



City of New York Parks & Recreation



New York City Council Committee on Parks & Recreation

Introduction Number 4 of 2010 (replacement of trees)

February 23, 2010

**Testimony by
Fiona Watt
Assistant Commissioner for Forestry and Horticulture**

INTRODUCTION

I would like to thank Chair Melissa Mark-Viverito and members of this committee for inviting us back to discuss the regulation of tree removal and replacement on Parks' property. We are pleased that you have chosen this topic for the first hearing of the new Committee on Parks and Recreation, and your interest in protecting trees demonstrates the Council is acutely aware of the myriad benefits of our urban forest. We look forward to working with both the new and returning members to the committee on this and many other Parks-related issues.

TREE PLANTING AND CARE UPDATE

Since the last hearing on this topic in September 2009, we have been hard at work planting trees and making New York a better place for them to thrive. In the past six months, we have planted an additional 61,135 trees, for a total of 315,678 planted since the kickoff of the MillionTreesNYC campaign in 2007. That's an average of one new tree planted about every four minutes! This pace – we are ahead of our schedule to plant one million trees by 2017 – is due to the support of private/public partnerships, stewardship by private citizens, and the leadership of our city's elected officials.

We're also continuing to raise awareness of the MillionTreesNYC initiative and to empower our citizens to care for the city's tree canopy, whether it is growing in a park or in front of their home. This past fall, with the leadership of our MillionTreesNYC partner, New York Restoration Project, we launched Put Down Roots, a campaign to invite homeowners throughout the city to plant trees in their yards and acquire the tools necessary to care for them in the long term. NYRP reaches out to homeowners, fosters tree giveaways, and even goes door-to-door, delivering and helping to plant free trees for people who have requested them.

As we mentioned at the last hearing, we are also partnering with several key not-for-profit organizations to develop the MillionTreesNYC Stewardship Corps. Our city's botanical gardens and other major green organizations are reaching out to the community to offer continued

support to tree stewards. During 2009, the Stewardship Corps offered 85 free tree care workshops to New York City residents. Throughout the 5 boroughs, 1,070 individuals learned how to take care of the trees that were planted in their neighborhood. Attendees received training in basic stewardship skills, including watering, weeding, and mulching and other ways to improve the quality of local tree beds, such as planting flowers and building tree guards. We are pleased that our lead partners for the Stewardship Corps have renewed their support for 2010.

We are also using New York as a living laboratory, where we are able to bring top researchers from a variety of fields together to study the effects of increasing tree canopy on the urban ecosystem. We are hosting the MillionTreesNYC 2010 Research Symposium next week on March 5th and 6th at the New School, where we have invited speakers and researchers from around the world to come together to meet and discuss a broad range of topics. Last year's event attracted more than 100 researchers, practitioners, and policymakers to discuss everything from air quality to forest health to green jobs and social justice, and we look forward to a similarly diverse and enlightening discussion this year.

INTRODUCTION 4 of 2010

It is crucial to protect and care for these newly planted trees, and that is why we are thankful that you have so carefully considered our prior testimony on Introduction 1047, while re-drafting Introduction 4 of 2010. This bill seeks to amend section 18-107 of the Administrative Code. As we noted in the last hearing, the Charter and the Administrative Code confer control over trees in parks and along streets. Moreover, the Rules of the City of New York title 56, chapter 1 section 1-04, state that “[n]o person shall deface, write upon, injure, sever, mutilate, kill or remove from the ground any trees under the jurisdiction of the Department without permission of the Commissioner.” However, we agree that it is wise to codify our methods for the valuation and appraisal of trees. Legislation that strengthens our ability to protect trees is a boon to the continuing health of New York City's environment and its residents.

CONCLUSION

We would like to thank the Council for their advocacy on behalf of trees, both to grow our urban forest and to protect those trees that are under Parks' jurisdiction. We welcome any efforts you may make to encourage your constituents to become tree stewards. Our third annual MillionTreesNYC Month will be held this April, with events, programs, and activities for people who care about trees, and we would ask for your support in getting the word out. We look forward to continuing to work with the Council to protect and to grow New York's urban forest.

**JOINT TESTIMONY OF THE QUEENS & BRONX BUILDING ASSOCIATION AND
THE BUILDING INDUSTRY ASSOCIATION OF NEW YORK CITY, INC. BEFORE
THE CITY COUNCIL COMMITTEE ON PARKS
FEBRUARY 23, 2010**

GOOD DAY. MY NAME IS ROBERT ALTMAN AND I AM THE LEGISLATIVE CONSULTANT TO THE QUEENS & BRONX BUILDING ASSOCIATION AND THE BUILDING INDUSTRY ASSOCIATION OF NEW YORK CITY, INC., TWO LOCAL CHAPTERS OF THE NEW YORK STATE BUILDERS ASSOCIATION.

I AM HERE TODAY TO COMMENT ON INTRO. 4. AS WRITTEN, THERE ARE PARTS OF THE BILL THAT CAN BE IMPROVED AND OTHER PARTS THAT WE WHOLEHEARTEDLY SUPPORT.

THE HISTORY OF TREE REPLACEMENT FOR A PRIVATE BUILDER WAS DISCUSSED IN OUR TESTIMONY BEFORE THIS COMMITTEE IN SEPTEMBER 2009. I DO NOT FEEL THE NEED TO REPEAT THAT TESTIMONY, BUT I ATTACH IT TO THIS TESTIMONY SIMPLY TO REFRESH THE COMMITTEE'S RECOLLECTION.

