

City of Atlanta Tree Ordinance Update: DWM Issues and Proposed Revisions

*Department of Watershed Management
June 3, 2011*

The Department of Watershed Management (DWM) was requested to submit comments on the upcoming update of the City of Atlanta Tree Ordinance. There are 3 categories where DWM work intersects with the tree ordinance:

1. permitting of development
2. utility construction projects
3. watershed improvement projects

During internal meetings held to develop a list of proposed ordinance revisions, a number of issues were brought up concerning how the ordinance is administered, and how DWM could more efficiently and effectively manage its compliance with the ordinance. This report will serve as the basis for further discussion during the upcoming input process.

Proposed Ordinance Revisions

PERMITTING AND STORMWATER

Intent	Sec. 158-28 Include stormwater management, environmental protection as broader goals of the ordinance
Parking lot requirements	Sec. 158-30 Barrier curbing needs to be designed to allow sheet flow into landscaped areas for stormwater infiltration. Consider adding a spec for tree wells and stormwater design.
Conflicts between ordinances	Tree protection is currently in a conflicting arrangement between enforcers of different ordinances (Riparian Buffer, Post Development Stormwater, Floodplain, etc.). For instance, a builder may be able to avoid taking down trees if he is allowed an Authorized Encroachment into the buffer; on the other hand, the Buffer Technical Review Panel may disallow an Authorized Encroachment if they don't think the tree is more valuable than buffer protection in that particular case. <i>Should the Tree Ordinance offer explicit direction for this issue?</i>
Street tree requirements	If the tree ordinance revisions will include adding requirements for street trees, then there should be allowances in design for stormwater infiltration.

UTILITY CONSTRUCTION PROJECTS AND WATERSHED IMPROVEMENT PROJECTS

Consent Decree projects	Sec. 158-101(j) Anything that applies to Consent Decree projects needs to apply to all utility work and watershed improvement/restoration projects.
Letter of Understanding	Sec. 158-101e2eii(d) The “letter of understanding” between the DWM and DRPCA doesn’t always occur as stated in the ordinance. Is there another joint understanding method that is currently taking place or would another method be better?
Payment in lieu of recompense	158-101(j) Allow payment in lieu of recompense planting on public property, similar to the allowance on utility easements over private property. Mirror the BOB requirements.
Use of tree recompense funds	Sec. 158-66 Allow use of Tree Trust Funds for planting as well as a broader list of activities focused on healthy urban forest management (e.g. invasive removal/forest restoration) on public land.
Live stakes	Sec. 158-26, Sec. 158-101 Live stake section should be reworked to clarify: -primary purpose is bank stabilization, with addl. benefit of establishing trees. This purpose will drive spacing and thus expected maturity rates. -guarantee period -additional species -expected survival rates
Invasive Removal	Sec. 158-101 This section needs to be expanded and clarified.
Replacement tree requirements: size, spacing, genetics	Sec. 158-103 Much of the nursery stock is cultivars or clones, especially in the larger sizes, the overuse of which leads to genetic uniformity. In natural areas, this could be mitigated by having provisions for planting smaller seed-grown stock or allowing for some natural regeneration of disturbed areas with some specific management provisions. The required spacing is geared more toward specimen or street tree plantings rather than forested areas. More flexibility is needed.

Administrative issues:

- SOP for following the ordinance is needed from BOB and DPRCA
- Letter of Understanding – process needs clarification
- Consider flexibility in planting season date
- DPRCA seems to be making a good faith effort to identify public areas where trees are needed, but this is still not sufficient for the amount of recompense DWM needs to plant. We need a broader list of opportunities to provide recompense. Suggestions include:
 - Figure out ways to calibrate a broader range of environmental protection and natural resource restoration (bank stabilization, restoration) as a goal. For instance, an expanded definition of invasive removal and long term forest management, square footage of reclaimed parkland.
 - Stormwater infiltration using green infrastructure techniques (rain gardens, green roofs, bioswales, etc.). This would apply only to projects that aren’t already mandated to meet stormwater requirements.

- Live stakes – allow more flexibility
- Could we consider acquisition of conservation easements as our recompense? 158-103 (c)7
- Allow for tree grate enlargement on city streets and in city property to receive tree recompense credit at 2X the caliper inch of the tree being saved. A 10” caliper tree would be given 20” recompense credit.

DWM ISSUES:

DWM could benefit from procuring a single Tree Management Contractor to manage its recompense, perhaps using DWM’s annual paving contract as a model. This would help alleviate some of the following issues that are occurring:

- Tree recompense is handled differently from contract to contract, project to project, resulting in inefficiencies
- The cost for preparation of tree plans and tree planting varies widely from contract to contract.
- Many DWM construction contracts do not have live stakes or removal of invasive species as a bid item.
- Tree permit and tree warranties often outlast the term of construction contracts. The issue here is that the contract schedule doesn’t always line up with the planting season.
- Contracted tree surveyors do not always differentiate between pines/hardwoods, DDH, etc., which results in DWM paying recompense on more trees than necessary.
- DWM needs an internal SOP clarifying what, where, when and how everything needs to be done, both for city owned property, private property, in sewer easements, in the different types of Greenway properties and where ever else required.

Thanks to the following staff who contributed to this report:

Anthony DiStephano, Engineering
 Bill Brigham, Watershed Protection
 Andrew Walter, Watershed Protection
 Diane Badger, Engineering
 Julie Todd, Watershed Protection
 Susan Rutherford, Watershed Protection
 Lowell Chambers, Watershed Protection
 Chuck Adair, Watershed Protection
 Walt Rekuc, Watershed Protection
 Cory Rayburn, Watershed Protection
 Alex Comer, Watershed Protection
 Renee Shepherd, Law
 Patrick McShane, Law