

John Long

From: Tori Antonino <toriantonino@me.com>
Sent: Wednesday, April 11, 2018 6:33 PM
To: City Clerk Contact
Cc: reneetscott@gmail.com; David Falk; Katjana Ballantyne
Subject: Fwd: Maryland Native Planting Ordinance and support for planting groundcover underneath city trees
Attachments: Ordinance chapter 65 weed abatement 3-13-08 copy.doc

To the City of Somerville,

For the record I would like to submit this below exchange I recently had with Professor Doug Tallamy, entomologist at the University of Delaware, and pioneer using native plants to restore the ecosystem in our public spaces and in our backyards.

I have been advocating for a Native Planting Ordinance, the need to use groundcover (not mulch) underneath our public trees, and the necessity of planting maximum 1 inch caliper trees to insure survivability and vitality in our millions of dollar investment in our Urban Forest.

I asked Professor Tallamy, expert in the field, to support my assertions, most of which I have learned from reading his books and listening to his lectures.

In Legislative Matters the Tree Preservation Ordinance specifies that a public tree does not receive a hearing if it is 2" in diameter ABH. I think this diameter needs to be lower because we need to plant smaller trees. Or maybe this ordinance can read no 'public hearing is needed for trees that are less than 1 1/2 ', unless otherwise specified.

It would be nice to close the Tree Preservation Ordinance so that the Urban Forestry Committee can be constituted.

Currently in the OSEE Committee is an order for the city to draft a native Planting Ordinance. They have yet to respond. Doug Tallamy attached a Native Planting Ordinance used in Maryland to inspire us.

Finally there needs to be improvements in the zoning overhaul. We need to require that newly planted trees be less than 1" in diameter ABH and that groundcover needs to be planted under all trees. Heaps of mulch is not healthy for trees nor the environment, as mulch/bare dirt is a significant contributor of carbon into the atmosphere.

Thank you for your attention,

Green and Open Somerville

Tori Antonino

With support from
Renée Scott
David Falk

Begin forwarded message:

From: "Tallamy, Douglas W" <dtallamy@udel.edu>
Date: April 10, 2018 at 3:34:08 PM EDT
To: Tori Antonino <toriantonino@me.com>

Cc: Green & Open Somerville <greenopensomerville@gmail.com>, David Falk <dfgardening@gmail.com>, Renee Scott <reneescott@gmail.com>, Katjana Ballantyne <katjana@katjana.org>

Subject: Re: Maryland Native Planting Ordinance and support for planting groundcover underneath city trees

Hi Tori,

Keep up the good work. I am attaching the ordinance here for you. Your description of why mulch is not the way to go is right on. It also is a magnet for weeds. Rick Darke and I had lots to say about mulch in The Living Landscape. As for trees, even 1" caliper is too big. There is no way you can grow a 1" caliper tree in a pot without it being lethally pot bound by the time you plant it. And if it is grown in the ground you have to root prune it to within an inch of it's life. I know it's hard to believe but starting with very small trees that don't have to go through years of transplant shock will give you larger, healthier trees than planting the big guys in just a few years. It also will save the city tens of thousands of dollars, something that should catch their interest.

Good luck

Doug

From: Tori Antonino <toriantonino@me.com>

Sent: Tuesday, April 10, 2018 2:48:12 PM

To: Tallamy, Douglas W

Cc: Green & Open Somerville; David Falk; Renee Scott; Katjana Ballantyne

Subject: Maryland Native Planting Ordinance and support for planting groundcover underneath city trees

Hello Professor Tallamy,

My name is Tori Antonino from Somerville, Massachusetts. I was at your lecture at the Peabody Essex Museum on Friday April 6th.

1) My activist group, Green and Open Somerville (cc'd here), is trying to pass a native planting ordinance. You mentioned that there was a native planting ordinance in Maryland that you would send me. Would you send that to me?

2) Green and Open Somerville and our intrepid Alderwoman (cc'd) are currently working with the city on a zoning overhaul which includes something called the Green Score, an environmentally friendly landscaping ordinance.