WE WOULD LIKE TO THANK THE COMMITTEE, ITS STAFF AND ALSO COUNCIL MEMBER HELEN FOSTER AS THEY TOOK TO HEART SOME OF OUR COMMENTS ON THE PRIOR BILL. THE NEW BILL IS AN IMPROVEMENT OF THE CURRENT STATE OF THE LAW. FOR EXAMPLE, IT SETS A CAP OF THE BASIL METHOD FOR TREE REPLACEMENT, IT REQUIRES THAT THE METHOD FOR DETERMINING THE COST OF TREE REPLACEMENT BE PUT IN WRITING AND GIVEN TO THE APPLICANT, IT PROVIDES AN OPTION OF TREE REPLACEMENT OR PAYMENT OF A FEE, AND IT USES ISA (INTERNATIONAL SOCIETY OF ARBORISTS) STANDARDS AS THE BASIS FOR CITY REGULATION IN DETERMINING THE PAYMENT OF THAT FEE. ISA IS THE STANDARD USED BY THE PARKS DEPARTMENT, AS SO EMPHATICALLY STATED IN ITS SEPTEMBER TESTIMONY. BY MAKING CLEAR THAT THIS IS THE STANDARD, THE PARKS DEPARTMENT CANNOT BE AS ARBITRARY AS WE BELIEVE IT HAS BEEN OVER THE PAST FEW YEARS.

WE DO BELIEVE THE BILL CAN BE IMPROVED. FOR EXAMPLE, IF AN APPLICANT DECIDES TO REPLACE A TREE RATHER THAN PAY A FEE, MONEY IS ESSENTIALLY TIED UP IN ESCROW UNTIL REPLACEMENT OF THE TREES OCCURS.

THIS TIME PERIOD MIGHT BE LENGTHY DUE TO THE LIMITED PLANTING SEASONS. THEREFORE, WE ARE CONCERNED THAT THAT PARKS DEPARTMENT WILL NOT TIMELY DESIGNATE REPLACEMENT LOCATIONS FOR THE NEW TREES. FOR THAT REASON, THE ASSOCIATIONS HAVE SUGGESTED LANGUAGE TO REQUIRE THE DEPARTMENT TO DESIGNATE LOCATIONS WITHIN SIXTY DAYS AFTER THE ISSUANCE OF A PERMIT OR FACE FORFEITURE OF THE ESCROWED FUNDS.

MOREOVER, SOME BUILDERS WOULD PREFER NOT TO DRAW OUT THE BUREAUCRATIC PROCESS. AND SO WE HAVE PROPOSED AN ADDITIONAL OPTION THAT GUARANTEES THAT THE CITY WILL NOT FORFEIT FUNDS AND STILL OBTAIN ITS TREES. UNDER THIS OPTION, THE APPLICANT WOULD GO TO AN APPROVED CONTRACTOR AND PAY FOR THE TREES IN ADVANCE. THEN THAT CONTRACTOR WOULD SUBSEQUENTLY PLANT THE TREES AT THE DIRECTION OF THE PARKS DEPARTMENT WITHIN ANY TIME FRAME THAT THE DEPARTMENT WOULD LIKE. THIS WOULD MEAN THAT THERE WOULD NEVER BE ANY TIME LIMIT ON DESIGNATION OF SITES AND NO FORFEITURE OF FUNDS FOR FAILING TO DESIGNATE SITES. OBVIOUSLY, THE APPLICANT WOULD NEED TO SHOW A PAID INVOICE.

WE BELIEVE THESE CHANGES ENSURE A SMOOTH PROCESS AND IMPROVE THE BILL FOR THE BUILDER , THE PUBLIC AND THE PARKS DEPARTMENT. WE HOPE YOU CONSIDER OUR RECOMMENDATIONS FOR IMPROVING THE BILL AND MAKE THEM PART OF AN AMENDED VERSION.

WE AGAIN THANK THE COUNCIL AND THE COMMITTEE FOR THIS OPPORTUNITY TO COMMENT.

**JOINT TESTIMONY OF THE QUEENS & BRONX BUILDING ASSOCIATION AND
THE BUILDING INDUSTRY ASSOCIATION OF NEW YORK CITY, INC. BEFORE
THE CITY COUNCIL COMMITTEE ON PARKS
SEPTEMBER 24, 2009**

GOOD DAY. MY NAME IS ROBERT ALTMAN AND I AM THE LEGISLATIVE CONSULTANT TO THE QUEENS & BRONX BUILDING ASSOCIATION AND THE BUILDING INDUSTRY ASSOCIATION OF NEW YORK CITY, INC., TWO LOCAL CHAPTERS OF THE NEW YORK STATE BUILDERS ASSOCIATION.

I AM HERE TODAY TO OPPOSE INTRO. 1047. OUR OPPOSITION IS BASED ON THE FACT THAT THE PARKS DEPARTMENT HAS NOT SHOWN ITSELF TO BE REASONABLE STEWARDS OF THE COSTS OF TREE REPLACEMENT. UNFORTUNATELY, THE CURRENT BILL WOULD GIVE EVEN MORE DISCRETION TO THE DEPARTMENT, DISCRETION THAT IS UNDESERVED.

AS MANY OF YOU KNOW, THERE ARE TIMES WHEN BUILDERS MUST CUT DOWN A TREE. A VERY COMMON REASON IS BECAUSE UNDER ZONING REGULATIONS PASSED OVER THE PAST FEW YEARS, THERE ARE ADDITIONAL OFF-STREET PARKING REQUIREMENTS NECESSITATING MORE CURB CUTS AND DRIVEWAYS TO ACCOMMODATE THE OFF-STREET PARKING. TO PRESERVE A TREE WITHIN SUCH AREAS, THE BUILDER WOULD NEED A WAIVER FROM THE OFF-STREET PARKING REQUIREMENT, A WAIVER THE DEPARTMENT OF BUILDINGS IS RELUCTANT TO GIVE. ALTERNATIVELY, THE PARKS DEPARTMENT COULD WAIVE THE REQUIREMENT OF TREE REPLACEMENT, SOMETHING IT NEVER GIVES. THUS, THIS TREE INEVITABLY MUST BE REPLACED WITH MULTIPLE NEWER TREES.

