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The Tree Next Door's Feedback on Tree Protection Ordinance -- First Draft

First Draft Document Posted on Urban Ecology Framework site at this link:

<https://www.atlantaga.gov/home/showdocument?id=45336>

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The Tree Next Door (TTND) submits this feedback with the understanding that other people in the community may have different ideas for how to rewrite Atlanta's Tree Protection Ordinance (TPO). We welcome the opportunity to jointly work on the second draft of the TPO rewrite with others in the community *who share our common goal to save the tree canopy*. For purposes of creating the second draft, the City should host online meetings (i.e., Zoom) on the various sections of the ordinance to help facilitate a collaborative rewrite process rather than produce another draft for everyone to comment on individually. Working in silos increases the potential for unnecessary and time-delaying conflicts that can be quickly resolved by bringing all interested parties together in group work sessions.

After a considered review of the First Draft of the new TPO dated March 12, 2020, TTND has identified 23 key issues with the draft. These concerns are listed in no particular order with the exception that, without an Urban Forest Master Plan that guides the development and implementation of the TPO rewrite, the rewrite is meaningless in terms of saving tree canopy. All changes we see in this First Draft are not connected with *any goal to save tree canopy* since this draft does not even have any defined and measurable goals.

Although we probably have not captured all the problems with this First Draft TPO, here are some of the key concerns we have. The First Draft TPO...

1. **Includes no Master Plan** that guides the creation and implementation of the new TPO.
2. **Has no measurable goals** to save tree canopy.
3. **Omits two critical elements we had expected would be in this new ordinance:** putting the tree review at the beginning of the building permitting process and protecting trees in the setbacks, stream buffers, wetlands & other environmentally sensitive areas.
4. **Contain an obvious loophole** for the City to exempt any projects it wants from the TPO.
5. **Provides no real protection for any tree;** every tree now just has a different removal price tag. Even Heritage and Specimen trees can be removed if they prevent development of the property.
6. **Includes no increased enforcement penalties.**
7. **Provides no evidence that the incentives and credits for meeting preservation thresholds will save tree canopy.**

8. [Provides no evidence that the replacement tree or incentive requirements will preserve existing tree canopy.](#)
9. [Does not protect pine trees under 12" DBH.](#)
10. [Expands "Dead, Dying and Hazardous" definition](#) to include healthy trees which interfere with hardscape or utilities, including those previously saved when there were alternatives to hardscape, property ingress/egress, and utility installation.
11. [Creates confusing posting requirements](#) based on a tree's "Significance Category" which further reduces oversight and transparency of what is about to be cut, making it easier for trees to be removed inappropriately or illegally.
12. [Does not clearly protect trees in the setback.](#)
13. [Reduces posting time from 15 to 5 days](#), making the posting process even less transparent to nearby neighbors and prevents people from appealing.
14. [Restricts who can appeal a preliminary approval](#) to cut trees and fines citizens for pointing out city arborists' mistakes.
15. [Makes it difficult to view a permit request or site plans.](#)
16. [Reduces frequency of existing quarterly report](#) to an annual report, making it more difficult to see what is happening to our tree canopy on a timely basis.
17. [Requires no pre-construction conferences](#) for one- or two-family home additions.
18. [Minimizes the number of Tree Commissioners who must show up at a tree appeal hearing.](#)
19. [Poorly defines the role and reporting relationships of the administrative analyst and clerk positions](#) in the Tree Conservation Commission (TCC).
20. [Places other City goals above saving the tree canopy](#), such as City Design growth area projects, multi-family residential properties, small residential construction projects, and allowing people to cut a healthy tree without paying recompense.
21. [Does not clearly state how Tree Trust Fund \(TTF\) money is overseen and spent.](#)
22. [Does not effectively protect parking lot trees.](#)
23. [Contains other confusing and contradictory language.](#)

Detailed Explanation of Each Issue

1. Includes no Master Plan that guides the creation and implementation of the new TPO.

(See last page of First Draft TPO: "Other Provisions: Urban Forest Master Plan)

