

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, TO
AMEND CHAPTER 179, “TREE AND LANDSCAPE MAINTENANCE”, BY
RESERVING §179-9 AND DESIGNATING §§179-1 THROUGH 179-9 AS ARTICLE I,
“GENERAL PROVISIONS”; AMENDING §179-1, “DEFINITIONS”, AND §179-5,
“TREE AND LANDSCAPE BOARD”; AND ADDING ARTICLE II, “TREE
CANOPY PROTECTION”, §179-10, “PERMIT REQUIRED”, §179-11, “PERMIT
ISSUANCE”, §179-12, “TREE REPLACEMENT”, §179-13, “RECONSIDERATION”,
§179-14, “APPEAL”, AND §179-15, “ENFORCEMENT”; AND TO AMEND
CHAPTER 110, “FEES AND PENALTIES”. BY AMENDING §110-2, “PENALTIES”;
TO INSTITUTE A PERMIT SYSTEM FOR REMOVAL OR PRUNING OF URBAN
FOREST TREES, TO PROVIDE FOR A RECONSIDERATION AND APPEAL
PROCESS, TO REQUIRE PLANTING OF REPLACEMENT TREES OR
PAYMENT OF A FEE, AND TO SET A FINE FOR NON-COMPLIANCE

WHEREAS, §5-202 of the Local Government Article of the Annotated Code of Maryland provides that the Mayor and Council of the City of College Park have the authority to pass such ordinances as it deems necessary to preserve peace and good order, and to protect the health, comfort and convenience of the residents of the municipality; and

WHEREAS, the Mayor and Council have adopted Chapter 179, “Tree and Landscape Maintenance” to educate and encourage all persons in the City to use safe and desirable installation, removal and maintenance practices to promote healthy trees, shrubs and ground covers on private and public lands within the City; and

WHEREAS, the Tree and Landscape Board has recommended to the Mayor and Council that certain limitations be placed on removal or pruning of otherwise healthy trees, and that a permit should be required; and

WHEREAS, the Mayor and Council determined that it is in the public interest to adopt certain recommendations of the Tree and Landscape Board, and to institute a permit

CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS	: Indicate matter added in amendment
[Brackets]	: Indicate matter deleted in amendment

system for removal or pruning of certain trees, to provide for an appeal process, and to set a fine for non-compliance.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, that §179-9 be reserved, and that §179-2 through §179-9, be and they are hereby contained in Article I, “General Provisions.”

Section 2. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, Article II, “Urban Forest Protection”, be and it is hereby enacted.

Section 3. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, Article I, “Definitions”, be and it is hereby repealed, re-enacted and amended to read as follows:

§ 179-1Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

INSTALLATION

The proper planting of trees, shrubs and ground covers.

LANDSCAPE

Trees, shrubs, ground covers and other materials presently or hereafter planted within the City limits.

MAINTENANCE

All necessary operations, including but not limited to pruning, mowing, spraying, watering, fertilizing, [~~and~~] staking AND TREE HEALTH ASSESSMENTS.

PRIVATE LAND

All land exclusive of public ways and public areas.

PUBLIC AREA

All public ways, parks and other lands owned or leased by the City.

PUBLIC WAY

All public streets, roads, boulevards, alleys and sidewalks.

RESIDENTIAL TREES

TREES LOCATED ON RESIDENTIAL PROPERTY IN THE FOLLOWING CURRENT ZONING CATEGORIES: R-80, R-55, R-35, R-20, R-T, R-30, R-30C, R-18, AND R-18C, AS AMENDED.

URBAN FOREST

1. PUBLIC TREES IN PUBLIC RIGHTS-OF-WAY OR ON PROPERTY OWNED BY THE CITY.
2. RESIDENTIAL TREES WITH TRUNKS THAT MEASURE GREATER THAN 36 INCHES IN CIRCUMFERENCE (12-INCH DIAMETER), MEASURED AT 4 1/2 FEET ABOVE GROUND LEVEL. IF A TREE DIVIDES INTO BRANCHES AT LESS THAN 4 1/2 FEET HEIGHT, THE TRUNK SHALL BE MEASURED IMMEDIATELY BENEATH THE DIVIDING POINT.
3. RESIDENTIAL TREES MEASURING GREATER THAN 120 INCHES IN CIRCUMFERENCE (38-INCH DIAMETER) ARE CONSIDERED HERITAGE TREES. A HERITAGE TREE IS A LARGE INDIVIDUAL TREE WITH UNIQUE VALUE, WHICH IS CONSIDERED IRREPLACEABLE.

