

MEMORANDUM

To: Mayor and City Council

From: Howard Koontz, City Arborist

Date: January 13, 2014

Subject: **Discussion of Amendments to No Net Loss of Trees Policy**

ITEM DESCRIPTION

The attached item consists of a select group of amendments to the city's No Net Loss of Trees policy (NNLT). The NNLT was created and approved to ensure that there will be effectively no loss of the city's urban tree canopy on city-owned property as a result of construction and development activities. These amendments are proposed to exempt certain compulsory activities from the NNLT requirements as "rational exemptions".

BACKGROUND

Dunwoody's No Net Loss of Trees policy (NNLT) is a sustainability initiative originally proposed in 2009 and approved by the Mayor and City Council in March of 2010. In the years since its implementation, the city has had the opportunity to conduct development activities under the terms of the NNLT, and because of some appreciable hardships as a result of the policy, proposes the attached amendments as rational exemptions.

Specifically, the NNLT does not exempt the city nor its approved contractors from compulsory maintenance and construction activities in city rights of way and utility easements. Easements, by definition, are meant to be clear of structures and other impediments, like trees, so that those easements can be maintained unencumbered by obstruction.

Trees located in utility easements or along roadways in the right of way by statute do not belong in that location, and never should have been planted there or allowed to mature if occurring naturally.

Under the terms of the NNLT, each time the city conducts a compulsory maintenance or repair activity, such as an emergency storm sewer repair or replacement project, a drainage culvert repair, or a drainage pond repair, any trees removed during the process must be replaced. To replace trees which never should have been present in the first place can be categorized as punitive and creates a hardship on the city's part for a number of reasons:

1. Dunwoody has a dense tree canopy existing along its rights of way and public properties. This makes selecting a prudent location for new planting problematic.
2. The majority of public utility easements within Dunwoody's corporate limits are not suitable for planting or re-planting, thereby removing a possible receiving location for replacement plantings.
3. Having to source, install and maintain the replacement tree(s) is/are an on-going cost to the city which lessens the ability to direct funds to more proactive and necessary preventative maintenance activities of the proper urban canopy.

In addition to the handful of minor edits that clarified and modernized the text of certain code section references, staff's major edits to the existing NNLT will facilitate the following changes:

1. The policy will recognize the distinction between discretionary and imperative construction/maintenance activities, and exempts those activities on easements and rights of way that are deemed imperative from tree replacement requirements.
2. Creates a program whereby if the city has trees remaining to be installed at the end of the required replacement term, and it is the appropriate planting season, a publicly advertised tree giveaway can occur, so that city residents may install city-provided trees on private property within the city limits.
3. Makes optional the requirement that dead trees, hazardous trees, and/or trees in direct conflict with utility lines or sight distances (in the case of traffic management) located on city owned or maintained property and rights of way be compensated, irrespective of the party doing the tree removal.

Through the introduction of the attached edits and amendments, staff believes that the urban tree canopy can continue to be protected, and that the imperative actions of the city's public works department can occur with no meaningful deterioration of the city's existing dense urban canopy.

RECOMMENDED ACTION

Staff recommends adoption of the following edits/amendments to the city's No Net Loss of Trees policy, as presented.

**STATE OF GEORGIA
CITY OF DUNWOODY**

RESOLUTION 2010-XX-XX

**A RESOLUTION TO AMEND THE CITY OF DUNWOODY NO NET LOSS OF TREES
POLICY**

- WHEREAS,** Dunwoody’s trees contribute to a clean, healthy environment by removing carbon dioxide from the air and producing oxygen; and
- WHEREAS,** trees are a vital component of the infrastructure for the City of Dunwoody, providing environmental and economic benefits including reducing the heat island effect caused by pavement and buildings and providing shade and cooling, which lessens energy demands and pollution; and
- WHEREAS,** protecting the trees along our roads and in our parks is in the best interest of the City of Dunwoody; and
- WHEREAS,** the City strives to maintain trees in Dunwoody in a healthy and non-hazardous condition through professionally accepted arboricultural practices; and
- WHEREAS,** the City of Dunwoody seeks to prevent any loss of canopy coverage as described in City of Dunwoody’s Code of Ordinances, Chapter 16, Land Development; and
- WHEREAS,** edits to the policy, originally adopted in 2010, reflect rational exemptions and clarify and modernize the text to continue to support a no net loss in canopy coverage on city-owned property; now

THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Dunwoody, and it is hereby resolved by the authority of the City Council, that the City of Dunwoody No Net Loss of Trees Policy as attached hereto and incorporated herein, is hereby amended.