UNDER THE LAW, ONE LOST TREE IS NOT REPLACED WITH A SINGLE TREE. INSTEAD, CURRENT LAW CALLS FOR A MINIMUM REPLACEMENT OF THE TREE BY A SET OF TREES THAT ARE APPROXIMATELY 3 INCHES IN DIAMETER. THE MINIMUM AMOUNT OF SUCH TREES IS SET BY HOW MANY OF THESE THREE INCH TREES FIT WITHIN THE DIAMETER OF THE CUT TREE (THE CALIPER METHOD). WHILE PARKS CHARGED \$700 FOR EACH TREE, WHICH IS ABOUT TWICE WHAT WE PAY, WE COULD STILL HANDLE THE COST. ALTERNATIVELY, WE COULD PLANT REPLACEMENT TREES, BUT PLANTING TREES IS ONLY ALLOWED DURING A NARROW PLANTING SEASON. IF YOU WANT (OR IN THE CASE OF STATEN ISLAND, NEED) A PERMANENT CERTIFICATE OF OCCUPANCY AND IT IS NOT THE PLANTING SEASON, YOU NEED TO PAY THE FEE. UNTIL A FEW YEARS AGO, THE CALIPER METHOD (WITH EACH TREE COSTING \$700) WAS THE STANDARD.

A FEW YEARS AGO, THE PARKS DEPARTMENT BEGAN TO TRY TO SQUEEZE MORE MONEY FROM THE BUILDERS. NOW THE PARKS DEPARTMENT CONTENTS THAT IT COSTS \$1,900 TO REPLACE A TREE. THIS IS SHOCKING TO US BECAUSE OUR COST IS STILL \$300 TO \$500. WE HAD THOUGHT \$700 PER TREE WAS EXORBITANT AND MISMANAGEMENT. HOW DO YOU DEFINE \$1,900 PER TREE? EXTORTION?

MOREOVER, OVER THE LAST FEW YEARS, THE DEPARTMENT BEGAN TO USE THE BASIL METHOD. THIS METHOD STATES THAT THE NUMBER OF TREES THAT MUST REPLACE THE OLD TREE IS EQUAL TO THE AMOUNT OF THREE INCH

TREES THAT CAN FIT WITHIN THE AREA OF THE DOWNED TREE. SUDDENLY, A TREE THAT COULD BE REPLACED FOR \$6,000 WAS COSTING \$50,000 AND MORE TO REPLACE.

MOREOVER, IN DISCUSSIONS WITH THE PARKS COMMISSIONER, HE HAS INDICATED THAT HE THINKS A TREE MIGHT BE WORTH EVEN MORE, USING THE FIGURE OF \$120,000 IN OUR LAST MEETING WITH HIM. MEANWHILE, ESTIMATES FROM THE INTERNATIONAL SOCIETY OF ARBORISTS SUGGEST FIGURES THAT ARE MORE WITHIN THE \$5,000 TO \$15,000 RANGE, A HUGE DIFFERENCE FROM THE FIGURE OF \$120,000.

THE CURRENT SITUATION SUFFERS FROM THREE PROBLEMS. FIRST, THE PARKS DEPARTMENT CHARGES AN UNREASONABLE PER TREE PRICE FOR THE INSTALLATION OF A TREE. WHEN WE CAN PUT IN A TREE FOR \$300 AND IT COSTS THE PARKS DEPARTMENT \$1,900, YOU KNOW THAT SOMETHING IS NOT RIGHT AND NEEDS TO BE REVIEWED. SECOND, WHEN THE WOOD TO BUILD A SINGLE FAMILY HOME IS APPROXIMATELY \$16,000 AND PARKS WANTS TO CHARGE \$120,000 FOR A SINGLE TREE, YOU KNOW THAT THE DEPARTMENT HAS LOST ALL PERSPECTIVE ON WHAT A TREE IS WORTH. THIRD, BECAUSE THE PARKS DEPARTMENT HAS LOST ALL PERSPECTIVE, THERE IS NO CERTAINTY IN THE PROCESS OF VALUATION OF A TREE. AS BUILDERS, WE ARE BUSINESSMAN AND WE VALUE REASONABLENESS AND CERTAINTY. THE CURRENT PROCESS AND THE PROCESS THAT IS REFLECTED IN THIS BILL DEMONSTRATE NEITHER REASONABLENESS NOR CERTAINTY.

MOREOVER, WHILE BUILDERS ARE QUITE WILLING TO REPLACE TREES ON OUR OWN (THAT WILL COME WITH A TWO PLANTING SEASON GUARANTY), TO DO SO WITHIN 30 DAYS IS NOT REASONABLE. FIRST, IF THAT PERIOD IS NOT WITHIN THE PLANTING SEASON, THE DEPARTMENT WILL SIMPLY COLLECT ON THE BOND WITHIN 30 DAYS, AND WE KNOW THAT THE DEPARTMENT DOES NOT VALUE A TREE CORRECTLY. SECOND, EVEN IF IT IS WITHIN THE PLANTING SEASON, THE PARKS DEPARTMENT MOST OFTEN DOES NOT HAVE A LIST OF WHERE THE TREES CAN BE PLANTED WITHIN THE THIRTY DAY PERIOD.

THERE ARE REASONABLE SOLUTIONS TO THESE MATTERS, BUT AS DRAFTED, THE CURRENT LEGISLATION ONLY OFFERS THE PROMISE OF MORE ABUSE AND MISMANAGEMENT BY THE PARKS DEPARTMENT. THE SECTION NEEDS TO BE AMENDED SO IT PROVIDES REASONABLENESS AND CERTAINTY, OTHERWISE THE COUNCIL IS ONLY GIVING CARTE BLANCHE TO AN AGENCY THAT HAS NOT SHOWN THE ABILITY TO USE IT.