Section 3. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, Article I, “General Provisions”, §179-5, “Tree and Landscape Board”, be and it is hereby repealed, re-enacted and amended to read as follows:

§ 179-5 Tree and Landscape Board.

A. * * * *

B. Duties and responsibilities of the Board.

(1) – (7) * * * *

(8) TO HEAR APPEALS FROM DECISIONS CONCERNING THE REMOVAL OR PRUNING OF URBAN FOREST TREES BY THE PUBLIC WORKS DIRECTOR.

Section 4. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, Article II, “Urban Forest Protection”, §179-10, “Permit required”, be and it is hereby enacted to read as follows:

§179-10 PERMIT REQUIRED.

EXCEPT WHEN REQUIRED TO DO SO IN AN EMERGENCY, OR WHEN EXEMPTED BY THE PUBLIC WORKS DIRECTOR BECAUSE OF IMMINENT DANGER TO THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, NO PERSON SHALL REMOVE OR DESTROY ANY TREE IN THE CITY'S URBAN FOREST, UNDERTAKE CONSTRUCTION OR OTHER ACTION THAT COULD SIGNIFICANTLY DETRACT FROM THE HEALTH OR GROWTH OF SUCH A TREE, OR PRUNE MORE THAN 20% OF SUCH A TREE, WITHOUT FIRST APPLYING FOR AND OBTAINING A PERMIT FROM THE CITY.

Section 5. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, Article II, “Urban Forest Protection”, §179-11, “Permit issuance”, be and it is hereby enacted to read as follows:

§179-11 PERMIT ISSUANCE.

- A. AN APPROVED PERMIT MUST BE CONSPICUOUSLY POSTED ON THE PROPERTY UNTIL THE TREE IS REMOVED OR PRUNED.
- B. TREE PERMITS ARE VALID FOR ONE YEAR FROM THE DATE ISSUED.
- C. TREE PRUNING OR REMOVAL. ALL APPLICATIONS FOR TREES LESS THAN 36” IN CIRCUMFERENCE WILL BE APPROVED.
- D. TREES IDENTIFIED FOR REMOVAL IN APPLICATIONS SUBMITTED FOR URBAN FOREST TREES WILL BE INSPECTED AND RECEIVE A LEVEL II TREE RISK ASSESSMENT CONDUCTED BY THE PUBLIC WORKS DIRECTOR, OR DESIGNEE.

- E. A TREE REMOVAL PERMIT WILL BE ISSUED IF THE TREE IS DETERMINED TO BE DEAD, DISEASED, HAZARDOUS TO THE SAFETY OF PERSONS OR PROPERTY IN A WAY THAT CANNOT BE ADDRESSED BY USING THE CURRENT TREE CARE, ANSI Z STANDARDS (AMERICAN NATIONAL STANDARD INSTITUTE), OR IS DEEMED EITHER AN INVASIVE SPECIES (AS IDENTIFIED ON THE LIST MAINTAINED BY THE MARYLAND INVASIVE SPECIES COUNCIL) OR UNDESIRABLE BECAUSE OF ITS LOCATION, CONDITION, OR EFFECT ON OTHER STRUCTURES OR TREES.

- F. A PERMIT FOR REMOVAL WILL BE ISSUED IF THE TREE IS LOCATED IN A PLACE PROXIMAL TO HOUSES OR UTILITIES, SO THAT IT CAN CAUSE STRUCTURAL DAMAGE, OR IN A PLACE THAT WOULD MAKE IT DIFFICULT FOR A PROPERTY OWNER TO EXPAND THE FOOTPRINT OF THE HOUSE IN CONJUNCTION WITH A BUILDING PERMIT THAT CAN OTHERWISE BE APPROVED BY THE COUNTY AND CITY. A HERITAGE TREE IN A HEALTHY, NON-HAZARDOUS CONDITION CANNOT BE REMOVED UNLESS IT'S LOCATION WOULD PREVENT EXPANSION OF THE FOOTPRINT OF THE HOUSE.

