



Legislation Text

File #: 08-0049, Version: 0

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.
INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: Councilmember Clarke

A BILL ENTITLED

AN ORDINANCE concerning
City Trees - Protective Measures

FOR the purpose of extending certain laws for the protection of trees along public ways to apply also to trees in parks, squares, and other public places; prohibiting excessive or unnecessary cutting, trimming, or pruning of public trees; authorizing the City Arborist to adjudicate complaints of unauthorized or improper treatment of public trees and to impose civil penalties and remedies for violations; redefining certain terms; increasing certain criminal penalties; conforming agency references to reflect reallocations established by prior enactments; correcting, clarifying, and conforming related language; and generally relating to trees, shrubs, and other plants in the public ways and in the parks, squares, and other public places of the City.

BY repealing and reordaining, with amendments

Article 7 - Natural Resources

Section(s) 53-1 to 53-26, to be under the amended subtitle designation,

"Subtitle 53. City Trees"

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 7. Natural Resources

Division V: City Parks and Trees

Subtitle 53. CITY Trees [Along City Streets, etc.]

PART I. DEFINITIONS; GENERAL PROVISIONS

§ 53-1. Definitions.

(A) IN GENERAL.

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) [(a)] Person.

[The word "person", whenever used in this subtitle, shall be construed to include individuals, firms, and corporations.] "PERSON" MEANS:

- (1) AN INDIVIDUAL;
- (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY KIND;
- (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND; AND

. (4) EXCEPT AS USED IN § 53-30 {"CIVIL SANCTIONS"} AND § 53-36 {"CRIMINAL PENALTIES"} OF THIS SUBTITLE, A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR UNIT OF A GOVERNMENTAL ENTITY

(C) PUBLIC WAY.

"PUBLIC WAY" MEANS ANY PUBLIC STREET, ROAD, LANE, ALLEY, SIDEWALK, FOOTWAY, OR OTHER PUBLIC WAY OWNED BY THE CITY OR HABITUALLY USED BY THE PUBLIC.

(D) [(b)] Tree.

[The word "trees", as used in this subtitle, shall not be construed to] "TREE" DOES NOT include [shrubs which do not grow] A SHRUB THAT DOES GROWS NO higher than 15 feet.

§ 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.

§ 53-3. Jurisdiction of Department of Recreation and Parks.

[It shall be the duty of the Director] THE DEPARTMENT of Recreation and Parks SHALL:

- (1) [to] encourage the preservation, culture, and planting of shade and ornamental trees AND OF SHRUBS AND OTHER PLANTS in the [streets, lanes, or alleys] PUBLIC WAYS AND THE PARKS, SQUARES AND OTHER PUBLIC PLACES OF THE CITY;
- (2) [to] prune, spray, cultivate, and otherwise maintain [such] THESE trees, SHRUBS, AND OTHER plants[, and shrubbery];
- (3) [to] trim or direct the time and method of trimming [the same] THESE TREES, SHRUBS, AND OTHER PLANTS; and
- (4) [to] take [such] measures as [may be deemed] IT CONSIDERS necessary for the control and extermination of insects and other pests and plant diseases [which may] THAT injuriously affect trees, SHRUBS, AND OTHER PLANTS [that are now or may be hereafter] in the [streets, lanes, or alleys] THE PUBLIC WAYS AND OTHER PUBLIC PLACES OF THE CITY.

§ 53-4. Planting and care program.

(a) Program mandated.

The Department of Recreation and Parks shall initiate and maintain a program of planting and caring for trees [along the streets, alleys, lanes, and other] IN public ways and in parks, squares, and other public places of this City.

(b) Scope and implementation.

- (1) The program shall include at public expense the full cost of acquiring and planting the trees, including the cost of digging holes and preparing for the planting.
- (2) The size and scope of the program shall be determined from time to time by the amount of funds appropriated and authorized [therefor] FOR IT.
- (3) It is the legislative intent that this program be vigorously implemented and pursued[,] and that a large and increasing number of trees be grown and preserved in [and along] all [such] public ways and public places [in the entire] THROUGHOUT THE City.

(c) Spacing.

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

(d) Species and varieties.

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.

§ 53-5. RULES AND REGULATIONS.

(A) OFFICIALS TO ADOPT.

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

(B) FILING WITH LEGISLATIVE REFERENCE.

A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

PART II. PROTECTIVE MEASURES

§ 53-6. [§ 53-5.] Public notice of tree removal.

(a) Notice required.