**City Council Parks & Recreation Committee Hearing
Int. No. 004
February 23, 2010**

Good afternoon. My name is Cheryl Huber and I am the Deputy Director at New Yorkers for Parks. Thank you for this opportunity to testify today. As the only independent watchdog for all the city's parks, beaches, and playgrounds, New Yorkers for Parks has worked to ensure greener, safer, cleaner parks for all New Yorkers for more than 100 years.

Benefits of Trees

New Yorkers for Parks is here to support Int. 004, which creates standards and requirements for the replacement of trees by the private and public sectors, with oversight by the City Parks Department. Trees improve water and air quality by filtering pollutants, which helps to address public health issues such as asthma. This is particularly important in New York City's urban environment. It is essential that we replace damaged or removed trees with those of equal caliper in order to maintain these important functions.

With this amendment, the City has taken steps towards creating an overarching management strategy for our urban tree canopy. The legislation's inclusion of oversight by a horticulture officer and guidelines from the International Society of Arboriculture creates a fair, environmentally responsible policy. By requiring all individuals, corporations and city agencies to adhere to these rules, the City is ensuring that all are accountable.

Thanks to the work of MillionTrees NYC, the initiative to plant one million trees in public and private open spaces throughout the five boroughs has seen enormous progress. More than 315,000 trees have been planted since MillionTreesNYC was launched in October 2007. This legislation will help to ensure that we continue to grow New York City's vital urban tree canopy.

Recommendations

With more trees comes a greater need for maintenance funds. The Mayor's Preliminary Budget for Fiscal Year 2011 cut almost \$20 million from the Parks Department, which will result in significant losses in staffing, programming, and maintenance of our park system. Last year's Adopted Budget reduced tree pruning by \$3.5 million, significantly reducing the Parks Department's ability to maintain trees in the city, and this has not been restored. The tremendous amounts of newly planted trees through MillionTreesNYC require extensive care and monitoring to ensure their long-term survival. With a limited tree pruning budget and additional cuts to Parks looming, the survival of our trees is in jeopardy.

In addition, this legislation will place an increased burden on the Parks Department, which will be required to review permit applications for tree removal and replacement. We recommend that the legislation include a time frame for the early submission of permits, so that the Department of Parks and Recreation can best determine the impacts of awarding each permit. We also recommend increased resources to help the Department implement this new responsibility.

Again, we support this effort to rightfully restore and sustain a neighborhood's trees in equal quality and quantity. In this budget season, we ask that the City Council recognize the critical need for increased funding to ensure the long-term survival of every tree in the city.

Thank you.

AGAINST INT. 4

My name is Joseph Bernardo, presently the Director of Urban Forestry for Trees New York, a non-profit organization whose mission is to plant, preserve and protect New York City's neighborhood trees. I have been involved with New York City's urban forest for 57+ years. Starting out as a tree climber through the ranks of promotion to Assistant Director of Forestry & Horticulture, Director of Forestry Education, and Director of Queens Forestry.

Historically, this issue has come up a number of times. In 1963, the law stated that City owned trees would be replaced on a tree for tree basis; a contractors dream! I was fortunate to be able to testify before the City council in 1978 to change this law. I am proud to say that the Council voted 40 for and 0 against. It was passed as Local Law 29,(I have provided copies to you) it is that provision that you are now wanting to change.

I am not against change, but I am against Int. 4 for its confusion, misinformation and misdirection.

The inclusion of the name International Society of Arboriculture, and its “tree ordinance guidelines” attempts to validate the proposed change to the existing code. As stated by the International Society of Arboriculture, their intent is not meant to provide a “model ordinance” approach. It provides examples of ordinance provisions made throughout the country. (Mainly California, Florida, and South Carolina) The guidelines are designed to assist communities in drafting an ordinance to specific goals. It covers basic provisions and provisions for specific goals. There are fifteen (15) Basic provisions, and twenty-two (22) provisions for specific goals. (I have taken the liberty of providing you with copies of pertinent parts of these guidelines; But not a micro fine glass to read them. You

will have to take my word for the contents until you have the opportunity to read them.) These copies of guidelines Provision 12 Enforcement; Provision 30 Permit required for activities that may damage city owned Trees, and Provision 31 Permit required for activities that may damage protected private trees. Provision 12 only deals with the need to designate who will enforce the ordinance. Provision 32 pertains to city owned trees, but does not specifically cover a formula for determining the replacement of damaged trees. Provision 31 deals with protected private trees, and is the only place in the guidelines that deals with determining the replacement of trees. It recommends either of two (2) methods; by the caliper method or the basal method. Int 4 does direct the department to determine replacement of trees using either of these two(2) methods. However, it

further states "replacement trees shall at a minimum be caliper inch of new trees for caliper inch of each such tree removed. It also directs the department to put in writing, how the determinations were made, to the permittee. The statement using the caliper inch shall at a minimum be inch for inch. I feel that there is a lack of understanding of how these calculation are made. I have again took the liberty of providing the Council with a example of how these calculations are made.

A example of using a 24" caliper tree as be removed; we will first determine the replacement using the Caliper Method. Dividing the 24inch caliper tree by 3 inch caliper trees, determines that 8- 3" trees will be required replacement. (This is what the present law requires.)