- a. An Urban Forest Master Plan for preserving and growing Atlanta's tree canopy should serve as the blueprint for how the TPO is written, but instead, the plan to create an Urban Forest Master Plan is found on the *back page* of the TPO as an "Other Provisions" appendage to the main ordinance. Rather than being on the front-end of the TPO, guiding how it is written so that the TPO will achieve the goals of the plan, the plan has yet to be created.
- b. The year-long urban ecology study should have provided the data needed to create an Urban Forest Master Plan, but instead, a First Draft TPO has been created with *no data* and *no plan* at all.
- c. The Urban Forest Master Plan needs to do more than just describe how people will be educated on the benefits of trees, what are the best practices for tree care, and that data needs to be made available to understand what is happening with the tree canopy. That is not a plan, just a list of activities. The Urban Forest Master Plan needs to be an actual *plan* which outlines measurable goals of what we want to achieve for our City's tree canopy, the steps to be taken to achieve those goals, and how the City will measure progress to goal. There is nothing in the First Draft TPO that suggests the Urban Forest Master Plan will be this kind of plan.
- d. The plan to create an Urban Forest Master Plan needs to include a description of the actual deliverables with key deliverable dates and a description for how the plan will be actively used to achieve the plan's measurable goals. None of this exists in the current "plan to create a plan" in the First Draft TPO.

2. Has no measurable goals to save tree canopy.

(Division 1. General Provisions, D. Goals, Intent, and Purpose)

- a. States that "It is the intent of the City to protect all trees, and especially mature trees, to the extent feasible..." , but doesn't define what "feasible" means.
- b. No longer states a *measurable goal*, such as "no net loss of trees", as the intended outcome for rewriting the TPO.
- c. Replaces the former "no net loss of trees" measurable goal with *activities* stated as a goal, i.e., "to protect and advance a high-quality urban forest" and "to slow or halt canopy loss".
- d. Activities without any defined and measurable outcomes cannot be measured.
- e. Once measurable goals are established in the second draft, the City needs to determine sooner than "five years after adoption" whether the goals were met. Based on current tree canopy loss, we may lose 100K or more trees in the city within the next five years if the new TPO fails to effectively stop or slow tree loss.

3. Omits two critical elements we had expected would be in this new ordinance.

- a. Does not put the arborist plan review of proposed tree removal at the beginning of the building permitting process

- b. Does not protect trees in the setback, stream buffers, wetlands & other environmentally sensitive areas.

4. Contain an obvious loophole for the City to exempt any projects it wants from the TPO.

(Division II. Applicability and Exemptions, C. Other Possible Exemptions)

- a. Whenever the City determines that other “legitimate local government purposes and goals may conflict with tree canopy protection”, such as affordable housing, mass transit, or the nebulously defined “goals” of the Comprehensive Development Plan, Atlanta City Design, and Urban Ecology Framework, the City can waive the specific TPO regulations and requirements that prevents the City from accomplishing its goal(s).
- b. The City can exempt projects from TPO compliance regardless of whether it is on public or private property, opening the door for the City to be unduly influenced by private developer interests.

5. Provides no real protection for any tree; every tree now just has a different removal price tag. Even Heritage and Specimen trees can be removed if they prevent development of a property.

(Division VI. Removal of healthy, non-hazardous trees, B. Tree Significance Category Determination, 1-3. & Division X. Removal of healthy, non-hazardous trees; Tree replacement and recompense standards, A. Heritage and Specimen Tree standards, 2., a-c.)

