


FROM	NAME & TITLE	DOUGLAS B. MCCOACH, III, DIRECTOR <i>DBM</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 EAST FAYETTE STREET, 8 TH FLOOR		
	SUBJECT	CITY COUNCIL BILL #08-0049 City Trees – Protective Measures		

TO

The Honorable President and
Members of the City Council
City Hall, Room 400
100 N. Holliday Street

DATE: June 20, 2008

The Department of Planning has reviewed City Council Bill No. 08-0049, and has met and discussed the proposed legislation with representatives from the Environmental Control Board, the Departments of Public Works, Transportation and Recreation & Parks. The purpose of this bill is to clarify and expand Article 7 Division V, for the planting, protection and preservation of public trees along public rights of way and in parks, squares, and other public places. The bill will clarify authority and define the powers of enforcement.

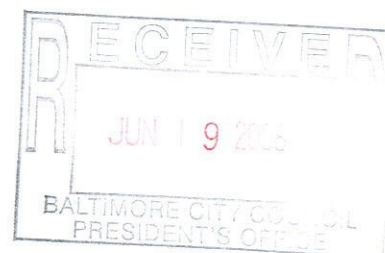
The proposed legislation is consistent with the City's Comprehensive Master Plan; it supports the Mayor's Cleaner and Greener initiatives, and it is a step towards our goal of doubling the City's tree canopy. Therefore, the Department of Planning supports City Council Bill #08-0049, and recommends that it be amended and approved. The Department's proposed amendments are listed in Attachment A which follows.

If you have questions this regarding matter, please contact Mr. Gary W. Cole, Deputy Director at 410-396-8337.

DM/gl

CC: Mr. Andrew Frank, Deputy Mayor
Mr. Demaune Millard, Mayor's Office
Ms. Angela Gibson, Mayor's Office
The Honorable Rochelle "Rikki" Spector, Council Rep. for Planning Commission
Ms. Ms. Nikol Nabors-Jackson, DHCD
Ms. Jennifer Coates, Councilmanic Services
Ms. Deepa Bhattacharyya, Law Department
Ms. Wanda Durden, Director of Recreation & Parks
Mr. Chris Carroll, Chief of Parks
Ms. Rebecca Feldberg, City Arborist
Mr. Bill Driscoll, Department of Transportation
Ms. Sandra Baker, Environmental Control Board
Ms. Marcia Collins, Department of Public Works
Ms. Margaret Mosetti, Finance

F/A



Attachment A
Department of Planning
Proposed Amendments for City Council Bill 08-0049

Amendment No. 1

Page 2, beginning on line 24, delete the brackets surrounding Public Works, delete the reference to the Department of Transportation, and delete enforcement language attributed to Public Works that should be attributed to the City arborist, so that it reads;

§ 53-2. Jurisdiction of Department of ~~{Public Works}~~TRANSPORTATION.

(a) ~~Regulating planting, etc.~~

The Department of ~~{Public Works}~~TRANSPORTATION [is hereby authorized and directed to regulate] SHALL REGULATE AND CONTROL the planting[,] ~~AND protection~~[, regulating, and controlling] of all trees [planted and to be planted] in the [streets, lanes or alleys] PUBLIC WAYS of [Baltimore] THE CITY.

(b) ~~Enforcing protective laws.~~

The Department of ~~{Public Works}~~TRANSPORTATION shall ~~cause all [statutes and ordinances] LAWS for the protection of trees in the [streets, lanes, or alleys] PUBLIC WAYS to be strictly observed.~~

Amendment No. 2

Page 3, lines 29 & 30, insert “NOT LESS THAN 20 FEET AND” and delete 30

Trees shall be planted and preserved at intervals of NOT LESS THAN 20 FEET AND not more than ~~30~~ 40 feet from the next contiguous tree [or trees], except where requested by a property owner.

Amendment No. 3

Page 3, lines 32 thru 35, insert, “OR IS NOT AVAILABLE”

Species and varieties shall be planted and preserved as most suitable for the particular area by means of availability, long life, full foliage and limb structure, beauty, and the specific request of property owners, except where the request of the property owner as to variety of the tree is not practicable in the opinion of the City Arborist OR IS NOT AVAILABLE.

Amendment No. 4

Page 4, line 3, delete reference to Department of Transportation and replace with Department of Public Works:

THE DIRECTOR OF ~~TRANSPORTATION~~ PUBLIC WORKS, THE DIRECTOR OF RECREATION AND PARKS, AND THE CITY ARBORIST SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT THEIR RESPECTIVE RESPONSIBILITIES UNDER THIS SUBTITLE.

Amendment No. 5

Page 4, lines 12 thru 16, delete Public Works/ Transportation to insert “CITY DEPARTMENT OR AGENCY” to clarify that no City Department or Agency may remove a tree without notice.

[The] NEITHER THE Department of Recreation and Parks [and] NOR ~~the Department of [Public Works]~~ TRANSPORTATION ANY CITY DEPARTMENT OR AGENCY [shall not] MAY remove or destroy a tree [along one of the streets, lanes, alleys, or other] IN A public [ways in this City,] WAY OR IN A PARK, SQUARE, OR OTHER PUBLIC PLACE OF THIS CITY unless IT GIVES notice of the intended removal or destruction [is given].