- G. IN A DETERMINATION OF WHETHER TO ISSUE A PERMIT FOR TREE REMOVAL OR PRUNING OF MORE THAN 20% OF URBAN FOREST TREES, THE PUBLIC WORKS DIRECTOR WILL ALSO CONSIDER:
 - 1. THE OVERALL HEALTH OF THE TREE;
 - 2. THE POTENTIAL HAZARDS ASSOCIATED WITH THE TREE;
 - 3. THE DESIRABILITY OF PRESERVING THE TREE BY REASON OF ITS AGE, SIZE, OR OUTSTANDING QUALITY, SUCH AS UNIQUENESS, RARITY OR STATUS AS A LANDMARK OR SPECIES VARIETY;
 - 4. THE EXTENT TO WHICH THE AREA WOULD BE SUBJECT TO ENVIRONMENTAL DEGRADATION DUE TO REMOVAL OF THE TREE OR TREES;
 - 5. THE EXTENT OF THE TREE CANOPY IN THE IMMEDIATE AREA; AND
 - 6. OTHER APPLICABLE LAW.

Section 6. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, “Tree and Landscape Maintenance”, Article II, “Urban Forest Protection”, §179-12, “Tree replacement”, be and it is hereby enacted to read as follows:

§179-12 TREE REPLACEMENT.

- A. THE OWNER OF THE PROPERTY FROM WHICH AN URBAN FOREST TREE IS REMOVED ON OR AFTER MARCH 1, 2022, IS REQUIRED TO PLANT A REPLACEMENT TREE OR TO PAY A FEE TO THE URBAN TREE PROTECTION FUND FOR EACH REMOVAL, AS FOLLOWS:
 - 1. FOR REMOVAL OF A 36”- 47” CIRCUMFERENCE TREE- REPLACE WITH ONE TREE OR PAY A \$250 FEE;
 - 2. FOR REMOVAL OF A 48” CIRCUMFERENCE OR GREATER TREE: REPLACE WITH 2 TREES OR PAY A \$500 FEE .

PROPERTY OWNERS THAT CAN DEMONSTRATE FINANCIAL HARDSHIP MAY REQUEST A WAIVER OF THE PAYMENT TO THE URBAN TREE PROTECTION FUND.

- B. WHEN PRACTICABLE, REPLACEMENT TREES SHOULD BE PLANTED ON THE SAME PROPERTY FROM WHICH A TREE HAS BEEN REMOVED.
- C. REPLACEMENT TREE SPECIES SHALL BE APPROVED BY THE PUBLIC WORKS DIRECTOR OR DESIGNEE PRIOR TO PLANTING AND PLANTED WITHIN 6 MONTHS FROM THE DATE TREE REMOVAL IS COMPLETE. PROPERTY OWNERS ARE ELIGIBLE TO RECEIVE REIMBURSEMENT FUNDING FOR REQUIRED REPLACEMENT TREES FROM THE CITY'S TREE CANOPY ENHANCEMENT PROGRAM (TCEP) FUND AS IDENTIFIED IN THE TCEP GUIDELINES. REPLACEMENT TREES SHALL MEET THE TCEP TREE SIZE GUIDELINES, WHETHER OR NOT REIMBURSEMENT FROM THE PROGRAM IS REQUESTED.
- D. REQUESTS FOR TCEP REIMBURSEMENT WILL BE PROCESSED 6 MONTHS AFTER PLANTING IF THE REPLACEMENT TREE IS IN A HEALTHY CONDITION AS DETERMINED BY THE DIRECTOR OF PUBLIC WORKS OR DESIGNEE.

Section 7. BE IT FURTHER ENACTED, by the Mayor and Council of the City of

College Park that Chapter 179, “Tree and Landscape Maintenance”, Article II, “Urban Forest

Protection”, §179-13,“Reconsideration”, be and it is hereby enacted to read as follows:

§179-13 RECONSIDERATION

IF AT THE CONCLUSION OF THE BASIC LEVEL II ASSESSMENT, AN APPLICANT WHO DISPUTES THE FINDINGS BY THE PUBLIC WORKS DIRECTOR OR DESIGNEE, CAN REQUEST A SECOND OPINION FROM A THIRD-PARTY

ASSESSOR, QUALIFIED AS AN INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA) CERTIFIED ARBORIST OR A TREE RISK ASSESSMENT QUALIFIED ARBORIST, AND LICENSED AND INSURED TO PERFORM TREE ASSESSMENTS IN THE STATE OF MARYLAND, TO DETERMINE THE CONDITION OF THE TREE. THE SELECTED ARBORIST WILL PERFORM AN ADVANCED LEVEL III ASSESSMENT AND PROVIDE A WRITTEN REPORT OF THE FINDINGS WITH RECOMMENDATIONS. THE RESULTS OF THE LEVEL III ASSESSMENT SHALL BE PROVIDED BY THE APPLICANT TO THE PUBLIC WORKS DIRECTOR TO REVIEW FOR RECONSIDERATION OF THE TREE REMOVAL APPLICATION. THE CITY SHALL REIMBURSE THE APPLICANT FOR ONE-HALF OF THE COST OF THE CERTIFIED ARBORIST'S LEVEL III ASSESSMENT.