- a. The “Significance Category Method” to determine tree value is a complete undefined *(Division VI, B, 1-3)*
 - i. The “context factors” are undefined.
 - ii. The “weighted point system for context factors” is undefined.
 - iii. The “categorization standards and methods” are undefined.
 - iv. The statement: “The Department of City Planning will maintain the categorization standards” is not clear. Does this mean that the DCP can arbitrarily decide what the categorization standards will be? This role needs to be better described.
 - v. Permit applicants will assign their own significance category to the trees they wish to remove using a worksheet provided by the City; thereby shifting responsibility from the city arborist to evaluate tree condition to the permit applicant who has an obvious financial incentive to downgrade the value of the trees to be removed.
 - vi. No mention whether the Significance Category assigned to a tree can be appealed.
- b. Accompanying “Tree Value Spreadsheet” only shows how trees will be valued but does not show how the tree data, context factors, assigned weights, categorizations, resulting values, and replacement required will save any trees.
(See [Tree Valuation Spreadsheet - March 2020](#))
- c. Heritage and Specimen trees may be removed if saving them would prevent development of the property. These trees are saved only if they occupy < 40% of the actual buildable area, allow at least 20 feet of construction access from an adjacent street and access to existing utility lines *(Division X, A., 2., a -c)*

6. Includes no increased enforcement penalties.

(Division XVII. Violation, Penalties, and Enforcement, A. Finding of violation- notification to responsible party, 1., a-c.; B. Specification of violations and remedial acts required, 5.; D. Penalties, 3., a -b.)

- a. Illegal tree destruction fees remain the same, \$500 for first tree; \$1000 for every subsequent tree *(Division XVII, A., 3., a-b.)*
- b. Since state law prevents increased fines for misdemeanors, there needs to be greater penalties to discourage illegal tree cutting such as:
 - i. Citations issued for multiple violations, illegal removal, or destruction of trees over a certain DBH.
 - ii. Citations issued to *all* involved parties, including homeowners, tree cutters, consultants, contractors, and subcontractors.
 - iii. No more than one correction notice issued for a tree fence violation; second tree fence violation on same property means a Notice of Violation is issued with a \$500 fine; third violation means a Citation issued with a \$1000 fine.
- c. No criteria given for when a Correction Notice/Warning, a Notice of Violation, or a Citation should be issued. *(Division XVII, A., 1., a-c.)*
- d. If a damaged tree can be saved, but at a greater expense than it would cost to remove, then the tree can be cut. The TPO should not be placing a developer's financial interests above saving the tree canopy, especially when the developer created the problem that needs remediation. *(Division XVII, B., 5.)*

7. Provides no evidence that the incentives and credits for meeting preservation thresholds will save tree canopy.

(Division IX. Removal of healthy, non-hazardous trees - site plan requirements, review process, and site density requirements, G. Incentives and credits for meeting preservation thresholds)

- a. By preserving trees on the site that were never at risk of being cut in the first place, one can avoid replanting or paying recompense for removed Category 2 and Category 3 trees, further decreasing the tree canopy. *(Division IX, G., 2.)*
- b. By saving trees in Category 4 and 5 that were never at risk of being cut in the first place, one can earn credits to not have to replant or recompense destroyed trees, thereby contributing to tree canopy loss. *(Division IX, G., 3.)*
- c. Tree recompense fees are lowered for affordable housing projects, which further destroys tree canopy. *(Division IX, G., 4.)*
- d. Overall, the calculation for tree incentives and credits is so complicated that it will not work as a direct and transparent incentive to save trees.

8. Provides no evidence that the replacement tree or incentive requirements will preserve existing tree canopy.

(Division X. Removal of healthy, non-hazardous trees; Tree replacement and recompense standards, C. Replacement Tree Requirements & Division I. General Provisions, H. Definitions & Division)

- a. Replacement tree requirements vary by Significance Category with no evidence that the replacement inches required by each Category will result in 100% replaced canopy within a certain time period. (Division X, C.)
- b. The “Standard Minimum DBH” definition used in the replacement formulas does not consider that replacement trees are not usually the same species as the removed trees.
 - i. Cannot assume that “2 ½ inch caliper trees planted will grow to [the removed trees] size over time” when the tree replanted is not the same species as the tree removed. (Division I, H.)
- c. Replaced trees should not be allowed to be later removed without a permit, including a DDH permit, even if they do not meet the DB minimums, to ensure the City is keeping an accurate account of which replacement trees actually replace the tree canopy.