[The] NEITHER THE Department of Recreation and Parks [and] NOR the Department of [Public Works] TRANSPORTATION [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].

(b) Form and content.

The notice SHALL:

(1) [shall] consist of a durable and legible statement of the Department's intent, affixed to and easily visible on the tree for not less than 5 days immediately preceding the contemplated removal or destruction; and

(2) [shall] state:

(i) the reason for the intended removal or destruction of the tree; and

(ii) the person or persons to whom inquiries or protests [thereon] may be directed.

(c) Exception for emergency.

(1) In [the event of] an emergency [situation], such as a fallen tree or some other condition or occurrence [requiring] THAT REQUIRES an immediate removal or destruction of a tree [along one of these public ways], the Department may remove or destroy the tree without complying with the [foregoing provisions] NOTICE REQUIREMENTS of this section.

(2) [But in this] IN THAT event, HOWEVER, the Department promptly shall notify the City Council of the circumstances, conditions, and justification under which the tree was [thus] removed or destroyed.

§§ 53-7 [§§ 53-6] to 53-10. {Reserved}

§ 53-11. [Permit requirements -] Planting trees.

(a) Permit required.

(1) No person [shall] MAY plant any tree in [any street, lane, or alley] A PUBLIC WAY OR IN A PARK, SQUARE, OR OTHER PUBLIC PLACE OF THIS CITY without:

(I) [(1)] first having obtained a written permit [therefor] TO DO SO from:

(A) AS TO PUBLIC WAYS, the Department of [Public Works] TRANSPORTATION[.]; OR

(B) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, THE DEPARTMENT OF RECREATION AND PARKS [setting forth the conditions under which such trees may be planted, including the kind and variety thereof]; and

(II) [(2)] COMPLYING in all respects [complying] with the conditions of [such] THAT permit.

(2) EACH PERMIT SHALL SPECIFY THE CONDITIONS UNDER WHICH THE TREE MAY BE PLANTED, INCLUDING THE KIND OR VARIETY OF TREE TO BE PLANTED. ALL CONDITIONS IMPOSED MUST BE APPROVED BY THE CITY ARBORIST BEFORE THE PERMIT IS ISSUED.

(b) [Court-ordered] REMEDIAL plantings.

Any person [determined by a court of competent jurisdiction to have] WHO HAS unlawfully removed, [or] destroyed, OR INJURED a tree in [any street, lane, or alley] A PUBLIC WAY and [required] IS ORDERED BY THE CITY ARBORIST OR BY A COURT OF COMPETENT JURISDICTION to replace the tree [as directed by such court] shall be granted a permit for [its] THE replacement, as provided in this section.

§ 53-12. [Permit requirements -] Treating trees.

(a) Permit required.

No person [shall spray, mulch, fertilize, or otherwise treat,] MAY DESTROY, remove, [destroy,] break, OR HURT OR cut, [or] trim, 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:

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

(2) AS TO PARKS, SQUARES, AND OTHER PUBLIC PLACES, THE DEPARTMENT OF RECREATION AND PARKS .

(b) [Department to direct] TRIMMING BY utilities, etc.

(1) [And no] NO CITY AGENCY, PUBLIC UTILITY OR PUBLIC SERVICE COMPANY, OR OTHER PERSON, NOTWITHSTANDING ANY FRANCHISE, EASEMENT, OR OTHER RIGHT TO USE A PUBLIC WAY OR OTHER PUBLIC PLACE, MAY [cutting or trimming of] CUT, TRIM. OR PRUNE any tree, OR ANY PART OF A TREE, in [any street, lane, or alley in connection with the work of any other City department or of any public service corporation or other person having a right to use said street, lane, or alley shall be done] THE PUBLIC WAY OR OTHER PUBLIC PLACE except:

(I) IN FULL COMPLIANCE WITH ALL CONDITIONS IMPOSED BY THE PERMIT ISSUED UNDER THIS SECTION;

(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

(III) OTHERWISE [in such manner] as directed by the Department of [Public Works] TRANSPORTATION AND THE CITY ARBORIST.

(2) ALL CONDITIONS IMPOSED BY THE PERMIT MUST BE APPROVED BY THE CITY ARBORIST BEFORE THE PERMIT IS ISSUED.

§ 53-13. [Permit requirements -] Impeding roots.

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

§ 53-14. [Permit requirements -] Time for completing PERMIT work.

All work covered by a permit issued [by the Department of Public Works] under this subtitle shall be completed within 30 days from the date shown on the permit.