Section 8. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, "Tree and Landscape Maintenance", Article II, "Urban Forest Protection", §179-14, "Appeal", be and it is hereby enacted to read as follows:

§179-14 APPEAL.

THE DECISION OF THE PUBLIC WORKS DIRECTOR MAY BE APPEALED BY THE APPLICANT, IN WRITING, TO THE COLLEGE PARK TREE AND LANDSCAPE BOARD, BY DELIVERY TO THE CITY CLERK WITHIN 15 BUSINESS DAYS OF THE DATE OF PERMIT DENIAL. THE APPEAL WILL BE CONSIDERED AT THE BOARD MEETING FOLLOWING THE FILING OF THE APPEAL. THE BOARD WILL EVALUATE ALL THE INFORMATION PRESENTED BY THE APPLICANT, INCLUDING ANY MITIGATION PROPOSED BY THE APPLICANT, AND WILL MAKE A FINAL DECISION WITHIN THIRTY DAYS OF THE MEETING. THE DECISION OF THE TREE AND LANDSCAPE BOARD MAY BE APPEALED BY THE APPLICANT TO THE MAYOR AND COUNCIL IN WRITING BY DELIVERY TO THE CITY CLERK WITHIN 15 DAYS OF ISSUANCE.

Section 9. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 179, "Tree and Landscape Maintenance", Article II, "Urban Forest Protection", §179-15, "Enforcement", be and it is hereby enacted to read as follows:

§179-15 ENFORCEMENT

ANY PERSON VIOLATING ANY OF THE PROVISIONS OF THIS ARTICLE SHALL BE GUILTY OF A MUNICIPAL INFRACTION, SUBJECT TO THE PENALTY PROVIDED IN CHAPTER 110, FEES AND PENALTIES, OF THIS CODE. FINES RESULTING FROM VIOLATIONS OF THIS ARTICLE ARE DEDICATED TO THE URBAN TREE CANOPY PROTECTION FUND.

Section 10. BE IT FURTHER ENACTED, by the Mayor and Council of the City of College Park that Chapter 110, “Fees and penalties”, §110-2, “Penalties”, be and it is hereby enacted to read as follows:

§110-2 Penalties.

Unless otherwise noted herein, the violation of a City ordinance or resolution is a municipal infraction. The following fines and/or imprisonment for violations of various ordinances or resolutions are applicable in the City of College Park:

Chapter/Section	Violation	Penalty
	* * * *	
CH. 179, TREE AND LANDSCAPE MAINTENANCE		
ARTICLE II URBAN FOREST PROTECTION		
	§179-10 REMOVAL OR PRUNING GREATER THAN 20% OF AN URBAN FOREST TREE – EACH OFFENSE	\$500
	§179-12 FAILURE TO INSTALL REPLACEMENT TREE(S) OR TO PAY FEE AS REQUIRED	\$500
	* * * *	

Section 11. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the

office of the City Clerk and shall post at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, and on the City cable channel, and if time permits, in any City newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council.

The public hearing, hereby set for _____ on the ____ day of _____ 2021, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. That this Ordinance shall become effective twenty days after adoption provided that, as soon as practicable after adoption, the City Clerk shall post a fair summary of the Ordinance and notice of its adoption at City Hall, to the official City website, to the City-maintained e-mail LISTSERV, on the City cable channel, and in any City newsletter.

If any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence, clause, phrase or word included within this Ordinance, it being the intent of the City that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

Introduced on the ____ day of _____, 2021

Adopted on the ____ day of _____, 2021

Effective on the ____ day of _____, 2021

ATTEST:

CITY OF COLLEGE PARK

By: _____
Janeen S. Miller, CMC, City Clerk

By: _____
Patrick L. Wojahn, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney