

# TREE PROTECTION ORDINANCE COMPARISON

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TOPIC	CURRENT TPO	PLANNING DEPT DRAFT	CITIZENS BLENDED DRAFT
<p><b>Appeals &amp; Posting</b></p>	<p>Appeals for trees on private property are allowed by residents of the NPU. Appeals for trees on public property are allowed for any resident of Atlanta or business located in Atlanta. Posting is required for all trees to be removed except for dead, diseased or hazardous (DDH) trees.</p> <p><i>Appeals are usually filed near the end of the permitting process when it is least feasible and more costly to alter plans to protect trees. The Citizens Draft Pre-Application Conference (listed below) solves this problem.</i></p>	<p><u>Regressive:</u> Appeals limited only to adjacent property owners, and only if their tree(s) would be impacted. Also, if the applicant meets the Priority Tree preservation standard, and sends a letter to the adjacent neighbor, there is no posting of the trees to be removed so the public never knows about the tree removal.</p> <p><i>This effectively eliminates the appeals process and allows the City Arborist sole discretion for which trees are protected or allowed to be removed with no oversight and no ability to appeal erroneous decisions.</i></p>	<p><u>Significant improvement:</u> Appeals can be made by any resident of the NPU or adjacent NPU of the subject property. Posting is required for all trees to be removed except for dead, diseased or hazardous (DDH) trees (as currently done).</p> <p><i>Ensures the process has checks and balances. Originally, appeals could be made by any resident of the City of Atlanta. Blended Draft NPU designation gives the right of appeal to residents living near the location of the proposed tree(s) removal without including residents living far from the tree removal site.</i></p>
<p><b>Tree Preservation: Single Family Residential</b></p>	<p>City Arborist allows trees to be removed without limitation for building projects. Tree removal in setbacks can be appealed.</p> <p><i>Current language encourages trees in setbacks to be preserved, but it is not required, and the City Arborist routinely approves removal of trees in setbacks.</i></p>	<p>Applicants allowed to either (1) remove up to 50% of Priority Trees even if removal is not necessary or (2) accept a smaller area of Limits of Disturbance on the lot.</p> <p><i>This encourages applicants to simply cut the largest trees to clear space on the lot while still meeting the “preservation” requirement.</i></p>	<p><u>Significant improvement:</u> Applicants may not remove Priority Trees unless they cannot achieve their Limits of Disturbance area. Applicants are guaranteed a building “footprint” commensurate with current allowable lot coverage.</p> <p><i>The Limits of Disturbance area is similar to that proposed in the Planning Dept. draft.</i></p>
<p><b>Tree Preservation: Commercial and Multi-family</b></p>	<p>None</p>	<p>None</p>	<p><u>Significant improvement:</u> Requires 20% of the site as Tree Save Area or greenspace/planted tree area, with 30% for multi-family or residential use sites. Innovative flexibility in meeting the requirement includes payment-in-lieu to the Tree Trust Fund with funds dedicated to purchasing greenspace, and “cap-and-trade” which allows protecting an equivalent area on another site.</p>

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			<i>The higher 30% requirement for multi-family and residential use ensures all residents have access to at least a minimum area of trees and greenspace for health and livability.</i>
<b>Pre-Application Conference</b>	None	Pre-Application conference is mentioned but no clear standards are provided.	<u>Significant improvement:</u> Gives applicants the right to resolve all tree protection/removal planning prior to submitting their full application package to the city, even before the applicant may have purchased the property. Posting and Appeals take place at this early planning stage. A clear list of standards and protocols is provided.  <i>Both developers and citizens like this approach which is optional, not required.</i>
<b>Tree Trust Fund</b>	The Tree Trust Fund (TTF) is authorized to: spend money for education, purchase of land, planting trees, and preparation of an Urban Forest Master Plan.  <i>A City audit in 2020 found numerous instances of the Planning Department's improper use of funds.</i>	Removes Tree Conservation Commission's role and gives the City Planning Department sole discretion over Tree Trust Fund expenditures and the amount of salaries paid from the Tree Trust Fund.	Restores the role of the Tree Conservation Commission and requires the Planning Department to obtain budget approval from City Council and Tree Conservation Commission.
<b>Special Tree Removal Option for Homeowners</b>	None	Homeowners able to remove a single healthy Non-Priority Tree of any size, or two healthy Non-Priority Trees with a combined DBH equal to or less than 18 inches, every three years for any reason, with no Recompense owed and no Replanting required.  <i>This is Citizens Draft idea, adopted by PDept.</i>	<u>More flexibility than Planning Dept draft.</u> Homeowners can remove one or more non-Priority trees with combined dbh up to 20.
<b>Tree-Care Assistance to Low-Income Homeowners</b>	None	Provides funding assistance to low income homeowners from the Tree Trust Fund for assessment and removal of hazardous trees.	Same as Planning Dept draft.