In determining replacement using the Basal method requires that bit of math that so many of us thought that we would never use again after High School. We have to first determine the Area of wood in a 24 inch

caliper tree. Formula is Area equals pi times radius squared; Area equals pi times 12 times 12 equals 144; Area then equals 3.14 times 144 equals 452 square inches of wood in a 24" caliper tree. We then have to figure out the area of wood in the replacement size tree. In this example, a 3" caliper tree is again used. Area equals pi times radius squared. Area equals pi times 1.5 inches times 1.5 inches, or 3.14 times 2.25; which equals 7 square inches in a 3" tree. Our final calculation is dividing the area of wood in the tree being replace, by the area of wood of the replacement tree. In this case the tree being replaced has a wood area of 452 square inches, and the replacement tree's wood area is 7 square inches. Therefore the replacement would be 452 divided by 7 equals 65 - 3" trees; over 8 times the results of the Caliper method. I did not mean to give mathematic class to the Council, but to provide a visual example of the methods of determining the replacement of city owned

trees.

I therefore, again state that I am against Int 4 because of its confusing message stating that the ISA sets specific guidelines, that these guidelines were incorporated in grafting up this bill, eliminating the replacement size of trees, stating that if the request for permit is made during a season prior to replacement is totally out of context, and the direction regarding payment of funds by the department. The misinformation is the inference that the International Society of Arborculture's guidelines were taken into consideration when drafting this bill. Finally the direction given to the Department of Parks on how to enforce it.

In conclusion, I would like to recommend what I feel would be an improvement over the existing 18-107; that is to add to it the requirement that trees being that replacement trees be planted within $\frac{1}{4}$ mile of the site where the tree was removed.

Thank you

Enclosures:

Copy of Local Law 29

Typed requested changes to existing 18-107

Copies if International Society of Arborculture's guidelines

Example of Caliper and Basal methods of replacement for trees.

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1978

NO. 29

Introduced by Council Member Berman; also Council Members Gerges, Greitzer, Povman, Silverman, Steingut and Ward -

A LOCAL LAW

To amend the administrative code of the City of New York, in relation to the replacement of trees removed during construction.

Be it enacted by the Council as follows:

Section 1. Title A of chapter 21 of the administrative code of the City of New York is hereby amended by adding a new section 532-4.1, to follow section 532-4.0, to read as follows:

532-4.1. Replacement of trees removed during construction. Any individual, firm or corporation that intends to remove during construction any tree that is within the jurisdiction of the commissioner, shall post a bond with the commissioner to insure that within thirty days after the completion of construction all trees removed, destroyed or severely damaged shall be replaced at the expense of the permittee. The total caliper of all trees removed. Replacement shall be with 2½ to 6 inch caliper trees and/or directed by the Parks, Recreational and Cultural Affairs (currently known as the Department of Parks & Recreation) Horticultural Officer. The replacement shall be made in the Spring or Fall season, as determined by the Parks, Recreational and Cultural Affairs Horticultural Officer. The amount of the bond is determined by the commissioner shall be sufficient to cover the cost of replacement.

2. This local law shall take effect thirty days after enactment.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of the City of New York, passed by the Council on September 14, 1978, and approved by the Mayor on October 6, 1978.

DAVID N. DINKINS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW SECTION 27

Pursuant to the provisions of Municipal Home Rule Law Section 27, I hereby certify that the enclosed local law (Local Law No. 29 of 1978, Council Int. No. 208-A) contains the correct text and received the following vote at the meeting of the New York City Council on September 14, 1978: 40 for, none against.

Was approved by the Mayor on October 6, 1978.

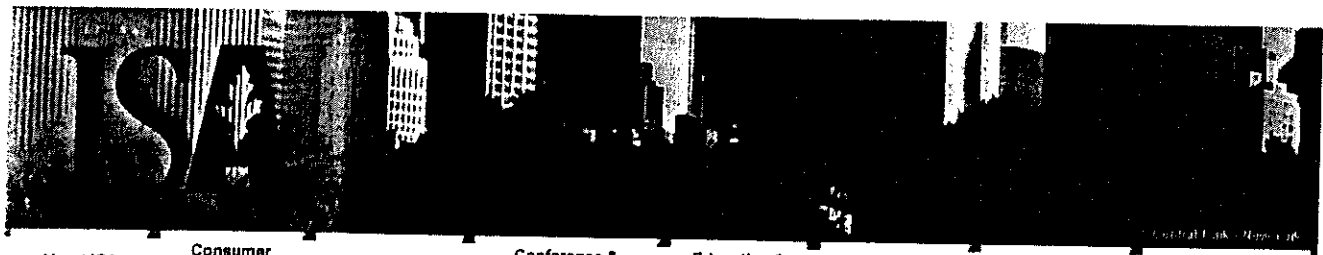
Was returned to the City Clerk on October 6, 1978.

ALLEN G. SCHWARTZ, Corporation Council

A local Law to amend the administrative code of the city of New York, in relation to replacement of trees.

Be it enacted by the Council as follows:Section 1. Section 18-107 of the administrative code of the city of New York is amended to read as follows:

18-107 Replacement of trees removed. Any individual, firm corporation or city agency that intends to remove any tree that is within the jurisdiction of the commissioner, shall obtain a permit from the department. Prior to obtaining such permit, such individual, firm, corporation or city agency shall choose to either pay a fee to the department in order for the department to replace any such trees removed, or the permittee shall replace any such trees itself. The commissioner shall promulgate rules as to the amount of such fee to be charged for each such tree removed, and the size of replacement trees. In determining the fee to be charged to the permittee for replacement of the trees, such rules shall substantially comply with tree ordinance guidelines set forth by the international society of arboriculture. The commissioner shall reference such guidelines in any final rule. In determining how many replacement trees must be planted by such permittee in such rules, the department shall determine replacement based on either the caliper or basil area of any such tree sought to be removed; however, replacement trees shall at a minimum be caliper inch of new trees for caliper inch of each such tree removed. Determinations by the department applying any such rules promulgated pursuant to this section must be made in writing to the permittee, with any calculations set forth in such writing. Replacement shall be made consistent with this section. The replacement shall be made in the ensuing spring or fall season, as determined by such horticultural officer. In the event a permit is requested during a season prior to when the horticultural officer has determined replacement be made, the department shall issue a permit upon receipt from such permittee funds necessary to cover the value of such trees sought to be removed consistent with this section. Such funds shall be held in escrow, and shall be returned to the permittee upon the planting of such required replacement trees. In the event such replacement trees are not planted as directed, such funds shall become the property of the city of New York. The provisions of this section requiring payment of funds and the obtaining of a permit shall not apply to the department. But the department shall comply with all other requirements of this section and any rules promulgated pursuant to this section.