- In it, it says that *tree must be three inches in diameter and 10 ft tall when planted*. We think that is too big a tree and we need to plant smaller trees in order to have a more successful rate of establishment and survival. We think planting, at most 1" caliper trees with protective fencing should be the way to go. We're thinking of nursing our own trees from seed for the city to use and encourage community planting instead of paying a contractor \$1,000 dollars to plant a tree.
- The Green Score also describes that *newly planted (and other) trees and surrounding soil should be covered uniformly with 3" of mulch*. We are trying to convince the city that the philosophy that planting anything under trees takes water away from the roots is outdated and that it is imperative to plant ground cover underneath a tree.

- Ground cover holds the water in and makes it more accessible to tree roots whereas water held in mulch will evaporate and if applied improperly could rot the trunk. Ground cover increases the necessary microbes and fungi a tree needs to survive . Native ground cover could provide habitat for our native insects. Ground cover is prettier than mulch.

I can't imagine how busy you are, but if you have a moment to reply to this email and scribble a few lines on the importance of planting ground cover underneath trees and the importance of planting smaller trees for increased survival rates (if you agree), Somerville's urban forest and wildlife will be in your debt. We are meeting with the city to talk trees next week, Thursday April 19th, I would love to share your your thoughts with them.

Regardless, they will be receiving a copy of your signed book for their reference.

Thank you for the continued inspiration,

Green and Open Somerville
Tori Antonino
Renee Scott
David Falk

**CITY OF HYATTSVILLE
ORDINANCE 2008-0__**

An Ordinance whereby the City Council amends and clarifies the conditions constituting obnoxious growth of grass and weeds and provides consideration of factors that permit exceptions in certain circumstances for areas actively maintained for uses other than lawns.

WHEREAS, Maryland Annotated Code, Article 23A, Section 2 grants to municipal corporations of the State of Maryland, including the City of Hyattsville, the power to protect the health, comfort and convenience of their residents; and

WHEREAS, the Mayor and City Council deem it in the best interest of its residents to more clearly describe the conditions constituting violations of the brush, grass, and weeds ordinance, as well as provide exceptions to permit areas actively maintained for uses other than lawns.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Hyattsville in regular session assembled that Sections 65-25 and 65-26 of the Hyattsville Code are hereby amended to read as follows:

ARTICLE VI

Brush, Grass and Weeds

65-25. Accumulation of debris; obnoxious growth of grass or weeds.

A. No owner or occupant of property in the city shall cause or permit **TRASH, REFUSE OR** debris to accumulate or remain upon his/**HER** property so as to constitute a menace to health or a menace to public safety or a fire hazard or a public nuisance or a nuisance to adjoining property owners or an obstruction to the free passage of persons using the sidewalks or streets contiguous to the property.

B. No owner or occupant of property in the city shall cause or permit weeds, grass, thickets or other growth to grow upon his/**HER** property so as to constitute a menace to health or a menace to public safety or a fire hazard or a public nuisance or a nuisance to adjoining property owners or an obstruction to the free passage of persons using the sidewalks or streets contiguous to the property. **GRASS OVER TEN INCHES (10") TALL SHALL CONSTITUTE A PUBLIC NUISANCE ABSENT A FINDING AS OUTLINED IN SUBSECTION (D) BELOW.**

C. IN DETERMINING WHETHER AN AREA IS IN VIOLATION OF PARAGRAPH B, THE CITY SHALL CONSIDER THE FOLLOWING FACTORS:

- (1) EVIDENCE OF NEGLIGENCE OR ABANDONMENT
- (2) PRESENCE OF TRASH, DEBRIS, LITTER OR GARBAGE
- (3) THE IMPACT ON NEIGHBORING PROPERTIES AS TO ENCROACHMENT OF VEGETATION ON NEIGHBORING PROPERTIES AND RIGHTS OF WAY, AND
- (4) THE IMPACT ON HEALTH OR PUBLIC SAFETY.