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		<i>This is Citizens Draft idea, adopted by Planning Department..</i>	
<b>Variances</b>	<p>City Arborist allows applicants to remove trees in association with areas granted zoning variances, including trees in setbacks.</p> <p><i>This commonly functions as an end-run around the tree ordinance, allowing trees to be cut with no oversight by the City Arborist and no appeals process.</i></p>	Loophole, same as current tree ordinance.	<u>Significant improvement:</u> Trees proposed to be removed due to a zoning variance must first be approved for removal by the City Arborist, on values independent to the variance request.
<b>Removal of trees from floodplains and stream buffers</b>	<p>Allows 10% of trees to be removed from a designated wetland or 100 year floodplain. for no reason. Boundary Trees in stream buffers not clearly protected.</p> <p><i>Allows removal of trees in wetlands and floodplains for no reason. Functions as a way for developers to encroach/impact on floodplain areas that would otherwise be protected.</i></p>	Unchanged from current tree ordinance.	<p><u>Significant improvement:</u> Trees may not be removed from floodplains. Boundary Trees within steam buffers are protected the same as other Boundary Trees.</p> <p><i>Ensures protection of the integrity of stream buffers and floodplains and the green infrastructure functions these serve for the City.</i></p>
<b>Boundary Trees</b>	Allows applicants to bypass the arborist process and remove a neighbor's tree that would otherwise be protected.	Loophole, same as current tree ordinance.	<u>Significant improvement:</u> A neighbor's or buffer area Boundary Tree may be impacted up to 20%, or up to 33% with permission and prescriptions, but not removed.
<b>Tree removal, landscaping projects</b>	<p>Allows removal of any tree.</p> <p><i>Functions as a loophole that allows removal of trees for a future intended construction project without submitting a tree plan.</i></p>	<p>Allows removal of Priority and Non-Priority trees for a landscape project.</p> <p><i>Continues current loophole.</i></p>	<u>Significant improvement:</u> Limits removal only to Non-Priority trees for landscaping projects.
<b>Priority Tree Definition</b>	Special trees and specimen trees listed but not protected.	Tree Value list that defines protected trees omits many high value trees (such as some Dogwoods) and misclassifies the type and appropriate size value of many species of trees.	<u>Significant improvement:</u> Provides a complete list of trees in our region and sets values based on each species' qualities including ecosystem/green infrastructure contribution, long-lived character, and whether the tree is common or rare, etc.

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<b>Enforcement</b>	<p>Fines for illegal tree removal are limited to \$1000 per occurrence per day. The City arborist can issue criminal citations for violations of the tree ordinance.</p> <p><i>In practice, the City's 2020 audit report found that the city has not consistently collected fines, and the City does not use its authority to issue criminal citations. Fines have become an affordable cost-of-doing-business and do not serve as a deterrent to illegal tree removal. Fines are often viewed today as an inexpensive and practical alternative to cut trees by ignoring the tree ordinance and appeals process.</i></p>	<p>Fines remain the same as in current TPO, however, tree cutter businesses are listed (free of charge) as being approved to work within the City and can be unapproved to work in the City for up to one year after repeated violations. The penalty of the first violation, including illegal tree removal, is a written warning, with those with repeated violations receiving a 6-12 months ban on working within the City.</p> <p><i>Citizens agree this is moving in the right direction but still is not a strong deterrent to illegal tree removal.</i></p>	<p>Same approach as the Planning Department but strengthened by making both the property owner and tree cutter or other contractor responsible for violations. For code violations that do not result in killing trees, penalties are less, but for repeated illegal tree cutting, penalty for contractor results in being banned from working in the City for 3 years. Police are given authority to arrest responsible parties for illegal removal of trees on the simple condition that a tree removal permit is not present when asked for on a site where a tree is being cut down.</p>
<b>Setback Tree Protection</b>	<p>Setback tree removal may be appealed.</p> <p><i>Arborists typically allow setback tree removal.</i></p>	<p><u>Regressive:</u> Setback tree protection eliminated.</p>	<p><u>Significant improvement:</u> Restores and strengthens language for setback tree protection and protects Priority Trees in setbacks.</p>
<b>Dead, Dying &amp; Hazardous (DDH) Trees</b>	<p>Allows City Arborist to approve removal of DDH trees without posting or appeals. No recompense paid.</p> <p><i>City Arborists define DDH trees inconsistently, without clear standards. Developers routinely apply to have as many healthy trees as possible classified as DDH in order to remove them and avoid paying recompense.</i></p> <p><i>In 2020 City arborists were reviewing applications only virtually (no site visits) yet approved 98% of DDH applications. In other years an average of 80% of trees applied as DDH were approved. It is not uncommon to see site plans where 1/3 or more of the trees on a site are applied to be considered DDH, though usually far fewer are approved with Arborist on-site visits.</i></p>	<p>Same as current tree ordinance.</p>	<p><u>Significant improvement:</u> Same process for allowing DDH trees to be removed as current ordinance but includes clear and biologically correct standards to ensure the City Arborist makes consistent decisions on which trees are considered to be DDH.</p>

