

Resolution No. 03-01
Introduced: February 12, 2003
Adopted: April 9, 2003
Effective Date: May 9, 2003

WHEREAS, Article 23A, Section 2 (a) and (b), of the Annotated Code of Maryland authorizes the Town to adopt ordinances deemed necessary for the protection and promotion of health, safety, comfort, welfare, convenience and happiness of the residents of the Town; and

WHEREAS, Article III, Section 301(a) of the Town Charter similarly authorizes the Town to adopt ordinances deemed necessary for the protection and promotion of the health, safety, comfort, welfare, convenience and happiness of the residents of the Town; and

WHEREAS, trees benefit the town by filtering the air, buffering noise, harboring wildlife and stabilizing soils, and the Town Council has determined that the existing trees in the Town constitute an important natural resource that must be protected, preserved and, replaced:

NOW THEREFORE, the Town Council for the Town of Chevy Chase adopts a new Chapter 20, entitled "Tree Protection Ordinance."

Chapter 20 TREE PROTECTION ORDINANCE

Sec. 20-1. Definitions.

Sec. 20-2. Interpretation.

Sec. 20-3. Legislative Findings.

Sec. 20-4. Trees included.

Sec. 20-5. Approval required in Construction related situations.

Sec. 20-6. Approval required in non-construction related situations

Sec. 20- 7. Licensed Contractor.

Sec. 20-8. Violations and Penalties; enforcement

Sec. 20-1 Definitions.

As used in this Chapter:

- (a) "Construction Related Situations" means on-site activities including but not limited to (i) the demolition, in whole or in part, of an existing home or structure; (ii) the construction of a new home or

structure and/or (iii) the expansion of the footprint of an existing home or structure. "Construction Related Situations" does not include interior alterations and renovations to an existing house or structure.

(b) "Hazardous Tree" means a tree or tree part that is defective, diseased or dead, and/or poses a high risk of failure or fracture with the potential to cause injury to people or damage to property.

(c) "Nuisance Tree" means any species of tree on the Town-defined list of trees with certain undesirable characteristics.

(d) "Replacement Tree" means a 1-¾ inch caliper (or larger) tree, the species to be determined by the Town Council, 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)

(e) "Tree Protection Plan" means a site plan approved by the Town Manager that delineates tree save areas and details measures to be taken to ensure survivability of trees to be saved before and during construction. The Tree Protection Plan submitted for review and approval shall comply with the written guidelines adopted by the Town Council.

(f) "Tree Replacement Fund Contribution" means the cost to purchase and plant a 1-¾ inch caliper tree, the species to be determined by the Town Council.

Sec. 20-2. Interpretation.

This Chapter is intended to supplement and not to contradict or supersede any applicable provisions of the law and regulations of the State of Maryland, and is to be interpreted as such.

Sec. 20-3 Legislative findings

The Town Council hereby finds that it is in the interest of the Town and the residents of the Town to protect, preserve, and promote the Town's tree canopy. The Town's tree canopy is part of a larger ecosystem and contributes significantly to air, noise, and visual pollution control. The existence of shade-providing trees moderates climatic extremes and promotes sound energy conservation. The Town's urban forest is part of the Lower Rockville and Little Falls Branch watersheds and therefore plays an important role in controlling water run-off and supporting the biologic and hydrologic integrity of this watershed. The tree canopy has significant aesthetic value, which affects property values and the quality of life necessary to our community. Regulation of actions affecting the tree canopy provides mutual benefits to Town residents and property owners.

Sec. 20-4. Trees included.

This chapter does not apply to Hazardous Trees or Nuisance Trees but does apply to:

(a) trees on private property with trunks that measure at least forty-eight (48) inches in circumference at four and one-half (4 1/2) feet above ground level. If a tree divides into branches at less than four and one-half (4 1/2) feet, the trunk shall be measured immediately beneath the dividing point;

- (b) trees required to be planted or maintained, pursuant to governmental order, agreement, stipulation, covenant or easement, a Tree Protection Plan, or as a condition of approval to remove a tree as described in (a) above; or
- (c) trees planted with government funding or under a government program.

Sec. 20-5. Approval required in Construction related situations.

For any Construction Related Situations, as defined by Section 20-1 (a), the following procedures shall apply:

- (a) The property owner shall submit, as part of any building permit application, a Tree Protection Plan for review and approval by the Town Manager. No trees may be cut or removed prior to the approval of the Tree Protection Plan. As part of any approval of the Tree Protection Plan, the Town Manager shall inform the applicant that, if reasonable and prudent, the applicant shall either plant one (1) replacement tree for each tree removed, or make a contribution in like amount to the Town Tree Replacement Fund for each tree removed.
- (b) Within five (5) working days following submission of the Tree Protection Plan that includes the removal of any tree described in Section 20-4, the Town shall provide written notice of the filing of the Tree Protection Plan to all adjoining and confronting property owners. In addition, the Town shall post a notice on the Applicant's property informing residents of the proposed tree removal.
- (c) For a period of five (5) working days following the posting of notice, as set forth in (b) above, adjoining and confronting property owners may submit their comments with respect to the Tree Protection Plan to the Town Manager.
- (d) If approved, the Tree Protection Plan shall be incorporated by reference into the Town building permit issued for the new construction or development.
- (e) Within ten (10) days of the Town Manager's decision on the Tree Protection Plan, the Applicant may appeal such decision to the Town Council.

Sec. 20-6. Approval required in non-construction related situations.

In all cases other than for new construction or development, the resident shall notify the town of the intent to remove any tree described in Sec. 20-4 at least seven (7) working days prior to any such removal. The Town arborist will assist the property owner in analyzing the need for the tree removal. If, after this consultation, the property owner decides to proceed with the removal, he or she will exercise the option of planting one new Replacement Tree or making a Town Tree Replacement Fund Contribution for each tree removed.

- (a) The Town shall notify all adjoining and confronting property owners in writing of the proposed removal of the tree(s), at least five (5) working days prior to the removal of the tree(s). Additionally, the Town will post a notice on the property informing residents of the tree removal.

(b). In the case of an emergency that threatens harm to life or property, with no time to comply with the provisions of this section, prior tree removal approval is not required.

Sec. 20-7. Licensed Contractor.

Any person or organization that performs tree trimming or tree removal for hire within the town shall hold a Maryland Tree Expert License issued by the State of Maryland.

Sec. 20-8. Violations and penalties; enforcement

(a) Whenever the Town Manager or his or her designee finds a violation of this chapter or a failure to comply with the terms and conditions of a Tree Protection Plan approved pursuant to this chapter, in whole or part, he or she may issue an order to stop the removal of or damage to the tree, unless the Town Manager determines that stopping such work would threaten the public safety.

(b) Whenever the Town Manager or his or her designee finds a violation of the terms and conditions of a Tree Protection Plan approved pursuant to this chapter, in whole or part, he or she may issue an order to stop the work of any related construction project.

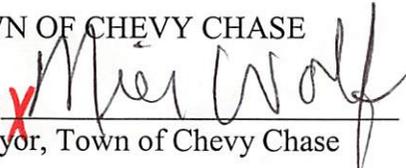
(c) A stop work order, issued pursuant to Section 20-8(a) or (b), posted on the property, in a conspicuous location, shall be sufficient service upon all persons physically on the property. A posted notice shall not be removed except under the authority of the Town Manager.

(d) Any person or organization that performs tree trimming or tree removal for hire within the Town and who violates any provision of this Chapter may be barred from contracting with or performing work for the Town.

ATTEST:

Linnam Barnes
Secretary, Town Council

TOWN OF CHEVY CHASE

By: 
Mayor, Town of Chevy Chase

Andi Silverstone

From: Dennis H Wood [dhwood1@mindspring.com]
Sent: Monday, May 05, 2003 9:43 PM
To: asilverstone@townofchevy Chase.org; miewolf@townofchevy Chase.org;
bhudnut@townofchevy Chase.org; jstunkel@townofchevy Chase.org;
mcovell@townofchevy Chase.org; denniswood@townofchevy Chase.org
Cc: 'Todd Hoffman'; 'David Walton (E-mail)'; mjhutt@lerchearyly.com
Subject: RE: Title for Tree Ordinance

For the change. My last vote?

Dennis

-----Original Message-----

From: Andi Silverstone [mailto:asilverstone@townofchevy Chase.org]
Sent: Monday, May 05, 2003 1:48 PM
To: miewolf@townofchevy Chase.org; bhudnut@townofchevy Chase.org;
jstunkel@townofchevy Chase.org; mcovell@townofchevy Chase.org;
denniswood@townofchevy Chase.org
Cc: Todd Hoffman; David Walton (E-mail); mjhutt@lerchearyly.com
Subject: Title for Tree Ordinance

In preparing the Town's tree ordinance for signature, we noticed that the title of the chapter of the code was "Urban Forest." I called Marty Hutt to check if that would be an appropriate title, since we've always referred to it as the "Tree Ordinance." Marty advised that it would be better to change the title to "Tree Ordinance" not only because that was what we had been calling it, but also because it would be easier to research under that title. When I asked Bill about this change, he suggested that the title should be "Tree Protection Ordinance", which is really more descriptive of the goal of the ordinance. In order to make a change in the title, I need to poll the Council and get each Councilmember's vote for or against changing the title of the ordinance from "Urban Forest" to "Tree Protection Ordinance." Please call me or e-mail me with your vote. Thank you.
Andi

Andi Silverstone

From: Martha Spiro Covell, Councilmember [mcovell@townofchevy Chase.org]
Sent: Monday, May 05, 2003 6:05 PM
To: asilverstone@townofchevy Chase.org; miewolf@townofchevy Chase.org;
bhudnut@townofchevy Chase.org; jstunkel@townofchevy Chase.org;
denniswood@townofchevy Chase.org
Cc: Todd Hoffman; David Walton (E-mail); mjhutt@lercheary.com
Subject: RE: Title for Tree Ordinance

My vote is yes to: "Tree Protection Ordinance"

Martha

-----Original Message-----

From: Andi Silverstone [mailto:asilverstone@townofchevy Chase.org]
Sent: Monday, May 05, 2003 1:48 PM
To: miewolf@townofchevy Chase.org; bhudnut@townofchevy Chase.org;
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denniswood@townofchevy Chase.org
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Thank you.

Andi

Andi Silverstone

From: miewolf@townofchevy Chase.org
Sent: Monday, May 05, 2003 2:42 PM
To: asilverstone@townofchevy Chase.org
Subject: Re: Title for Tree Ordinance

>I support the change, as you know, Andi. Thanks. In preparing the Town's tree ordinance for signature, we noticed that the
>title of the chapter of the code was "Urban Forest." I called Marty Hutt to
>check if that would be an appropriate title, since we've always referred to
>it as the "Tree Ordinance." Marty advised that it would be better to change
>the title to "Tree Ordinance" not only because that was what we had been
>calling it, but also because it would be easier to research under that
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>each Councilmember's vote for or against changing the title of the ordinance
>from "Urban Forest" to "Tree Protection Ordinance." Please call me or
>e-mail me with your vote.
>Thank you.
>Andi
>

Andi Silverstone

From: Bill Hudnut [BHUDNUT@ULI.org]
Sent: Monday, May 12, 2003 11:08 AM
To: 'asilverstone@townofchevy Chase.org'
Subject: RE: Title for Tree Ordinance

I vote yes

-----Original Message-----

From: Andi Silverstone [mailto:asilverstone@townofchevy Chase.org]
Sent: Monday, May 05, 2003 1:48 PM
To: miewolf@townofchevy Chase.org; bhudnut@townofchevy Chase.org;
jstunkel@townofchevy Chase.org; mcovell@townofchevy Chase.org;
denniswood@townofchevy Chase.org
Cc: Todd Hoffman; David Walton (E-mail); mjhutt@lercheary.com
Subject: Title for Tree Ordinance

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-mail me with your vote.

Thank you.

Andi

Andi Silverstone

From: Janestunkl@aol.com
Sent: Monday, May 05, 2003 8:39 PM
To: asilverstone@townofchevy Chase.org
Subject: Re: Title for Tree Ordinance

Tree Protection Ordinance seems the most apt and direct.

Jane