§§ 53-15 to 53-20. {Reserved}

§ 53-21. [Injuring or defacing trees, etc.] ATTACHING ANIMALS , SIGNS, ETC.

(a) Horses or other animals.

No person [shall] MAY:

(1) fasten any horse or other animal to any tree, [or] shrub, OR OTHER PLANT in any [street, lane, or alley,] PUBLIC WAY OR IN ANY PARK, SQUARE, OR OTHER PUBLIC PLACE; [nor] OR

(2) [shall any person] cause or permit any horse or other animal to stand or be near enough to any tree, SHRUB, OR OTHER plant[, or shrub] IN ANY PUBLIC WAY OR OTHER PUBLIC PLACE to bite or rub against [it] THE PLANT or in any [manner] WAY injure or deface [the same] IT.

(b) Attaching items.

[Nor shall any] NO person MAY 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.

(c) Injuring, etc., protective devices.

[Nor shall any] NO person MAY remove, injure, or misuse any guard or device placed or intended to protect any tree, [plant, or] shrub, OR OTHER PLANT [now or hereafter] in any [street, lane or alley] PUBLIC WAY OR OTHER PUBLIC PLACE.

§ 53-22. {RESERVED}

§ 53-23. [§ 53-22. Breaking or hurting trees, etc.] REMOVAL BY CITY OF UNSAFE TREE.

[(a) In general.]

[If any person or persons shall willfully break, pull down, hurt, or destroy any tree or trees, or enclosure around the same, which are now or may hereafter be planted in any of the streets, lanes, or alleys of the City, or in any other public grounds within the City, such person or persons:

- (1) shall be subject to a penalty, as provided in § 53-26 of this subtitle; and
- (2) may be required to replace any such tree or trees or enclosure around the same.]

[(b) Exception.]

[Provided always, that nothing herein contained shall be so construed as to prevent] NOTHING IN THIS SUBTITLE PREVENTS the Department of Recreation and Parks OR THE DEPARTMENT OF TRANSPORTATION from removing any tree [or trees,] or part [thereof,] OF ANY TREE [which he may deem] THAT THE DEPARTMENT CONSIDERS TO BE so situated or in such A condition as to render [same] IT unsafe or as to obstruct [the footways or roadways] A FOOTWAY OR ROADWAY.

[§ 53-23. Inconsistent ordinances.

All ordinances and parts of ordinances heretofore passed which are inconsistent with this subtitle, or any of its provisions, are hereby repealed to the extent of such inconsistency.]

§§ 53-24 to 53-25. {Reserved}

PART III. ENFORCEMENT; PENALTIES

§ 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.

(2) A COMPLAINT FILED UNDER THIS SUBSECTION MUST BE:

(I) IN WRITING; AND

(II) SIGNED BY THE COMPLAINANT.

(B) ARBORIST'S OWN MOTION.

ON HIS OR HER OWN MOTION, THE CITY ARBORIST MAY ISSUE A COMPLAINT ALLEGING A VIOLATION OF THIS SUBTITLE.

(C) COPY TO RESPONDENT.

(1) THE CITY ARBORIST SHALL PROMPTLY SEND THE RESPONDENT A COPY OF THE COMPLAINT.

(2) FOR A COMPLAINT FILED UNDER SUBSECTION (A) OF THIS SECTION, THE CITY ARBORIST SHALL DELETE FROM THE COPY SENT TO THE RESPONDENT:

(I) THE COMPLAINANT'S NAME; AND

(II) TO THE FULLEST EXTENT POSSIBLE, ANY OTHER INFORMATION THAT MIGHT IDENTIFY THE COMPLAINANT.

§ 53-27. PRELIMINARY INVESTIGATION.

(A) ARBORIST TO INVESTIGATE.

THE CITY ARBORIST SHALL PROMPTLY INVESTIGATE THE COMPLAINT.

(B) DISMISSAL FOR LACK OF PRIMA FACIE VIOLATION.

IF THE CITY ARBORIST DETERMINES THAT THE FACTS DO NOT MERIT FURTHER PROCEEDINGS, THE CITY ARBORIST SHALL:

(1) DISMISS THE COMPLAINT; AND

(2) NOTIFY THE COMPLAINANT AND RESPONDENT OF THE DISMISSAL.

§ 53-28. HEARING ON COMPLAINT.

(A) IN GENERAL.

