park.

"Street tree" is defined as a tree, shrub, bush, and any woody vegetation on land lying between property lines on either side of all streets, alleys, avenues, or ways within the City.

"Tree Commission" is the appointed body as defined in this chapter.

"Tree Plan" is the specifications approved by the Mayor and City Council for planting and maintenance of the urban forest within the City of Mount Rainier.

"Tree Inventory" is the list of all urban forest trees in the City of Mount Rainier, and all available planting sites for trees. The Inventory specifies species and conditions of the trees.

"Tree topping" is the cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the natural canopy and thereby disfigure the tree.

"Urban forest tree" is a tree in the City which:

- (a) is required to be planted or maintained, pursuant to governmental order, agreement, stipulation, covenant or easement; the Tree Plan; or as a condition of issuance of a tree permit;
- (b) is planted with government funding or under a government program; or
- (c) is located on public property or public easement within the City of Mount Rainier.

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

shrubs.

### **Section 12B-3. TREE COMMISSION**

A. This Chapter hereby establishes a City Tree Commission to regulate the planting, maintenance and removal of street and park trees in public places.

B. The Tree Commission shall consist of five (5) voting members, all residents of the City of Mt. Rainier, who shall be appointed by the Mayor with approval by a majority of the City Council. Ex-officio members may include the Mayor, one Council member, and the City's arborist.

C. Terms of office. Members are appointed for a term of two (2) years. Members may serve more than one (1) term consecutively. In the event that a vacancy occurs during the term of a member, a successor shall be appointed by the Mayor with approval of the City Council. Commission members shall serve without pay or compensation.

D. Duties and responsibilities. It shall be the responsibility of the Tree Commission, in cooperation with the City Manager (or designee), the City arborist, and state foresters, to study, investigate, counsel, develop, and update the Mount Rainier Tree Plan, in accordance with the Tree Inventory, and to administer a written policy derived from the Tree Plan for the care, preservation, pruning, planting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. The Tree Commission shall also endeavor to educate City residents about the importance of the urban forest. The Tree Plan and Tree Inventory shall be presented to Mayor and City Council for approval. The Tree Commission may update the Tree Inventory and propose an updated or revised Tree Plan on an annual or as needed basis.

An annual report will be presented to the Mayor and City Council no later than March 1 of each year.

The spacing and distancing of trees, and recommended curb and sidewalk treatments, shall be part of the Tree Plan update.

Species to be planted shall be selected from trees recommended in the Mount Rainier Tree Plan, or as otherwise determined by the Tree Commission.

E. Operations. The Tree Commission shall choose officers, provide rules of procedure and keep public records of its proceedings. Once determined, the operating procedures will be publicized in the City newsletter. A majority of the voting members shall constitute a quorum for the transaction of business. A majority of the Tree Commission members is

required to amend the rules or procedures.

#### **Section 12B- 4. INJURY TO VEGETATION ON PUBLIC PROPERTY**

No person shall break, injure, mutilate, kill or destroy any tree, shrub, or herbaceous plant in any public area, or permit any animal under that person's control to do so; permit any leak to exist in any gas line within the root zone of any tree or shrub; permit any toxic chemical to seep, drain or be emptied on or about any tree or shrub; or permit electric or communication wires to come in contact with any tree or shrub. During building or construction operations, suitable protective barriers shall be erected around trees and shrubs in public areas that may be subject to injury or destruction.

No person shall fasten any sign, rope, wire, or other materials to, around or through any trees or shrubs in public areas without obtaining prior written approval from the City Manager or designee except in emergencies such as storms or accidents.

#### **Section 12B- 5. TREE PERMITS FOR ACTIONS ON PUBLIC PROPERTY**

A. The City Manager or designee may initiate the removal of any urban forest tree or part of an urban forest tree on public property that poses a threat to safety, may cause damage to sewers or other public improvements, is diseased or infested and poses a danger to other healthy trees, or impairs the appearance of City property.

B. No person shall perform tree trimming, tree removal or other tree work for hire without supervision by a tree expert licensed by the Maryland Dept. of Natural Resources.

C. Street trees. A permit from the Maryland Dept. of Natural Resources--Forest Service is required before an urban street tree may be removed or trimmed.

D. Tree Commission approval/denial. Once a permit is issued by the Forest Service for action on a street tree or the City Manager (or designee) proposes removal of any public property tree, the Mt. Rainier Tree Commission members shall be notified in writing of the proposed action and be given a copy of any permit. The City Tree Commission shall be given thirty (30) days from receipt of notification of a proposed action to approve or deny the proposed action. The decision of the Tree Commission shall be forwarded to the Mayor and City Council for notification purposes. If the Tree Commission fails to act within thirty (30) days of notification, the state-issued tree permit or City Manager (or designee) initiated proposed action shall be forwarded to the Mayor and City Council for approval or denial.