D. AN AREA WHICH IS BEING ACTIVELY PROTECTED, MAINTAINED, OR CULTIVATED FOR A USE OTHER THAN A LAWN, SUCH AS A WILDFLOWER GARDEN, WILDLIFE HABITAT, MEADOW, OR VEGETABLE OR HERB GARDEN, SHALL NOT BE CONSIDERED A VIOLATION OF PARAGRAPH B, WITHOUT A THREAT TO HEALTH OR PUBLIC SAFETY, A FIRE HAZARD, A SUBSTANTIAL AND UNREASONABLE INTERFERENCE WITH THE USE AND ENJOYMENT OF NEIGHBORING PROPERTY, OR AN OBSTRUCTION OF PUBLIC RIGHTS OF WAY.

E. A FINDING THAT AN AREA IS BEING ACTIVELY PROTECTED, MAINTAINED, OR CULTIVATED FOR A NON-LAWN USE SHALL BE BASED ON CONSIDERATION OF THE CIRCUMSTANCES IN THE AREA, INCLUDING BUT NOT LIMITED TO, FAVORABLE CONSIDERATION OF THE FOLLOWING FACTORS:

- (1) PRESENCE OF NATIVE PLANT SPECIES
- (2) PRESENCE OF WILDFLOWERS, VEGETABLES, OR HERBS
- (3) PRESENCE OF THE FOUR REQUIREMENTS FOR WILDLIFE: FOOD (WHICH MAY COME FROM PLANTINGS OR FEEDERS), WATER, PLACES TO TAKE COVER, AND PLACES TO RAISE THEIR YOUNG
- (4) PRESENCE OF WILDLIFE, SUCH AS BIRDS, SQUIRRELS, SPIDERS, AND INSECTS
- (5) EVIDENCE PROVIDED BY THE LANDOWNER TO ESTABLISH ACTIVE INVOLVEMENT IN PROTECTING, MAINTAINING, OR CULTIVATING THE AREA, WHICH MAY INCLUDE CERTIFICATION BY A RECOGNIZED STATE OR NATIONAL WILDLIFE OR NATURAL HABITAT ORGANIZATION

F. NATIVE PLANTS SHALL BE THOSE LISTED BY THE UNITED STATES FISH AND WILDLIFE SERVICE FOR THE PIEDMONT OR COASTAL PLAIN AREAS OF MARYLAND, AS WELL AS THOSE LISTED BY THE MARYLAND DEPARTMENT OF AGRICULTURE.

§ 65-26. Procedure for abatement of violation. [Amended 7-20-70; 6-28-76, and 11-4-91 by HB No. 6-91]

A. Upon complaint that a condition exists prohibited by §65-25 and upon inspection by the Code Enforcement Officer and a determination that ~~[it does exist, he]~~ **A CONDITION DOES EXIST THAT VIOLATES §65-25, THE CODE ENFORCEMENT OFFICER** shall notify the owner ~~[or]~~ **AND THE** occupants of the property, by causing a copy of such notice to be prominently ~~[tacked]~~ **AFFIXED** to the property or by personally serving upon the owner ~~AND/or~~ occupants of the property a copy of said notice, ~~[to remedy the condition within five (5) days after said notice has been tacked or personally served]~~ **AND BY MAILING VIA REGULAR MAIL A COPY OF THE NOTICE TO THE RESIDENCE AND TO THE OWNER. THE NOTICE SHALL BE DATED AND STATE WITH SPECIFICITY THE NATURE OF THE CONDITION, THAT THE CONDITION MUST BE REMEDIED WITHIN EIGHTEEN (18) DAYS (MORE DAYS MAY BE SPECIFIED IN THE NOTICE) OF THE POSTING DATE OF THE NOTICE, THAT UPON FAILURE TO REMOVE/ABATE SUCH WITHIN THE TIME SPECIFIED, THE CITY WILL REMOVE/ABATE IT, AND THE COST THEREOF WILL BE CHARGED TO HIM, HER, THEM AS THE CASE MAY BE, UNLESS CAUSE TO THE CONTRARY BE SHOWN BY FILING OBJECTIONS IN WRITING WITH THE OFFICE OF CODE ENFORCEMENT ON OR BEFORE THE EXPIRATION DATE ON THE NOTICE.**

