



Legislation Details (With Text)

File #: O-33-21 **Version:** 1 **Name:**
Type: Ordinance **Status:** Withdrawn
File created: 7/21/2021 **In control:** Transportation Committee
On agenda: 9/13/2021 **Final action:** 10/25/2021
Title: Tree removal on private property - For the purpose of requiring a permit for the removal of certain trees located on private property anywhere within the City limits; and generally relating to the removal of trees on private property.
Sponsors: Rob Savidge, Elly Tierney, Ross Arnett
Indexes: Environmental Matters Committee, Transportation Committee
Code sections:
Attachments: 1. O-33-21 First Reader, 2. O-33-21 Staff Report, 3. O-33-21 Fiscal Impact Note, 4. O-33-21 Amendments 1-4 Savidge

Date	Ver.	Action By	Action	Result
10/25/2021	1	City Council	withdrawn without objection	Pass
10/20/2021	1	Environmental Matters Committee	recommend with amendments	Pass
10/20/2021	1	Environmental Matters Committee	Recommend Favorably-Amendment	Pass
10/14/2021	1	Transportation Committee	no action taken	Pass
9/15/2021	1	Environmental Matters Committee		
9/13/2021	1	City Council	declare the public hearing closed	
7/26/2021	1	City Council	adopt on first reader	Pass
7/26/2021	1	City Council	refer to Annapolis Education Commission	
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Tree removal on private property - For the purpose of requiring a permit for the removal of certain trees located on private property anywhere within the City limits; and generally relating to the removal of trees on private property.

CITY COUNCIL OF THE City of Annapolis

Ordinance 33-21

Introduced by: Alderman Savidge
Co-sponsored by: Alderwoman Tierney, Alderman Arnett

Referred to
Environmental Matters Committee
Transportation Committee
90 day Rule: _____

AN ORDINANCE concerning

Tree removal on private property

FOR the purpose of requiring a permit for the removal of certain trees located on private property anywhere within the City limits; and generally relating to the removal of trees on private property.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2021 Edition
14.12.095

WHEREAS, in 2006, the Maryland Department of Natural Resources determined that approximately 41 percent of the City of Annapolis is covered by the urban tree canopy; and

WHEREAS, in the 2009 comprehensive plan the City of Annapolis committed to increasing the tree canopy cover to 50 percent by 2036; and

WHEREAS, a 2017 Urban Tree Canopy study found that the City of Annapolis has an approximately 42 percent tree canopy cover, and

WHEREAS, if the City intends to meet its goal of increasing the tree canopy cover to 50 percent by 2036, we need to accelerate our protections of trees, especially larger back yard trees that currently are not protected, because they contribute significantly to our overall urban tree canopy; and

WHEREAS, large trees provide a myriad of and substantial benefits to the surrounding area and community.

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

Title 14 - STREETS, SIDEWALKS AND PUBLIC PLACES **Chapter 14.12 - TREES**

Section 14.12.095 - Tree conservation area-Tree removal on private property.

- A. "Tree conservation areas" are established to be the same areas as the legally defined front, side or rear yard setbacks of any residential or commercial property as described in the zoning regulations of the City of Annapolis, which are adjacent to a public right-of-way AREAS BETWEEN A PUBLIC RIGHT-OF-WAY AND A BUILDING OR STRUCTURE.
- B. 1. WITHIN A TREE CONSERVATION AREA, A PROPERTY OWNER MAY REMOVE TREES THAT ARE LESS THAN FIVE INCHES IN DIAMETER AS MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND.
2. Within a tree conservation area, A PROPERTY OWNER MAY NOT REMOVE A tree greater than five inches in diameter as measured at four and one-half feet above the ground shall be removed except as provided for in WITHOUT FIRST OBTAINING THE NECESSARY PERMIT, AND ONLY IN ACCORDANCE WITH THE REQUIREMENTS OF this section. Within a tree conservation area, the A property owner may remove trees that are less than five inches in diameter as measured at four and one-half feet above the ground.
3. A PROPERTY OWNER MAY NOT REMOVE A TREE GREATER THAN 23" IN DIAMETER AS

MEASURED AT FOUR AND ONE-HALF FEET ABOVE THE GROUND, ON PRIVATE PROPERTY OR WITHIN A TREE CONSERVATION AREA, UNLESS THE CITY ARBORIST HAS INSPECTED THE TREE AND FINDS THAT THE TREE IS SHOWING SIGNS OF SIGNIFICANT DECLINE OR REPRESENTS A PUBLIC SAFETY HAZARD, THE NECESSARY PERMIT HAS BEEN OBTAINED, AND THE REQUIREMENTS OF THIS SECTION HAVE BEEN SATISFIED.