SO RESOVLED AND EFFECTIVE this 27th day of January, 2014.

Approved:

Michael G. Davis, Mayor

Attest:

Sharon Lowery, City Clerk

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Dunwoody 
* Smart people – Smart city
No Net Loss of Trees Policy

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NO NET LOSS OF TREES POLICY

I. Purpose

The purpose of this policy is to ensure that there will be no net loss of trees on city-owned property as a result of discretionary construction and development activities. Trees are a vital component of the infrastructure for the City of Dunwoody, providing environmental and economic benefits, and contributing to a clean and healthy environment. As they grow, trees take in carbon dioxide from the air and produce life-giving oxygen. Trees provide food and shelter for wildlife, cut down on noise pollution by acting as sound barriers, and improve water quality, protect streams and protect marshes by slowing and filtering rain water. Trees in Dunwoody reduce the heat island effect associated with pavement and buildings by providing shade and cooling, which lessens energy demands and pollution. Properly placed trees can increase property values and add to the aesthetic vistas within the city.

Dunwoody's trees face many hazards and hardships including insects, disease, construction, drought, and air pollution. Protecting the trees along our roads and in our parks is in the best interest of the City of Dunwoody. Whenever safe, prudent, and practical, the city strives to maintain Dunwoody's trees in a healthy and thriving condition through professionally accepted arboricultural practices.

The City of Dunwoody seeks to curtail any loss of canopy coverage as described in City of Dunwoody's Code of Ordinances, Chapter 16 Land Development. This policy furthers the "Tree Protection" provisions by establishing standards of no net loss in canopy coverage on city-owned property.

No Net Loss of Trees Policy



II. Definitions

When used in this policy, the following words, terms and phrases, and their derivations, shall be the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

AGENT means an official contracted or subcontracted person who is authorized to act on behalf of the City of Dunwoody and represent their interests.

CALIPER means the diameter of a tree trunk, applied only to new or replacement plantings that is taken six inches above the ground for up to and including four-inch caliper size, and 4'6" above the ground for larger sizes.

CITY ARBORIST means the Community Development Director or designee of the City of Dunwoody having primary enforcement responsibilities under this policy, and charged with the responsibility for approval of all tree removals and tree replacements in the City of Dunwoody required pursuant to this policy.

CITY DIRECTOR OF SUSTAINABILITY means the Director of Sustainability or other employee or agent as designated in writing by the City Manager.

DISCRETIONARY means voluntary, elective, or available to be implemented on a user-defined schedule.

EASEMENT means a right to use the real property of another, without impediment, for a specific purpose, despite legal title to the underlying land being retained by the land owner for all other purposes.

IMPERATIVE means absolutely necessary or required; unavoidable.

LANDSCAPE PLAN means a plan that identifies areas of tree preservation and methods of tree protection within the protected zone, as well as all areas or replanting. Within replanting areas, the common and botanical names of the proposed species, the number of plants of each species, the size of all plants, the proposed location of all plants, and any unique features of the plant shall be indicated.

OFFICIAL means any elected or appointed person who holds office or serves in a position of public capacity.

RE-VEGETATION means the replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the Zoning Ordinance, conditions of zoning approval, or the Tree Preservation Ordinance.

TREE means any self-supporting wood perennial plant which at maturity attains a caliper of four inches or more.

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III. Scope

The terms and provisions of this policy shall apply to all public property owned by the City of Dunwoody and subject to city regulations.

A. Permitting for Tree Removal

No person shall directly or indirectly remove or destroy any tree located on public property without obtaining approval pursuant to §25-31, or as provided in this section, whichever is appropriate. Destruction of a tree includes pruning and shaping practices not in line with ANSI A300 (Part 1) Standards for Tree Care Operations—Pruning.