B. IF TIMELY OBJECTIONS HAVE BEEN FILED IN ACCORDANCE WITH THE PRECEDING PARAGRAPH, THE APPEAL OF THE SPECIFIED ACTION SHALL BE HELD PURSUANT TO SECTION 96-6 OF THIS CODE EXCEPT THAT NO APPEAL FEE SHALL BE REQUIRED; THE MAYOR AND CITY ADMINISTRATOR SHALL SELECT AT LEAST TWO PERSONS WITH EXPERTISE IN BOTANY AND HORTICULTURE TO ADVISE ON THE RECORD THE BOARD HEARING THE APPEAL; AND THE EARLIEST DATE THE CITY MAY BEGIN TO REMOVE OR ABATE THE CONDITION, ABSENT EMERGENCY CIRCUMSTANCES, SHALL BE THREE (3) DAYS AFTER THE APPEAL PROCESS HAS BEEN CONCLUDED. THE APPELLANT MAY CALL SUCH WITNESSES AS HE OR SHE CHOOSES FOR THE HEARING OF THE APPEAL.

C. Upon failure of the recipient **EITHER** to comply with such notice **OR TO FILE TIMELY OBJECTIONS**, the City of Hyattsville shall authorize ~~[the Public Works Department to perform the work]~~ or employ persons to perform said work, who shall have the right of entering the premises for that purpose, and the cost thereof shall be assessed against the property owner by the City of Hyattsville. ~~[; provided, however, that within five (5) days of tacking or service of the notice, the owner or occupants of the property may request a hearing before the [Health and Sanitation Committee and] show cause why the condition does not need remedying and/or why the condition will require more than [five (5) days] in order to be remedied. [Such]~~

D. If the City of Hyattsville shall have the work performed or shall employ persons to perform said work and if the cost thereof as so assessed shall not be paid ~~[by the property owner]~~ within thirty (30) days after ~~[notice of the city to remedy the condition and]~~ a request for payment has been given to the owner or occupant of the property; such cost, as contained in a statement provided to the Treasurer by the ~~[Director of the Public Works Department]~~ **HEAD OF CODE**

ENFORCEMENT, showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done, shall be charged to the owner of such property by issuance of a supplemental tax bill. Such tax bill shall constitute a lien on such property and shall be collected in such manner as the city may establish.

AND BE IT FURTHER ORDAINED that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable;

AND BE IT FURTHER ORDAINED that this Ordinance shall take effect twenty (20) days from the date of its adoption;

AND BE IT FURTHER ORDAINED that a fair summary of this ordinance shall forthwith be published twice in a newspaper having general circulation in the City and otherwise be made available to the public.

INTRODUCED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on _____, 2008.

ADOPTED by the City Council of the City of Hyattsville, Maryland, at a regular public meeting on _____, 2008.

Adopted: _____

Attest: _____

Mayor

[] indicate deletions
CAPS/**BOLD** indicate additions

§ 96-6. Appeals procedure.

A. Any persons aggrieved by an action of a Code Enforcement Officer under this chapter may appeal such an action by filing a written notice thereof with the head of Code Enforcement within fifteen (15) calendar days of the action complained of. The head of Code Enforcement shall promptly schedule a conference with the appellant and any other party the head of Code Enforcement may choose. After such conference, the head of Code Enforcement shall promptly issue a written opinion to the Appellant.

B. In the event the Appellant is dissatisfied with the opinion of the head of Code Enforcement, the Appellant may further appeal the finding of the head of Code Enforcement to the City Administrator and Mayor by filing a written appeal along with payment of the proper appeal fee in the amount established by the Mayor and City Council. And such appeal must be filed with the City Administrator within fifteen (15) calendar days of the written opinion of the head of Code Enforcement. Within fifteen (15) days of such filing, a hearing shall be conducted before such person(s) as the City Administrator and Mayor designate for such purpose. The hearing shall be open to the public, records and minutes shall be maintained and the person aggrieved and the Code Enforcement Department shall be given an opportunity to present evidence. The person(s) hearing the appeal shall, within ten (10) days, either reverse, modify or affirm the action complained of and cause a written copy of their decision to be sent to the person aggrieved. This decision shall be final.

C. An appeal shall not operate to stay any of the provisions or requirements of this chapter unless the head of Code Enforcement or City Administrator as applicable shall otherwise order.