E. Notice of a proposed removal shall be made to the public with a sign affixed to the tree. Notice shall also be given by reasonable means to adjacent property owners. Notice shall be posted and delivered to adjacent property owners at least 2 weeks prior to a removal. Notices shall indicate the reason for the proposed removal, earliest proposed date of action, and process to protest proposed action. Removal of tree limbs for maintenance purposes does not require public notification as long as all applicable state laws and regulations are

followed

F. Protest process. Any City resident or property owner may notify the City Manager (or designee) of objections to a proposed urban forest tree action. Such protest shall be in writing and must be received prior to the proposed action date. If a timely protest is received, the Mayor and Council shall decide by majority vote on action to be taken.

G. Exceptions. If the City Manager (or designee) determines that an urban forest tree poses an immediate threat to public safety, reasonable attempts to notify adjacent property owners should be made prior to removal. Emergency removal of tree limbs for maintenance purposes does not require notification as long as all applicable state laws and regulations are followed.

H. Criteria. In making decisions about proposed actions on street and park trees, the following factors shall be considered:

- (1) Hazards to property, public safety, or health;
- (2) Need to improve or prevent a deteriorated tree condition; or
- (3) Need to improve the general aesthetic appearance of the right-of-way or public property.

#### **Section 12B- 6. PRIVATE FUNDING OF TREE PURCHASES**

The City of Mt. Rainier may accept private funds to purchase street or park trees as long as the Tree Commission approves the species and size or the selection complies with the Tree Plan; the City makes the actual purchase and plants the tree; and other provisions specified in this Chapter are followed.

#### **Section 12B-7. REMOVAL OF DISEASED OR DEAD WOODY VEGETATION**

Woody vegetation found to be infected with a fungus, virus, bacterium, or other pathogen, or found to be infested with insects or other parasites which, due to such infection or infestation, may cause damage to other woody vegetation or may pose a threat to persons or the property of others, shall be removed and disposed of in accordance with the recommendations of the Maryland Dept. of Natural Resources, Forest Service.

Firewood must be neatly stacked and kept at least 6 inches above the ground.

Dead or dying American Elms and Zelkovas shall be removed and the wood disposed of in a proper manner to prevent the spread of Dutch elm disease. The wood of American elms shall not be kept for firewood or any other purpose unless the bark has been removed and properly disposed of according to Maryland Dept. of Natural Resources, Forest Service recommendations.

The City Manager (or designee) is authorized to inspect any woody vegetation that appears to be or

is reported to be infected with a fungus, virus, bacterium, or other pathogen or infested with insects or other parasites which, due to such infection or infestation, may cause damage to other woody vegetation or other property, and may take specimens from the woody vegetation if necessary to determine the existence of such infection or infestation. The City Manager may designate the city arborist or some other person with appropriate expertise to conduct such investigations and specimen collections.

If the City Manager or designated expert cannot determine with certainty the existence of infection or infestation in any woody vegetation, the City Manager or designee shall send any such specimens for examination, diagnosis and report to the Cooperative Extension Service, University of Maryland, or other appropriate laboratory, and shall base further action on such extension service or laboratory report.

#### **Section 12B-8. Hazardous Trees on Private Property.**

- A. No person shall permit a tree or tree part, dead or alive (including a stump displaced from the ground) to stand on private property if it is hazardous. Hazardous, in relation to a tree or tree part, means defective, diseased or dead, and posing an unreasonable risk of failure or fracture with the potential to cause injury to people or damage to property.
- B. No person shall maintain a fallen tree, tree part, brushwood, or firewood on private property that constitutes a harborage place for rodents, vermin or other pests.
- C. When a violation of this section is found on private property in the City, the City Manager (or designee) shall give notice to the owner, occupant, or person responsible for the property to correct the condition within such reasonable time as may be specified in the notice.
- D. If any person, after receipt of notice pursuant to subsection C, fails or refuses to correct or abate a violation, and the City finds that immediate action is needed to protect the public health, safety or property, then the City may take any action reasonably necessary to abate or correct the condition or may contract to have the necessary action taken. The City shall send the property owner or his or her agent a bill for the costs of the corrective action. If the bill is not paid within 30 calendar days, the cost shall be a lien against the real property which may be collected and enforced in the same manner as are property taxes or by a suit against the owner.

(Ord. 07-2006, 03/07/06)

#### **Section 12B-9. Enforcement**

A. The City Manager or designee has primary responsibility for the administration or enforcement of this Chapter.

B. A violation of this Chapter is a municipal infraction with a fine of \$200.

C. In addition to all other means of enforcement provided by law, the City Manager, code enforcement officials, or police officers may issue a "stop work" order to any person who violates any provision of this Chapter. A stop work order also may be issued on the basis of an affidavit received setting forth the facts of the alleged violation. Any person who receives such a stop work order shall immediately cease the activity that constitutes the violation. The person shall comply with all terms and conditions imposed by the person issuing the order before the activity may resume. If a person who receives a stop work order continues the activity that constitutes the violation, such person shall be issued a municipal infraction citation with a fine of \$200.

(Ord. 07-2006, 03/07/06)