1. Permits to remove or destroy trees for discretionary construction, renovation, or demolition on public property shall be obtained by making application to the City Arborist on a form prescribed by the city.
 - a. Applications must be accompanied by a landscape plan, prepared by a registered landscape architect, certified arborist or registered forester, showing tree replacements.
 - b. The replacement trees need not be located on the same parcel as the tree that was removed, destroyed or injured. The City Arborist shall consider all public property located within the entire corporate limits of Dunwoody for the purposes of eligible areas of replanting.
 - c. The City Arborist shall make suggestions related to appropriate tree species, size, season for installation and appropriate location for replacement trees.
 - d. Replacement tree plantings shall be completed within one calendar year.
 - e. Replacement tree plantings shall be inspected by the City Arborist and verified by the dated signature of the City Arborist on the approved plan.
 - f. In the event that there are not enough suitable locations for replacement trees on City property or right of way, the City may elect to satisfy the tree replacement requirement by providing trees at a publically advertised event for citizens—distributed in exchange for agreement that planting will be within the City of Dunwoody. Eligibility to receive trees will be determined by proof of residency.

2. Permits to remove or destroy trees for safety, landscaping, silviculture, infrastructure maintenance, or other purposes on public property shall be obtained by making application to the City Arborist on a form prescribed by the city.
 - a. The City Arborist shall make suggestions related to appropriate tree species, size, season for installation, and appropriate location for replacement trees.
 - b. The replacement trees need not be located on the same parcel as the tree that was removed, destroyed or injured. The City Arborist shall consider all public property located within the entire corporate limits of Dunwoody for the purposes of eligible areas of replanting.

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- c. Replacement tree plantings shall be completed within one calendar year.
 - d. Replacement tree plantings on public property shall be inspected by the City Arborist.
 - e. In the event that there are not enough suitable locations for replacement trees on City property or right of way, the City may elect to satisfy the tree replacement requirement by providing trees at a publically advertised event—distributed in exchange for agreement that planting will be within the City of Dunwoody. Eligibility to receive trees will be determined by proof of residency.

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IV. Exceptions

- A. The City of Dunwoody's policy to ensure there will be no net loss of trees on city property is not always practicable. The following situations are exceptions to the No Net Loss of Trees Policy.
- ~~B. If a tree is dead or presents a hazard or danger to health, safety, or welfare of the public, such tree may be removed immediately by the City or the City's agent. Within five working days of said removal, the City or the City's agent must provide a tree removal application to the City Arborist. Re-vegetation shall follow based on the City Arborist's suggestions as to an appropriate tree species and appropriate location for replacement trees.~~
1. Trees, alive or dead, that pose a hazard to the health, safety and welfare of the population at large; and
 2. Trees, alive or dead, that pose a specific threat to persons and/or real property; and
 3. Trees, alive or dead, that negatively impact the best management practices of the orderly operation of motor vehicle, bicycle and pedestrian traffic through Dunwoody, may be removed without the need for compensatory re-vegetation.
- C. If a tree is diseased or insect-infected such tree may be removed after consultation with the City Arborist. Within five business days of said removal, the City of Dunwoody or the City's agent must provide the tree removal application to the City Arborist. Re-vegetation ~~shall~~ may then follow, based on the City Arborist's suggestions as to an appropriate tree species, size, reason for installation, and appropriate location for replacement trees.
- D. During a period of any emergency, such as a tornado, ice storm, flood, or any other act of nature, the requirements of this policy may be waived or modified as required by the City Manager, Public Works Director, Parks Director, City Arborist, or those individuals' designee.
- E. Trees that are located on, inside, or immediately adjacent to a utility easement, that are removed as a function of emergency and/or imperative repair or maintenance work, do not require compensatory re-vegetation.
- F. Trees that are located on, inside, or immediately adjacent to any utility easement, whether the trees are alive or dead, and are, in the opinion of the city arborist or his/her designee, in conflict with utility lines in that easement, or will grow into a conflict with utility lines in that easement, be they above ground or underground

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utilities, may be removed by the city or by the city's duly authorized third-parties, to mitigate or eliminate such conflict without the need for compensatory re-vegetation.

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V. Responsibility

A. City Arborist

The City Arborist has primary enforcement responsibilities for this policy and is charged with the responsibility for approval of all tree removal and tree replacement plans for public property in the City of Dunwoody required pursuant to this policy.

DUTIES: The City Arborist shall have the following duties and powers in regards to the No Net Loss of Trees Policy:

1. Communicating with the City Department Heads when a tree could potentially be removed or damaged due to performing essential work duties.
2. Reviewing all plans for tree removal and tree replacement on public property in the City of Dunwoody as required pursuant to this policy.
3. Monitoring and ensuring the success of the No Net Loss of Trees Policy, and when appropriate, working with Administration to assess technical feasibility and/or cost effectiveness.
4. Work with the Director of Sustainability to make certain that employees are aware and educated about this No Net Loss of Trees Policy.