- C. A ~~permit~~TREE REMOVAL PERMITS ARE issued by the Director of Planning and Zoning. ~~is required for the removal of any tree greater than five inches in diameter, as measured at four and one-half feet above the ground, located within the tree conservation area.~~ The tree removal permit fee shall be set by resolution of the City Council. ~~Conditions under which such a permit may be issued include but shall not be limited to the following~~ A PERMIT MAY BE DENIED IF SUFFICIENT EVIDENCE HAS NOT BEEN PROVIDED TO, AND CONFIRMED BY, THE CITY ARBORIST, THAT MEETS AT LEAST ONE OF THE CONDITIONS LISTED BELOW:
1. The tree is dead, dying or diseased, such that fifty percent or more of the crown area is visibly dead;
 2. The tree is damaged or injured to the extent that it is likely to die or become diseased;
 3. The removal of the tree will serve the purposes of this chapter or will enhance the health of the remaining trees in the conservation area;
 4. The removal of the tree will avoid or alleviate, mitigate, or reduce a substantial hardship or damage to the property or any structure located thereon; or
 5. The removal of the tree is consistent with good forestry practices.
- D. A permit shall not be required for public utilities to remove trees situated in proximity to overhead or underground facilities or in case of any emergency in which failure to remove a tree is likely to cause imminent damage to public or private property, as used herein, the term "public utilities" means any "public service company" as defined in the Public Utilities Article, Section 1-101, of the Annotated Code of Maryland, or its successor statutes; or in case of any emergency in which failure to remove a tree is likely to cause imminent damage to public or private property.
- E. In issuing a permit, the ~~Director of Planning and Zoning~~ DEPARTMENT ~~may~~SHALL, in its discretion, require that replacement tree(s) be planted.. The size, location and variety of any replacement tree may be required by the Director of Planning and Zoning, solely at his or her discretion, to reestablish the visual character and environmental benefits afforded by the trees that were removed, AND TO MITIGATE ANY SUCH REMOVAL. REPLACEMENT TREES SHALL BE A NATIVE SPECIES UNLESS OTHERWISE APPROVED BY THE DEPARTMENT. Replacement as follows shall be deemed conclusively to be a reasonable exercise of such discretion:

Removed tree	Replacement Tree(s)
5-10" Diameter breast height (dbh)	1 tree
10.1- 15.2 20" Diameter breast height (dbh)	2 trees
Greater than 15.1-20-23" Diameter breast height (dbh)	3 trees
GREATER THAN <u>23"</u>	<u>4</u> TREES

F. TREES REMOVED WITHIN THE TREE CONSERVATION AREA.

1. If the tree conservation area is insufficient in size to accommodate more than one replacement tree or if it is undesirable to plant appropriate replacement trees (as determined by the Department of Planning and Zoning, in its sole discretion), then the issuance of the permit shall be conditioned upon the approval by the Director of Planning and Zoning of a planting plan, developed by the owner, to plant replacement trees in another location approved by the Department of Planning and Zoning.

- F. 2. The tree conservation area shall be the first priority for replacement of removed trees as required

under the preceding subsection. Alternate planting sites, in order of preference, are:

- ~~1.~~(a) An area on the property adjacent to any public right-of-way other than the tree conservation area;
- ~~2.~~(b) An area within any adjacent public right-of-way;
- ~~3.~~(c) Any other public property;
- ~~4.~~(d) Any property with a conservation designation (e.g.: property reserved as part of the subdivision process; property within the critical area; etc.);
- ~~5.~~(e) Any other appropriate area.

If no alternative planting site can be located, a fee equivalent to the in-ground cost of planting replacement trees shall be paid by the permit applicant to the City, which shall plant an equivalent number of trees in an appropriate location within one year.

G. THE FOLLOWING SHALL APPLY FOR TREES GREATER THAN 23" REMOVED OUTSIDE OF THE TREE CONSERVATION AREA:

1. IF THE AREA WHERE THE TREE WAS REMOVED IS INSUFFICIENT IN SIZE TO ACCOMMODATE MORE THAN ONE REPLACEMENT TREE OR IF IT IS UNDESIRABLE TO PLANT APPROPRIATE REPLACEMENT TREES (AS DETERMINED BY THE DEPARTMENT OF PLANNING AND ZONING, IN ITS SOLE DISCRETION), THEN THE ISSUANCE OF THE PERMIT SHALL BE CONDITIONED UPON THE APPROVAL BY THE DIRECTOR OF PLANNING AND ZONING OF A PLANTING PLAN, DEVELOPED BY THE OWNER, TO PLANT REPLACEMENT TREES IN ANOTHER LOCATION APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING.
2. THE AREA WHERE THE TREE WAS REMOVED SHALL BE THE FIRST PRIORITY FOR REPLACEMENT OF REMOVED TREES AS REQUIRED UNDER THE PRECEDING SUBSECTION. ALTERNATE PLANTING SITES, IN ORDER OF PREFERENCE, ARE:
 - (a) AREAS WITHIN THE 100' BUFFER, AS APPROVED BY THE DEPARTMENT
 - (b) OPEN AREAS NEAR A STREAM OR WETLAND
 - (c) ANY PROPERTY WITH A CONSERVATION DESIGNATION (E.G.: PROPERTY RESERVED AS PART OF THE SUBDIVISION PROCESS; PROPERTY WITHIN THE CRITICAL AREA; ETC.); OR
 - (d) ANY OTHER APPROPRIATE AREA.

IF NO ALTERNATIVE PLANTING SITE CAN BE LOCATED, A FEE EQUIVALENT TO THE IN-GROUND COST OF PLANTING REPLACEMENT TREES SHALL BE PAID BY THE PERMIT APPLICANT TO THE CITY, WHICH SHALL PLANT AN EQUIVALENT NUMBER OF TREES IN AN APPROPRIATE LOCATION WITHIN ONE YEAR.

GH A property owner shall replace any tree removed without a permit according to the replacement standard in Subsections (E) and (F) of this section. The site, location and variety of such replacement trees shall be reviewed and approved by the Director of Planning and Zoning in accordance with the standards set forth herein.

HI. ENFORCEMENT

1. A Violation of this section shall be a municipal infraction punishable by a fine as established by resolution of the City Council for each tree greater than five inches in diameter at 4.5 feet above the ground removed from the tree conservation area without a permit, AND FOR EACH TREE GREATER THAN 23" IN DIAMETER AT 4.5 FEET ABOVE THE GROUND REMOVED ANYWHERE WITHIN THE CITY LIMITS WITHOUT A PERMIT. In addition, the Director of Planning and Zoning may revoke any permit issued under this section and/or issue an order stopping further tree removal whenever the director or designee determines that such action is necessary to accomplish the purpose of this section.
2. IF A TREE CARE OR ARBORIST CONTRACTOR VIOLATES THE PROVISIONS OF THIS SECTION MORE THAN TWO TIMES IN A 12-MONTH PERIOD, NO PERMITS SHALL BE

ISSUED TO THAT CONTRACTOR, AND NO PERMIT SHALL BE APPROVED FOR A PROJECT WHERE THAT CONTRACTOR IS LISTED AS THE CONTRACTOR TO DO THE WORK, FOR A PERIOD OF 12 MONTHS COMMENCING ON THE DATE OF THE SECOND VIOLATION.

3. A COPY OF ANY REQUIRED TREE REMOVAL PERMIT MUST BE POSTED AT THE JOB SITE AT ALL TIMES FOR THE DURATION OF THE PROJECT.

4. IF MITIGATION IS REQUIRED BY THE DEPARTMENT BUT HAS NOT BEEN COMPLETED WITHIN ONE YEAR OF SUCH MITIGATION NOTIFICATION, THE OWNER OF THE PROPERTY SHALL BE SUBJECT TO A FINE AS ESTABLISHED BY RESOLUTION OF THE CITY COUNCIL.

5. Enforcement of this section shall be the responsibility of the Department of Planning and Zoning. All fines ~~must~~ SHALL be paid in full before any work can continue.

IJ. Where this section and any other Federal, State or local law regarding tree removal ~~and/or~~ replacement apply to a given circumstance, the more restrictive law shall control.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

Explanation:

UPPERCASE indicates matter added to existing law.

~~Strikethrough~~ indicates matter stricken from existing law.

Underlining indicates amendments.