Amendment No. 6

Page 4, lines 19 thru 21, Only one sign or legible statement is necessary when a group of trees is being removed, insert “OR WHEN IN A PARK OR OTHER PUBLIC OPEN SPACE, SO AS TO CLEARLY DELINIATE A STAND OR GROUP OF TREES”:

(1) [shall] consist of a durable and legible statement of the Department’s intent, affixed to and easily visible on the tree, OR WHEN IN A PARK OR OTHER PUBLIC OPEN SPACE, SO AS TO CLEARLY DELINIATE A STAND OR GROUP OF TREES, for not less than 5 days immediately preceding the contemplated removal or destruction; and

Amendment No. 7

Page 5, lines 7 and 8, delete brackets around Public Works and delete Transportation:

(A) AS TO PUBLIC WAYS, the Department of {Public Works}
~~TRANSPORTATION~~{}; OR

Amendment No. 8

Page 5, lines 26 thru 29, insert “SPRAY, FERTILIZE” to list of acts that need written permission

No person [shall spray, mulch, fertilize, or otherwise treat,] MAY DESTROY, remove, [destroy,] break, OR HURT OR cut, [or] trim, SPRAY, FERTILIZE OR PRUNE any tree, or any part [thereof] OF A TREE, in any [street, lane, or alley] PUBLIC WAY OR ANY PARK,

SQUARE, OR OTHER PUBLIC PLACE OF THIS CITY without first having obtained a written permit TO DO SO from:

Amendment No. 9

Page 5, lines 30, delete brackets around Public Works and delete Transportation:

(1) AS TO PUBLIC WAYS, the Department of {Public Works} TRANSPORTATION; AND

Amendment No. 10

Page 6, lines 9 thru 13, delete “;” insert “AND ACCORDING TO THE MOST CURRENT ANSI STANDARDS” insert “OR” delete “(II) IN A MANNER TO ASSURE THAT NO MORE GROWTH IS REMOVED FROM THE TREE THAN IS THEN ABSOLUTELY NEEDED FOR THE EXERCISE OF THAT PERSON’S FRANCHISE, EASEMENT, OR OTHER RIGHT; AND”

delete brackets around Public Words and delete “TRANSPORTATION”

(I) IN FULL COMPLIANCE WITH ALL CONDITIONS IMPOSED BY THE PERMIT ISSUED UNDER THIS SECTION; AND ACCORDING TO THE MOST CURRENT ANSI STANDARDS; OR

~~(II) IN A MANNER TO ASSURE THAT NO MORE GROWTH IS REMOVED FROM THE TREE THAN IS THEN ABSOLUTELY NEEDED FOR THE EXERCISE OF THAT PERSON’S FRANCHISE, EASEMENT, OR OTHER RIGHT; AND~~

Amendment No. 11

Page 6, lines 14 and 15, insert “(1) AS TO PUBLIC WAYS, THE DEPARTMENT OF PUBLIC WORKS; AND (2) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, THE DEPARTMENT OF RECREATION AND PARKS” and delete “the Department of [Public Works] TRANSPORTATION:”

(III) OTHERWISE [in such manner] as directed by

(1) AS TO PUBLIC WAYS, THE DEPARTMENT OF PUBLIC WORKS; AND

(2) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, THE DEPARTMENT OF RECREATION AND PARKS . ~~the Department of [Public Works] TRANSPORTATION AND THE CITY ARBORIST.~~

Amendment No. 12

Page 6, lines 19 and 20, delete brackets around Director of Public Works, delete Director, insert DEPARTMENT delete DEPARTMENT OF TRANSPORTATION

No person [shall] MAY, without first having received a written permit TO DO SO from the [~~Director~~ DEPARTMENT of Public Works] ~~DEPARTMENT OF TRANSPORTATION~~, place or maintain [upon] ON...

Amendment No. 13

Page 6, lines 20 thru 24, delete “16 square feet” as the smallest allowable tree pit and insert “THE REGULATIONS REQUIRE AS FILED WITH LEGISLATIVE REFERENCE AS PER § 53-5. (B) OF THIS SUBTITLE:”

...place or maintain [upon] ON the ground [in] OF any [street, lane, or alley] PUBLIC WAY, any stone, cement, or other substance [which shall] THAT WOULD impede the free entrance of water and air to the roots of any tree without leaving an open space of ground outside the trunk of [said] THAT tree[.], in area not less than ~~16 square feet~~ THE REGULATIONS REQUIRE AS FILED WITH LEGISLATIVE REFERENCE AS PER § 53-5. (B) OF THIS SUBTITLE.

Amendment No. 14

Page 6, between lines 24 and 25, insert the following:

NO PERSON MAY CUT, PRUNE OR OTHERWISE DAMAGE A ROOT OVER 2” IN DIAMETER OF A TREE IN A PUBLIC WAY, WITHOUT FIRST HAVING RECEIVED A WRITTEN PERMIT TO DO SO FROM THE DEPARTMENT OF PUBLIC WORKS WITH THE APPROVAL OF THE CITY ARBORIST.

Amendment No. 15

Page 6, lines 26 and 27, insert “UNLESS OTHERWISE SPECIFIED IN THE PERMIT:”

All work covered by a permit issued [by the Department of Public Works] under this subtitle 27 shall be completed within 30 days from the date shown on the permit, UNLESS OTHERWISE SPECIFIED IN THE PERMIT.

Amendment No. 16

Page 7, lines 4 thru 7, insert “LOCK ANYTHING TO, NOR”

[Nor shall any] NO person MAY LOCK ANYTHING TO, NOR attach or place any rope, wire, sign, poster, handbill, or other thing [or substance] on any tree, [or] shrub, OR OTHER PLANT in any [street, lane, or alley] PUBLIC WAY OR OTHER PUBLIC PLACE or on any guard or protection of the [same] PLANT.

Amendment No. 17

Page 8, line 2, delete "TO OR BY CITY ARBORIST,"

lines 3 and 4, delete "WITH THE CITY ARBORIST," insert "(A) AS TO PUBLIC WAYS, WITH THE CITY ARBORIST, OR (B) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, WITH THE CHIEF OF PARKS"

§ 53-26. COMPLAINT ~~TO OR BY CITY ARBORIST.~~

(A) *COMPLAINT OF OTHER.*

(1) ANY PERSON MAY FILE A COMPLAINT ~~WITH THE CITY ARBORIST~~ ALLEGING A VIOLATION OF THIS SUBTITLE.

(A) AS TO PUBLIC WAYS, WITH THE CITY ARBORIST, OR

(B) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, WITH THE CHIEF OF PARKS

Amendment No. 18

Page 8, lines 9 thru 11, insert "OR CHIEF OF PARKS," delete "THE CITY ARBORIST MAY," insert, "(A) AS TO PUBLIC WAYS, THE CITY ARBORIST OR (B) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, THE CHIEF OF PARKS MAY"

(B) *ARBORIST'S OR CHIEF OF PARKS' OWN MOTION.*

ON HIS OR HER OWN MOTION, ~~THE CITY ARBORIST MAY~~

(A) AS TO PUBLIC WAYS, THE CITY ARBORIST OR

(B) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, THE CHIEF OF PARKS

MAY ISSUE A COMPLAINT ALLEGING A VIOLATION OF THIS SUBTITLE.

Amendment No. 19

Page 8, lines 20 thru 27, insert 4 times, "OR CHIEF OF PARKS"

§ 53-27. PRELIMINARY INVESTIGATION.

(A) *ARBORIST OR CHIEF OF PARKS TO INVESTIGATE.*

THE CITY ARBORIST OR CHIEF OF PARKS SHALL PROMPTLY INVESTIGATE THE COMPLAINT.

(B) *DISMISSAL FOR LACK OF PRIMA FACIE VIOLATION.*

IF THE CITY ARBORIST OR CHIEF OF PARKS DETERMINES THAT THE FACTS DO NOT MERIT FURTHER PROCEEDINGS, THE CITY ARBORIST OR CHIEF OF PARKS SHALL:

- (1) DISMISS THE COMPLAINT; AND
- (2) NOTIFY THE COMPLAINANT AND RESPONDENT OF THE DISMISSAL.

Amendment No. 20

Page 8, following line 27, insert

(C) IF THE CITY ARBORIST OR CHIEF OF PARKS DETERMINES THAT THE FACTS MERIT ENFORCEMENT ACTION, HE OR SHE MAY ISSUE AN ENVIRONMENTAL CITATION, OR PURSUE OTHER CIVIL OR CRIMINAL ENFORCEMENT ACTIONS.

Amendment No. 20

Delete all of page 9 and lines 1 – 4 of page 10, insert the following:

§ 10-1101. ENFORCEMENT BY CITATION.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT PROCEDURE, THIS TITLE MAY BE ENFORCED BY ISSUANCE OF:

(1) AN ENVIRONMENTAL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 40 {"ENVIRONMENTAL CONTROL BOARD"}; OR

(2) A CIVIL CITATION UNDER CITY CODE ARTICLE 1, SUBTITLE 41 {"CIVIL CITATIONS"}.

(B) PROCESS NOT EXCLUSIVE.

THE ISSUANCE OF A CITATION TO ENFORCE THIS TITLE DOES NOT PRECLUDE PURSUING ANY OTHER CIVIL OR CRIMINAL REMEDY OR ENFORCEMENT ACTION AUTHORIZED BY LAW.

§ 10-1102. PENALTIES.

(A) IN GENERAL.

(1) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE OR OF A RULE OR REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO THE PENALTIES SPECIFIED IN THIS SECTION.

(2) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

(B) BASIC PENALTY: \$1,000. EXCEPT AS OTHERWISE SPECIFIED IN THE SECTION, THE PENALTY FOR A VIOLATION IS A FINE OF NOT MORE THAN \$1,000 FOR EACH OFFENSE.

Amendment No. 21

Page 10, retain lines 5 thru 9, delete lines 10 – 30, retain lines 31-33, retain page 11