[About ISA](#)
 [Consumer Education](#)
 [Certification](#)
 [Conference & Trade Show](#)
 [Education & Research](#)
 [Member Services](#)
 [Resources](#)
 [Tree Climbing Championship](#)

[ISA Home Page](#) > [Education & Research](#) > [Tree Ordinance Guidelines](#) > [Tree Ordinance Part 2b](#)

CONSUMER INFORMATION

 WEB STORE

 ISA HISPANA

Tree Ordinance Guidelines

[<Previous](#) | [Next>](#)

Basic ordinance provisions (Provisions 1-15)

Basic Ordinance Provisions are typically found in most ordinances, regardless of their purpose. Most of these are basic structural elements necessary for an ordinance to function. You should review all of these basic provisions to determine which should be incorporated into your tree ordinance. The minimum provisions listed in table below should be included in virtually any tree ordinance. In deciding whether to include other basic provisions, you should consider whether they would be appropriate and useful in your community. Municipal legal staff should also be consulted for an opinion on the legal ramifications of including or omitting any of these basic provisions.

Number	Provision	Minimum
1.	Title	
2.	Findings	
3.	Purpose and intent	yes
4.	Definitions	yes
5.	Determination of definitions	
6.	Jurisdiction	
7.	Policies regarding trees	
8.	Local government disclaims liability	
9.	Interference with planting, maintenance, and removal unlawful	
10.	Appeals	yes
11.	Penalty for violation	yes
12.	Enforcement	yes
13.	Performance evaluation of ordinance	yes
14.	Severability	yes
15.	Designate administrative responsibilities	yes

1. Title

Purpose: To give the ordinance a brief descriptive title.

This ordinance shall be known as the San Francisco Urban Forestry Ordinance.
 [San Francisco, CA: Public Works Code Article 16 Section 800]

2. Findings

Purpose: To set forth the reasons the local government finds it necessary to adopt an ordinance.

Notes: This section is frequently used to present a list of benefits provided by trees and justify the local government's interest in protecting the tree resource. Findings from the evaluation of "what you have" might also be included in this section.

Information obtained from a City survey of trees indicated a decline in the number of certain species of trees located on private property.

[Camel-by-the-Sea, CA: Ordinance No. 89-18]

3. Purpose and intent

destructive practices (see [provision 23](#)). The required remedies generally seek to undo or mitigate the damage caused by the violation, rather than simply penalizing the violator. It also sets a time limit for the completion of remedial actions.

Remedial actions required.

(1) *In the event a person abuses a tree in violation of this section, the violator, in addition to being subject to the penalties found in section 1-15 of the City Code, shall be responsible to undertake pruning and other remedial actions that the city determines are reasonably necessary to protect public safety and property, and to help the tree survive the tree abuse damage.*

(2) *If the natural habit of growth of the tree is destroyed, the violator shall remove the abused tree and install a replacement tree.*

(3) *Tree replacement criteria shall be consistent with that established in section 16-172(f).*

(4) *Replacement trees shall be installed on-site. In the event the site cannot accommodate all required replacement trees, the remaining replacement trees shall be installed on public lands if approved by the city. If no suitable public lands are located, the violator shall pay a replacement contribution into the reforestation account. The replacement contribution will be determined using a schedule for current value of replacement trees plus installation and maintenance as established by the city.*

(5) *Remedial actions and replacement required under this section shall be completed within sixty (60) days of notice from the city that such actions are required. The city may require the violator to immediately undertake remedial actions in the event the abused tree is an immediate threat to the public or property.*

[Sunrise, FL: City Code Section 16-173c]

The responsibility for enforcement of the ordinance should be designated as described in provisions 12 ([Enforcement](#)) and/or 15 ([Designate administrative responsibilities](#)).

12. Enforcement

Purpose: To designate the position responsible for enforcing the ordinance.

Notes: The authority designated to enforce the ordinance should always be indicated. However, a separate enforcement provision may not be necessary if the responsibility for ordinance enforcement is specified under provision 15 ([Designate administrative responsibilities](#)). It is normally preferable to vest enforcement authority with the tree program manager.

The Public Works Administrator is hereby charged with the responsibility for the enforcement of this ordinance and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

[Lemoore, CA: Ordinance 8610 Section 10-1.12]

13. Performance evaluation of ordinance

Purpose: To provide for evaluation of the success of ordinance provisions.

Key elements:

- Position responsible for evaluation and reporting (unless specified in provision 15-[Designate administrative responsibilities](#))
- Actions required in case of unsatisfactory performance

Notes: Perfection is seldom achieved on the first attempt. As noted in Part 1, the management planning process is incomplete without review, evaluation, and revision. One way to ensure that evaluation does occur is by including a provision that mandates a periodic performance evaluation of the ordinance. In addition to evaluation, this provision should establish a mechanism for revision of the ordinance if goals are not being achieved.

When we wrote the original *Guidelines* in 1991, we provided the following example because we could not find examples of this type of provision in use:

The tree program manager shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this ordinance. An annual summary and analysis of the evaluation, and recommendations for action shall be prepared at the direction of the tree program manager and presented to the City Council. The City Council shall consider the report and recommendations and take all actions deemed necessary to accomplish the goals of this ordinance. These actions may include, but are not limited to, revision or amendment of this ordinance or the adoption of other resolutions or ordinances.

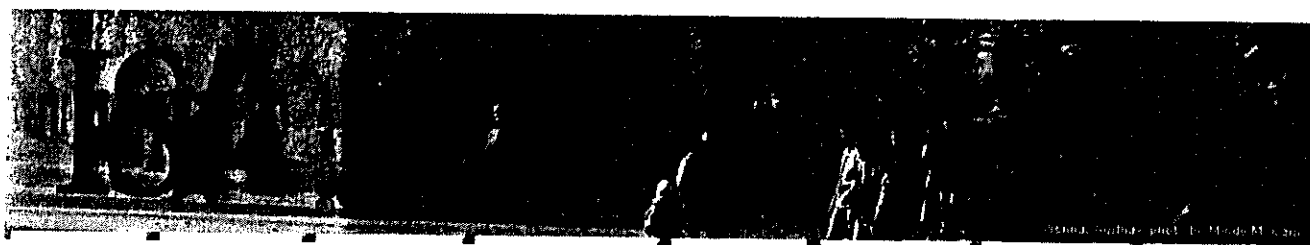
[Example code by the authors]

The following code shows how the above example was adapted by one community in their tree ordinance:

The director or his/her designee shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the intent, purpose and objectives of this chapter. The director shall prepare an annual report. The park board shall consider the report recommendations and take all necessary action to accomplish the goals and objectives of this chapter.

[Everett, WA: Municipal code 8.40.050 (Ord. 1948-93 § 5, 1993)]

Complex tree management issues, such as those dealing with the conservation of existing tree and forest resources (see [provision 31](#) and [32](#)), clearly require close monitoring. The outcome of tree and woodland conservation provisions must be monitored on an ongoing basis to determine whether the strategies used have been successful. In addition, monitoring data is needed to show how the resource changes over time and whether new issues have arisen since the original implementation of the ordinance. The following example code is part of the Maryland Forest Conservation Act, which is discussed in detail under [provision 32](#).



- About ISA
- Consumer Education
- Certification
- Conference & Trade Show
- Education & Research
- Member Services
- Resources
- Tree Climbing Championship

ISA Home Page > [Education & Research](#) > [Tree Ordinance Guidelines](#) > Tree Ordinance Part 2c

Search Site

- CONSUMER INFORMATION
- WEB STORE
- ISA HISPANA

Tree Ordinance Guidelines

[<Previous](#) | [Next >](#)

Ordinance provisions for specific goals (Provisions 16-25)

Provisions from this category should be selected on the basis of whether they are appropriate to your community and consistent with your management goals. It is neither necessary nor desirable that every community adopt each of these provisions. In assembling your ordinance, you should consider those provisions that correspond to the specific goals you have established. The goal-oriented provisions are numbered 15 through 37 in the table below. Each of these provisions is related to one or more the nine management goals discussed under [Goals for Community Forest Programs](#) and can be accessed from the links on that page. Many of these management goals are interrelated, so some provisions are referenced to several different goals. Many of the basic provisions (e.g., Provision 15, [Designate administrative responsibilities](#)) are directly related to many of the listed goals and should be included in most ordinances.

Number	Provision	Goals
16	Establish a tree board or commission	6,8
17	Specify cooperation between departments and agencies	6,7
18	Develop a comprehensive management plan	1,2,3,4,5,7
19	Resolution of conflicts between trees and structures	1,2,4
20	Exemption from Solar Shade Control Act (California)	1
21	Responsibilities of property owners	5
22	Help for citizens performing tree maintenance	2,8
23	Topping prohibited	2
24	Permit required for planting trees in the public right-of-way	5
25	Planting requirements	1,2,3,4,5
26	Situations which are declared to be public nuisances	2
27	Abatement of hazards and public nuisances	2
28	Licensing of private tree care firms	2
29	Harming public trees forbidden	2
30	Permit required for activities that may damage city owned trees	1,2,4,5
31	Permit required for activities that may damage protected private trees	1,2,4
32	Conservation of forest and woodland resources during development	1,3,4
33	Procedures to be followed in resolving tree disputes	9
34	Standards for resolution of tree disputes	9
35	Apportionment of tree dispute resolution costs	9
36	Recording for notification of future owners	9
37	Enforcement of tree dispute resolutions	9

16. Establish a tree board or commission

Purpose: To establish a citizen advisory board, commission, or committee.

Key elements:

- Composition of the board
- Rules which govern the board
- Responsibilities and authority (if not defined in provision 15 - [Designate administrative responsibilities](#))

Notes: Tree boards provide a means to involve the public in urban forestry management. Tree boards can promote new and existing tree programs by motivating both local government and the public to support urban forest management. Typical functions of the tree board are described in provision 15 ([Designate administrative responsibilities](#)), and will vary with the community. Sometimes city staff members are included on the tree board.

[San Luis Obispo, CA: Municipal Code Section 12.24.160]

As part of the license requirement, the local government can also require that tree care firms abide by the requirements of the tree ordinance and by tree care standards incorporated by reference in the ordinance, as in the following example.

It shall be unlawful for any person who is being paid a fee for the business of planting, cutting, trimming, pruning, removing, or otherwise modifying trees within the City of Myrtle Beach to conduct such business without first signing an affidavit stating that he/she has received and read the Tree Protection Ordinance and [most recent] ANSI A300 Standards [and that all work performed will consistent with these documents]. Such affidavit shall be completed and submitted when making application for or renewing a City of Myrtle Beach business license.

...

Tree pruning shall be accomplished in accordance with the procedures set forth in the [most recent] ANSI A300 standards.

[Myrtle Beach, SC: Municipal Code Section 903.4, 903.12.1]

The example code below requires tree care licensing, authorizes the city arborist to manage and enforce the licensing program under the review of the city tree commission, and requires licensees to abide by city standards and ordinances.

It is unlawful for any person or business to perform tree pruning and repair work (as defined in Section...) for hire within the city without a valid tree care license issued by the city arborist. Each tree pruned or otherwise modified in violation of this provision shall constitute a separate offense. The first such offense is punishable by a fine not to exceed \$500; each subsequent offense is punishable by a fine not to exceed \$1000 dollars. No maximum fine is established for multiple violations by a single person or business.

The city arborist is authorized to issue tree care licenses to persons or businesses that meet the following minimum requirements:

- 1. The person or at least one person on the staff of a business must be designated as a Qualified Arborist by the city. To be designated as a Qualified Arborist, a tree service employee shall demonstrate a knowledge of proper arboricultural techniques by providing documentation of professional certification, education, and/or experience acceptable to the city arborist.*
- 2. The licensee must sign an affidavit to certify that all tree work will be performed under the direct supervision of the Qualified Arborist and will comply with all city standards and ordinances.*

The city arborist is authorized to suspend or revoke the tree care license of any person or business that performs work which does not comply with tree care standards as specified in this chapter and in the comprehensive tree management plan. License suspensions and revocations may be appealed to the city tree commission within 10 days of notification. The decision of the city tree commission shall be final and is not subject to appeal.

The city arborist may reissue any tree care business license previously revoked subject to the above minimum requirements and any additional requirements as may be prescribed by the city arborist and approved by the city tree commission.

[Example code by the authors]

29. Harming public trees forbidden

Purpose: To prohibit negligent or intentional damage to trees and other plants growing in the public right of way.

Key elements:

- Designation of which trees and other plants are protected
- Prohibited activities and actions

Notes: This is one of the most common provisions in street tree ordinances. It is primarily targeted at preventing vandalism and negligent damage. Some ordinances have elaborate lists of many different ways which trees can be harmed. Others include prohibitions against fastening animals to trees and allowing animals to browse trees. Some ordinances extend protection to tree guards or supports as well as to trees. If damage is properly defined in the definitions section (see provision 4), it may be possible to cover all types of damage rather simply, and avoid long (and often incomplete) litanies of damaging practices. Legal staff should be consulted in this regard.

It shall be a violation of the provisions of this Chapter for any person to abuse, destroy or mutilate any tree, plant or shrub in a public parking strip or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), sign, poster, handbill or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid or solid substance which [is] harmful to such trees to come in contact with their roots, [trunks,] or leaves.

[Corcoran, CA: City Code Section 2-4-9]

30. Permit required for activities that may damage city owned trees

Purpose: To provide for municipal review and approval of any activity which could be detrimental to public trees.

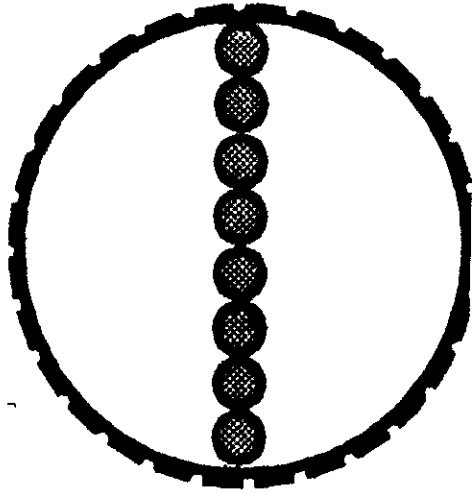
Key elements:

- Activities that require a permit
- Position with authority to issue permits (if not noted in provision 15 - Designate administrative responsibilities)

Basal Area Replacement

Tree cross sections at breast height

Caliper replacement



● = 3-inch caliper tree

24" caliper tree

Using 3" caliper tree as replacement

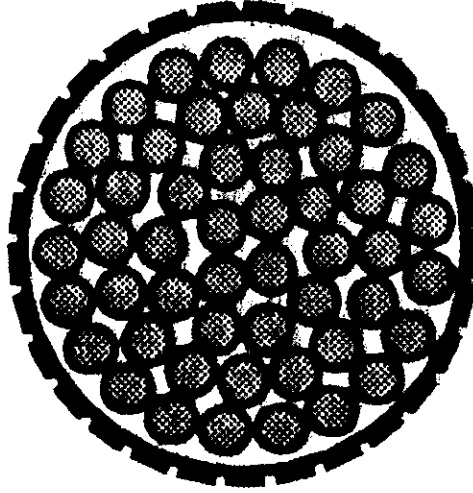
Caliper Replacement

24' caliper tree

24 divided by 3 equals

8 trees replacement

Wood for wood



Basal Replacement

24" Caliper tree 3" caliper tree

Area = pie times radius squared

A=pie X 12 X 12

A = pie X 1.5 X 1.5

A=3.14 X 144

A= 3.14 X 2.25

A= 452 sq. in.

A= 7 sq. in.

452 divided by 7 equals 65 3" trees replacement

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 4-2010 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: FIONA WATT

Address: NYC Dept. of Parks & Recreation

I represent: Assistant Commissioner, Freshkills Park

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Cheryl Huber

Address: NYC 355 Lexington Ave, NY

I represent: New Yorkers For Parks

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 4 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Robert S Altman

Address: 27 Whitehall St. 4th Fl

I represent: BIA NYC + QBBA

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: MICHAEL SCHAEFFER

Address: 1562 RICHMOND ROAD, SINY 10304

I represent: BUILDING INDUSTRY ASSOCIATION OF NY

Address: 2335 VICTORY BLVD., SINY 10314

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 4 Res. No. _____

in favor in opposition

Date: 2/23/16

(PLEASE PRINT)

Name: JOSEPH MERVAROU

Address: 35 LITTLEFIELD AVE SE NY

I represent: TREES NEW YORK

Address: 51 CHAMBERS ST NY 10007

Please complete this card and return to the Sergeant-at-Arms