

Commissioners of Bel Air
Agenda
April 2, 2018

Ordinance No. 785-18

RECOMMENDED MOTION: "...that Ordinance No. 785-18 updating the Town of Bel Air Tree Ordinance (Chapter 435 of the Town Code, Trees), be received by the Bel Air Board of Town Commissioners."

I. BACKGROUND

The Town Tree Committee began work on a Tree Ordinance as one of its first priorities when formed in 1991. The current Ordinance was approved in November 1992. Although the Committee has established a number of tree-related policies and operating procedures since that time, the Ordinance has never been revised.

II. PRIMARY ISSUES

The existing Ordinance is outdated and does not address the Town's policies when dealing with risk trees on private property, the Residential Street Tree Replacement Program or the Town's Urban Tree Canopy goals. The revised Ordinance incorporates these and other current tree planting and maintenance practices of the Town.

III. DISCUSSION/EXPLANATION

The Tree Committee spent the better part of 2017 reviewing the existing Ordinance and what revisions were necessary to bring the document up to current standards. The Committee reviewed tree ordinances from other jurisdictions and organized the draft ordinance based on established tree ordinance recommendations from the National Arbor Day Foundation.

IV. RECOMMENDATION

The staff and Tree Committee recommends receipt of Ordinance No. 785-18.

A public hearing will be held on April 16, 2018 at 7:30 PM at Bel Air Town Hall, 39 N. Hickory Avenue.

Ordinance No. 785-18

An Ordinance Amending Chapter 435 (Trees) of the Town Code

WHEREAS, the planting and protection of the trees within the Town of Bel Air promotes and protects the beauty, public health, safety and general welfare of the Town, and

WHEREAS, the Town Tree Committee has rewritten Chapter 435 of the Town Code to update the Chapter as it pertains to the enhancement, protection and maintenance of the Town's Urban Tree Canopy, and

WHEREAS, the Bel Air Board of Town Commissioners desire to encourage such activity,

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Town Commissioners that Chapter 435 of the Town Code be amended to include the following:

§ 435-1 Purpose.

This chapter is provided to educate citizens of the requirements for successful public tree planting sites and to encourage individuals and groups to evaluate the need for roadside trees in and around the Town of Bel Air. Proper tree planting and maintenance helps to stabilize the Urban Tree Canopy and promotes improved water quality through sediment and erosion control, energy savings through ground surface cooling and a diminished urban heat island effect, wildlife habitat, enhanced property values and the aesthetic benefits of park, street, and landscape trees. With the guidance of the Town Tree Committee, this chapter is intended to solicit the cooperation and assistance of the residents of the Town in the planting and maintenance of trees on public and private grounds for the purpose of increasing the Urban Tree Canopy. It is, therefore, the purpose of this chapter to promote and protect the beauty, public health, safety and general welfare of the Town by providing for the regulation of the planting, maintenance and removal of public trees within parks and rights-of-way in the Town of Bel Air, Maryland.

The Town does not regulate the planting, maintenance or removal of trees on private property unless subject to Section 435-5.G of this Ordinance or protection under Forest Conservation as defined in Chapter 216 of the Town Code. However, any pruning, treating, or removing of trees on private property for compensation must be performed by a Licensed Tree Expert as required in Section 435-4.A of this Ordinance.

§ 435-2 Definitions and word usage.

For the purpose of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is mandatory and not merely directory.

CRITICAL ROOT ZONE

A circular region measured outward from a tree trunk representing the area of the roots that must be maintained or protected for the tree's survival. CRZ radius (ft.) = trunk diameter (in.)

LICENSED TREE EXPERT

A person who has received from the Department of Natural Resources a license displaying the person's qualifications to practice as a tree expert.

PARK

Includes all public parks located in the Town of Bel Air, Maryland.

PARK TREES

Herein defined as trees in public parks and lands to which the public has free access as a park, plus all facilities, parking lots, open spaces and other areas owned by the Town, county or state.

PERSON

Any individual, firm, partnership, association, corporation, company, or organization of any kind.

PROPERTY LINE

The outer edge of the right-of-way associated with any street, lane or highway.

PUBLIC AREAS

Includes all grounds owned by the Town of Bel Air, Harford County and/or the State of Maryland.

PUBLIC TREES

Include all trees now or hereafter growing within any street right-of-way (street tree) or any public areas where otherwise indicated.

STREET

The entire width of every public way or right-of-way when any part thereof is open to use by the public, as a matter of right, and for purposes of vehicular and pedestrian traffic.

STREET TREE

Any part of the main stem of a tree on land lying between property lines on either side of all streets, avenues, lanes, easements or ways within the Town.

TREE CARE

- A. Removal or planting of a tree;
- B. Maintenance to trim, shape, or sever the stem, branches or roots of a tree;
- C. Treatment to protect a tree from insects or disease or to improve the growth of a tree with direct application of fertilizers; or

D. Any other treatment that may affect the health or growth of a tree.

TREE SIZE

- A. Large trees -- Those attaining a height of more than 40 feet.
- B. Medium trees -- Those attaining a height of 30 to 40 feet.
- C. Small trees -- Those attaining a height of 10 to 30 feet.

URBAN TREE CANOPY (UTC)

The layer of woody material from trees (leaves, branches, stems) that cover the ground when viewed from above.

§ 435-3 Applicability.

- A. This chapter provides full power and authority to the Town over all trees and shrubs located within street rights-of-way, parks and public places of the Town.
- B. It shall be the responsibility of the Departments of Public Works and Planning and Community Development and the Town Tree Committee to implement, administrate, and execute the requirements of this chapter in a consistent manner with the Natural Resources Roadside Trees Article, §§ 5-401 through 5-406 of the Annotated Code of Maryland and its accompanying Tree Experts Article §§ 5-415 through 5-422 regulations under Title 8, Subtitle 7, Chapter 2, Sections 1 to 10.
- C. The Director of Planning and Community Development and the Director of Public Works may use appropriate Planning and Community Development or Public Works Department personnel or their designated agents in the implementation of this chapter.
- D. Authority to implement Section 435-5.B of this chapter is granted through the issuance of an annual Blanket Roadside Tree Permit issued to public agencies by the Maryland Department of Natural Resources Forest Service. Tree care permitted includes tree removal, tree pruning and tree planting under supervision by the Maryland Department of Natural Resources for the purpose of eliminating hazard to property, public safety or health.

§ 435-4 Licensing and Insurance

- A. Tree experts.
No person or firm shall engage in the business or occupation of pruning, treating, or removing street or park trees or trees on private property within the Town without having a valid tree expert license issued by the Maryland Department of Natural Resources as well as proof of liability and property damage insurance consistent with State of Maryland requirements. A license shall not be required of any Town employee performing such work, provided that the employee is supervised by a Department of Natural Resources Forestry Division Forester or a certified tree care expert on the Town's staff. However, all permits required by the Maryland Department of Natural Resources shall be obtained prior to performing such work.

B. Insurance

As stated in Article, §§ 5-418(b) of the Annotated Code, every licensee shall carry and show proof of liability insurance and property damage insurance, in the form and amount required by the Department of Natural Resources at the time it issues the license. The licensee shall maintain the insurance protection for the period the license is in effect.

§ 435-5 Tree Planting & Maintenance

The Town shall have the right to plant, prune, maintain and remove trees within the right-of-way of all streets and in parks and other public places as necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Town, upon recommendation by the Tree Committee, may remove or cause or order to be removed any tree or part thereof on public property which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, waterlines, or other public improvements or is infected with any injurious fungus, insect or other pest.

Tree removal, planting and maintenance associated with approved development plans is subject to Chapter 165, Article VIII of the Bel Air Town Code. The Town of Bel Air Landscape Manual includes information on Forest Conservation, Tree Delineation, Landscape Plan standards, and general landscape practices.

A. Tree planting and maintenance shall follow ANSI A-300 standards.

B. Street Tree Planting Location Standards

1. To ensure compliance with Maryland Roadside Tree Regulations, Section .09, the Tree Committee will utilize the DNR Forest Service Recommended Tree List, as revised, as the official list of permissible street tree species for the Town of Bel Air.
2. Street trees shall be spaced so that they are no closer than 20 feet to any other street tree, unless otherwise approved by the Town Tree Committee. The minimum distance trees may be planted from any curb or sidewalk is two feet in order to allow a minimum four-foot-wide growing space. Any proposed planting areas that do not meet the minimum four-foot-wide requirement may be utilized for the purpose of planting trees upon review and approval of proposed spacing and species selection by the Committee.
3. No trees shall be planted along streets that do not have curbing without prior approval and guidance of the Director of Public Works.
4. No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 20 feet to any fire hydrant or 10 feet to any streetlight.

5. No street tree will be planted in a planting strip less than four (4) feet in width and four (4) feet in length.
6. No street trees shall be planted that may intrude upon or interfere with any overhead utility wire or any underground waterline, sewer line, transmission line or other utility.

C. Roadside Tree Removal and Replacement of Healthy Trees

To address requests for tree removal when the tree is not diseased, dying or otherwise injured, the Town and the Maryland Department of Natural Resources, Forest Service, developed a policy document that permits affected residents the opportunity to enter into a contract to have a tree removed and replaced.

The following conditions apply for any property owner requesting removal of an otherwise healthy roadside tree:

1. All costs associated with removal and replacement of trees will be paid by the individual. Replacement costs are paid directly to the Town.
2. All requests are subject to review by the Town Tree Committee and the Forest Service. Any decisions made by either reviewing agency are final. Any appeal is subject to the appeal process as defined in the State Roadside Tree Law.
3. For each tree removed, one (1) tree will be replaced in the same or similar location.
4. The roadside tree permit will be issued by the Forest Service directly to the resident after the Town has received the following:
 - a. Tree replacement funds
 - b. Contractor information

Should a tree be found to be hazardous as determined by the Forest Service, tree removal and replacement costs will be the responsibility of the Town of Bel Air.

D. Cost

The cost of planting and maintaining trees within public rights-of-way and/or acquired easements shall be financed by the Town of Bel Air except as indicated in Section 435-5.B of this Ordinance.

E. Easements

The Town Tree Committee shall have the right to receive, from property owners, rights to plant and maintain trees on the private property of such property owners within 10 feet of the boundary of a public area. Such easements shall be in writing, executed and acknowledged by such property owners, and shall be recorded and registered. Such easements, when obtained, shall then thereafter be public areas insofar as the trees situated thereon are concerned and shall be replaced and maintained by the Town in the same manner as other trees in public areas. The Commission shall have no power to take

or condemn any such easement. Such easements shall be, insofar as possible, uniform.

F. Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

G. Diseased, dying or nuisance trees on private property

The Town may require the removal of any hazardous trees or branches on private property within the Town when such trees or branches constitute a safety hazard to vehicle and/or pedestrian traffic in the Town right-of-way, hazard of life and/or property, or harbor insects or disease which constitutes a potential threat to other trees within the Town. The Town will notify the owners of such trees in writing. Removal or pruning shall be done by said owners at their own expense within 45 days of the date of notice. The removal or pruning should be supervised by a certified tree care expert on the Town's staff or performed by a Licensed Tree Expert. In the event of failure of the owners to comply with such notice, the Town will remove or prune the subject trees and charge the cost of service to the property owner. Said cost may be a lien on the property upon which tree is located and may be collected in the same manner as the collection of delinquent taxes.

H. Topping

The practice of topping trees is discouraged. No person or firm engaged in the business or occupation of pruning, treating or removing trees should engage in the practice of tree topping within the Town except as provided for in cases where a tree has been severely damaged by storms or other causes or when a tree creates a dangerous condition relating to utility wires or other obstructions.

§ 435-6 TREE PROTECTION

No land disturbance within the critical root zone of a public tree is permitted unless adequate tree protection measures as noted in ANSI A300 Part 5: Tree, Shrub, and Other Woody Plant Maintenance—Standard Practices (Management of Trees and Shrubs During Site Planning, Site Development, and Construction) are installed. Construction other than public road and sidewalk repair within the critical root zone shall be subject to approved construction practices that promote and sustain root growth.

§ 435-7 ENFORCEMENT

A. Prohibited acts.

In the case of trees located in the public right-of-way, it shall be unlawful for any person to:

1. Prevent, delay, or interfere with the Tree Committee, Department of Public Works

and/or Department of Planning and Community Development, or any of its agents, while engaging in and about the planting, replanting, cultivating, mulching, pruning, spraying or removing of any street tree, park tree or tree on private property, as authorized in this chapter.

2. Cut, break, climb with spikes, disturb the roots, or otherwise injure or destroy trees, or to authorize such actions.
3. Cause or authorize a privately owned wire or other conductor charged with electricity to come into contact with any tree in a manner that may injure or kill it.
4. Cause or authorize any oil, gasoline, herbicide, paint, brine, hot water, steam or other gas, liquid, or solid substances deleterious to the tree to contact any tree or to enter the soil about the base or root systems of a tree in any manner that may injure or kill it.
5. Supervise or authorize construction, alterations, repair or demolition activities in the vicinity of any tree without first placing sufficient guards or protectors as shall prevent injury or destruction of said tree arising out of such activities.
6. Fasten any rope, wire, electric attachment, sign or other devices to a tree or to any guard about such tree, with the exception of holiday or ornamental lighting.
7. Remove or tamper with any object or device set for the protection or treatment of any tree.
8. Pile any building material or make any mortar or cement within six feet of a tree.
9. Have a fire within 10 feet of a tree.
10. Hitch or fasten any animal or vehicle to any tree.

B. Violations and penalties.

Any violation of this chapter is declared to be a municipal infraction. The penalty for violations shall be as provided in Chapter 1, Article II of this Code.

C. Appeals.

Any aggrieved party may appeal an unfavorable decision to the Board of Town Commissioners within 10 working days after receipt of the Committee's or any Department's decision. After its review, the Board of Town Commissioners may affirm, reverse or modify the decision by resolution within a sixty-day period from the date of the appeal. The decision of the Board of Town Commissioners shall be final.

BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect

April 30, 2018.

INTRODUCTION: April 2, 2018
PUBLIC HEARING: April 16, 2018
ENACTMENT: April 16, 2018
EFFECTIVE: April 30, 2018

AYES:
NAYS:
ABSENT:

Susan Burdett, Chairperson
Board of Town Commissioners

Michael Krantz, Town Clerk