IF THE COMPLAINT IS NOT DISMISSED UNDER § 53-27 {"PRELIMINARY INVESTIGATION"} OF THIS SUBTITLE, THE CITY ARBORIST SHALL PROVIDE THE RESPONDENT WITH NOTICE AND AN OPPORTUNITY FOR A HEARING BEFORE THE CITY ARBORIST.

(B) REPRESENTATION BY COUNSEL.

AT THE HEARING, THE RESPONDENT IS ENTITLED TO BE REPRESENTED BY COUNSEL.

(C) PROCEDURES.

IN THE RULES AND REGULATIONS ADOPTED BY THE CITY ARBORIST UNDER § 53-5 {"RULES AND REGULATIONS"} OF THIS SUBTITLE, THE CITY ARBORIST SHALL ESTABLISH PROCEDURES TO GOVERN THE CONDUCT OF HEARINGS HELD UNDER THIS SUBTITLE.

§ 53-29. DISPOSITION.

(A) DETERMINATION.

AFTER THE CITY ARBORIST CONSIDERS ALL OF THE EVIDENCE PRESENTED, SHE OR HE SHALL MAKE WRITTEN FINDINGS OF FACT AND CONCLUSION OF LAW ON EACH ALLEGED VIOLATION.

(B) FINDING OF NO VIOLATION.

IF THE CITY ARBORIST DETERMINES THAT THE RESPONDENT HAS NOT VIOLATED THIS SUBTITLE, THE CITY ARBORIST SHALL:

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

(C) SANCTIONS FOR VIOLATION.

IF THE CITY ARBORIST DETERMINES THAT THE RESPONDENT HAS VIOLATED A PROVISION OF THIS ARTICLE, THE CITY ARBORIST MAY TAKE ANY 1 OR MORE OF THE ACTIONS AUTHORIZED IN § 53-30 {"CIVIL SANCTIONS"} OF THIS SUBTITLE.

§ 53-30. CIVIL SANCTIONS.

(A) CIVIL FINE.

THE CITY ARBORIST MAY IMPOSE A CIVIL FINE OF UP TO THE FOLLOWING AMOUNTS FOR EACH OFFENSE:

- (I) FOR A VIOLATION OF § 53-11 {"PLANTING TREES"} - \$500.
- (II) FOR A VIOLATION OF § 53-12 {"TREATING TREES"} - \$1,000.
- (III) FOR A VIOLATION OF § 53-13 {"IMPEDING ROOTS"} - \$500.
- (IV) FOR A VIOLATION OF § 53-21 {"ATTACHING ANIMALS, SIGNS, ETC."} - \$500.

(B) REPLACEMENT TREE.

IN ADDITION, THE CITY ARBORIST MAY REQUIRE THE RESPONDENT TO REPLACE EACH TREE, SHRUB, OR OTHER PLANT THAT WAS DESTROYED, REMOVED, OR INJURED IN THE VIOLATION WITH A TREE, SHRUB, OR OTHER PLANT OF THE SAME OR SIMILAR SPECIES, VARIETY, AND MATURITY, AS THE CITY ARBORIST SPECIFIES.

§ 53-31. JUDICIAL AND APPELLATE REVIEW.

(A) JUDICIAL REVIEW.

IF THE RESPONDENT IS AGGRIEVED BY THE CITY ARBORIST'S FINAL DECISION, THE RESPONDENT

MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

(B) APPELLATE REVIEW.

A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

§§ 53-32 TO 53-35. {RESERVED}

§ 53-36. [§ 53-26. Penalties] CRIMINAL PENALTIES.

Any person [violating] WHO VIOLATES [any of the provisions] A PROVISION of [§§ 53-11, 53-12, 53-13, 53-21, or 53-22 of this article] ANY OF THE FOLLOWING SECTIONS OF THIS SUBTITLE [shall be subject to a penalty of not less than \$25 nor more than \$500, in the discretion of the Court] IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, SUBJECT TO A FINE OF UP TO THE AMOUNT SPECIFIED FOR EACH OFFENSE:

- (1) § 53-11 {"PLANTING TREES"} - \$500.
- (2) § 53-12 {"TREATING TREES"} - \$1,000.
- (3) § 53-13 {"IMPEDING ROOTS"} - \$500.
- (4) § 53-21 {"ATTACHING ANIMALS, SIGNS, ETC."} - \$500.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

dlr08-116(2)~intro/20Feb08
art7/TreeTrimming/aa:me

dlr08-116(2)~intro/20Feb08
- 4 -
art7/TreeTrimming/aa:me