9. Does not protect pine trees under 12” DBH.

(Division II: Applicability and Exemptions, A. Applicability, 2. & Division VII. Protection of Healthy, Non-Hazardous trees: Procedure for Obtaining Removal Permit, A. Policy; general requirement, 2. b.)

- a. Introduces another level of complexity into the ordinance by having two different protection standards for hardwoods and pines.
- b. Devalues the ecological contribution of one of our most prominent, native trees that takes up water in its needles year-round.
- c. Increases potential for illegal tree cutting of hardwoods under 12”. If the stump is destroyed before the arborist can cite the illegal tree cutting, the owner can claim the removed tree was a pine under 12”.

10. Expands “Dead, Dying and Hazardous” definition to include healthy trees which interfere with hardscape or utilities, including those previously saved when there were alternatives to hardscape, property ingress/egress, and utility installation.

(Division I. General Provisions, H Definitions & Division & Division V. Removal of dead, dying, or hazardous trees, and of invasive or undesirable species on private and public property, A. Dead, Dying and Hazardous (DDH) Private Trees and Public Trees associated with planned construction activity.)

- a. The “Dying” tree definition has been replaced with a “Dead, Dying, or Hazardous (DDH) Tree and Permit” definition that changes the DDH definition to not only describe the health of the tree but other factors such as “causing or contributing to a severe conflict with hardscapes, overhead utilities, and underground utilities, as determined by a qualified professional”.
- b. “Any tree which is causing severe hardscape damage or is in significant conflict with overhead and underground utilities” can be removed as DDH, but that is not a dead, dying, or hazardous tree; it’s a tree that is in the way of where someone wants to locate hardscape or utility lines. Hardscape preferences and utility lines that can be installed elsewhere should not take priority over protecting trees.
- c. This expanded DDH definition now allows more trees to come down in the setbacks even if there are other ways to have property egress/ingress or to install utilities.

- d. The only “qualified professional” who should be allowed to determine whether a tree is DDH is the city arborist, not a private arborist.

11. Creates confusing posting requirements based on a tree’s “Significance Category” which further reduces oversight and transparency of what is about to be cut, making it easier for trees to be removed inappropriately or illegally.

(Division X. Removal of healthy, non-hazardous trees; Tree replacement and recompense standards, B. Permitting and posting requirements.)

- a. Category 2 trees do not have a physical posting unless higher category trees are being removed at the same time on the property. This lack of posting for Category 2 trees is unacceptable, especially if there is a question as to whether the Category 2 designation is even correct.
- b. All tree removals, including DDH trees, need to have a “permit issued sign” posted on-site at least 24 hours before any tree removal to alert neighbors and reduce illegal tree cutting complaint calls to Arborist Division. This sign can be picked up and placed on the property by the tree cutter or property owner.
- c. All Category 2 trees need to be posted (with an orange X on tree) in addition to the Category 3 – 5 trees, or passersbys will complain that unmarked healthy trees were never posted and thus, removed illegally.
- d. When Heritage or Specimen trees are permitted to be removed via a hardship or exemption, they need to be posted as well. The ordinance does not make it clear that these trees will be posted and can be appealed. (Division X, B)

12. Does not clearly protect trees in the setback.

(Division VII. Protection of Healthy, Non-Hazardous trees: Procedure for Obtaining Removal Permit, C. Removal and destruction of healthy trees for the purposes of construction, demolition, and landscaping, 1. a, & 3.,d. – e.)