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<p><b>Recompense Fees and Replanting</b></p>	<p>Standard recompense value is calculated as \$100 per tree plus \$30 per diameter inch. Value of trees planted is subtracted from recompense owed. On some sites a “maximum recompense” fee varies from \$5,000-\$10,000 per acre, prorated. The number of caliper inches of trees replanted must equal the number of dbh inches of trees removed.</p> <p><i>Very low recompense values are not a deterrent to tree loss but are a minor cost of doing business for the construction industry. The maximum recompense cap results in greatly reduced fees for large areas of clearcutting. The City has not updated recompense values since 2003.</i></p>	<p>Recompense \$ value is “based on the market rate to plant a 2.5 Caliper inch canopy tree and maintain it for two years.” (This cost is currently valued at about \$240 per diameter inch.) Recompense is only owed if the number of lost tree diameter inches is more than the number of planted tree caliper inches, and applicants are encouraged to plant trees on private property, with an undefined guarantee by the private property owner, so that trees planted to meet the requirement will not be cut for 10 years, but no clear mechanism for tracking such trees is defined. Requires planting new trees based on the number of inches cut down, even if there is not enough room on the lot to plant all the new trees.</p> <p><i>Effectively requires more trees to be planted than will fit on many properties, so that planting to reduce the recompense requirement will be largely off site without any guarantee the City will benefit from these plantings in a time frame where such trees could actually grow to maturity. Geared to enable applicants to pay little or no recompense to the Tree Trust Fund, yet the quality and long-term survival of the trees planted to offset reduced recompense payments is not guaranteed or reasonably trackable.</i></p>	<p><u>Simplified process, more practical process and better result:</u> Recompense \$ value is the same as in the Planning Department draft. Recompense is calculated also by the number of cut diameter inches minus the number of planted caliper inches, however, the requirement to plant new trees is based on the amount of space available on the site, with different soil area requirements for overstory, midstory and understory trees. There is also an added discount for newly planted trees so that, inch per inch, it costs less to plant trees than to pay recompense.</p> <p><i>This is much simpler to administer, ensuring some fees will be paid in recompense while at the same time ensuring healthy replanting.</i></p> <p><i>Citizens’ innovative approach recognizes it’s not beneficial to require planting more trees than can reasonably grow to maturity on a lot, and that most public places in the City have already largely been planted. Citizens draft creates a way to plant a mix of overstory, midstory and understory trees that allows an applicant to plant more trees, while ensuring a healthier diversity of trees being planted for the City’s urban forest.</i></p>
<p><b>Urban Forest Master Plan</b></p>	<p>The ordinance provides for the development of an urban forest master plan by the city forester, city arborist and the TCC.</p> <p><i>This is notable because it shows that the Planning Department has violated the ordinance since it was enacted by failing to develop an Urban Forest Master Plan.</i></p>	<p>Allows for Tree Trust Fund monies to be used to create the Urban Forest Master Plan but does not require its creation.</p>	<p>Requires the preparation and implementation of an Urban Forest Master Plan with supervision of the process by the Tree Conservation Commission.</p>

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<p><b>Stated goal of the Tree Protection Ordinance</b></p>	<p>No net loss of trees within the boundaries of the city.</p> <p><i>Atlanta continues to lose trees at an unprecedented rate.</i></p>	<p>The ordinance goal is to “<u>reverse canopy loss over time</u>”</p> <p><i>This is a regressive goal because it can be met even if significant canopy loss continues; reversal of canopy loss is indicated at a vague, unknown point in the future. This goal does not value the preservation of trees, and it allows the continued loss of high value trees, replacing these with lower value trees in lower value locations that reduce the benefits of Atlanta’s tree canopy on an ongoing basis.</i></p>	<p>Ensures high-quality urban forest ... so that there will be no net loss of quantity or quality of trees in the City.</p> <p><i>The Blended Draft will protect and enhance Atlanta’s tree canopy. The Planning Department draft will result in loss of tree canopy.</i></p>