- a. Trees now can be removed in the setback and buildable area “without limitation” for dwellings, garages, free- standing buildings, pools, patios, driveways, retaining walls and utility lines *even if other alternatives exist*, which is not acceptable.
- b. This expansion of reasons for takedown will increase canopy loss. Need to return to the exceptions for removing trees in the setback that are in the current TPO.
- c. Allowing setback trees to be removed for construction may be contradicted by the requirements: “The improvement cannot reasonably be positioned to further increase tree protection” and “All reasonable efforts have been made to plan the construction or demolition methods and site access with protection of trees as a priority.”
 - i. Not defining what is “reasonable” leaves much to arborist discretion.
 - ii. Appeals increase when the ordinance leaves tree permitting decisions to subjective interpretation as to what is “reasonable”.
 - iii. This First Draft TPO has made the language regarding setback trees even more confusing than the current TPO.

13. Reduces posting time from 15 to 5 days, making the posting process even less transparent to nearby neighbors and prevents people from appealing.

(Division VIII. Protection of Healthy, Non-Hazardous Trees; Posting and Appeals, A. Notifications and Posting, 2., a., & 6.)

- a. The 10-day orange sign posting has been eliminated; there will be just one 5-day yellow sign posting, reducing the time people will be notified of proposed tree cutting from 15 to 5 days.
- b. The orange sign posting that notified neighbors of a tree removal request has been replaced by an online notification on the atlantaga.gov website for a minimum of 10 calendar days.
 - i. No specifics of what this online posting will look like. Presently, the City Arborist Division says that Accela is good enough for us to see postings online which is NOT the same thing as seeing a list of postings online.
 - ii. This posting and all tree-related postings should be on the Arborist Department page.
 - iii. All online postings need to be a clear *list of properties* searchable by street name, zip code, and NPU.
 - iv. All properties for which a tree removal request has been filed must remain on this online list until they are transferred to the list of "yellow" sign postings or the tree cutting request is withdrawn. (Division VIII, A, 2, a.)
- c. The sign posting that a preliminary approval has been issued will be onsite for five (5) business days, during which time the City will accept appeals.
 - i. This yellow sign posting must also be made online as described above. Otherwise, people will not know if a property which received a tree removal request received a preliminary approval or if the request was withdrawn (Division VIII, A., 6.)
 - ii. Five business days of sign notification on a property is not enough time to notify neighbors that a preliminary approval has been issued given that one must go downtown, view the site plans, familiarize themselves with a 49-page tree ordinance, and submit an appeal within those five days if they believe the preliminary approval was issued in error. This 5-day restriction is too onerous and is designed to prevent people from appealing.
- d. All postings must be completed and the final permit issued before a pre-demolition or pre-construction conference occurs.

14. The appeals process is not open to all who discover that the city arborist erred in issuing a preliminary permit, and fines citizens for pointing out city arborists' mistakes.

(Division VIII. Protection of Healthy, Non-Hazardous Trees; Posting and Appeals, B. Appeals, 1., a. & B., 4., b.)

- a. Appeals for trees on private property are still restricted to those who reside or own property or a business either within 500 feet or within the NPU of the property.
- b. Private corporations and institutions often have too much influence in their local community that stifle appeals from being made by people who reside in the same NPU (i.e., The Westminster Schools), necessitating the need to expand the right of appeal to

all people who own property or a business in the City of Atlanta and/or a civic association in the NPU in which the tree(s) at issue are located.

- c. This section should be rewritten so that private trees are appealable by the same people and civic associations as public trees.
 - i. Appeals for trees on public property can be made by anyone who resides or owns property or a business in the City of Atlanta and/or a civic association in the NPU in which the tree(s) at issue are located.
- d. Appeals still cost \$75; this fee should be refunded if appeal is upheld as an Atlanta resident or business owner should not be financially penalized for upholding the law.

15. Makes it difficult to view a permit request or site plans.

(Division VII. Protection of Healthy, Non-Hazardous trees: Procedure for Obtaining Removal Permit, A. Policy; general requirement, 4. & Division VIII. Protection of Healthy, Non-Hazardous Trees, A. Notifications and Postings, 8.)

- a. If we are serious about saving tree canopy in 2020 and beyond, we need to move from 1995 technology and start posting permit applications, site plans, preliminary approvals, and final permits online.
- b. Requiring people to take time off during the day, drive or take public transportation downtown, and then pay for parking if they drive, puts an undue burden to be able to oversee the tree permitting process on those who work, have limited mobility, or have limited funds.
- c. Making tree permitting documents available for public inspection only at the Arborist Division office is a discriminatory practice that must end.

16. Reduces frequency of existing quarterly report to an annual report, making it more difficult to see what is happening to our tree canopy on a timely basis.

(Division XIII. Tree Conservation Commission, C. Terms; vacancies; compensation, 10., a. & b.)

- a. A quarterly report is already being produced today and is codified in the current TPO. It does not help save tree canopy to have less frequent information about the trees that are being removed.
- b. Quarterly report contents need to report on more than just the tree loss and replacement at city level. Aggregated data at the City level does not reveal meaningful enough data on which to act. We need to be able to view the quarterly data by several filters such as:
 - i. Arborist who issued the DDH or tree cutting permit
 - ii. Species
 - iii. DBH
 - iv. Zip code
 - v. NPU
- c. Rather than publishing a printable one-page quarterly report, the City should produce an online database in which people can generate their own customized reports to answer questions such as: “How many trees were lost in the 30305 zip code in the 4th quarter?” or “How many trees were permitted as DDH by each arborist in 2019?” It is

impossible to take any meaningful action based on the quarterly report data without this level of detail.

- d. The quarterly report should include onsite, city-arborist verified, actual replacements by either the property owner or tree planting services like Trees Atlanta to have a full and verified accounting of replaced trees. Reporting just the trees that developers have agreed to replace is not an accurate way to measure tree canopy replacement.
- e. Quarterly reports must be made available to the Tree Conservation Commission (TCC) and be part of the TCC's monthly minutes.
- f. Quarterly reports should be available within two weeks after the end of each quarter.

17. Requires no pre-construction conferences for one- or two-family home additions.

(Division IV. Tree Protection Standards, A. Minimum Criteria, 1. & Division IX. Removal of healthy, non-hazardous trees - site plan requirements, review process, and site density requirements, H. Requirements for site plan review process and issuance of certificate of occupancy, 2 -3.)

- a. Pre-construction conferences need to include one- or two-family home additions since most of our City's trees are on one- or two-family home properties.
- b. TPO should mandate that for all properties:
 - i. a pre-demo conference will take place before any demolition, and
 - ii. a pre-construction conference will take place if construction does not immediately follow demolition or site plans/conditions/tree fencing have any changes.

18. Minimizes the number of Tree Commissioners who must show up at a tree appeal hearing.

(Division VIII. Protection of Healthy, Non-Hazardous Trees; Posting and Appeals, B. Appeals, 8.)

- a. Given that there are 15 members of the Tree Commission, 60% those members (9) should be required for a tree appeal hearing to occur.
- b. By having as few as 3 members at any given hearing, there is a lack of continuity of decision makers across the hearings which allows for too much variability in appeal decisions.

19. Poorly defines the role and reporting relationships of the administrative analyst and clerk positions in the Tree Conservation Commission (TCC).

- a. Both positions' job duties need to be briefly described in the TPO with a reference to their actual posted job descriptions. For years we have had a TCC administrative analyst performing the role of a clerk. This needs to end.
- b. Neither the TCC administrative analyst nor the clerk should report to someone in the Department of City Planning or the Department of Parks since appeals heard before the TCC are filed against decisions made by city arborists in those two departments.
- c. The administrative analyst should have responsibility for duties such as:
 - i. managing the Educational Outreach Fund (EOF) activities and expenditures
 - ii. providing an EOF report to the chair of the City Council CD/HS Committee
 - iii. overseeing the completion and implementation off the Urban Master Plan

- iv. giving TCC approval for all forest purchases and accompanying maintenance plans using TTF money
- v. supervising the quarterly reporting and distribution.
- d. As stated in this First Draft TPO, the clerk shall serve as a secretary to the Commission and shall be responsible for the clerical administration of the appeals process. The administrative analyst should not be expected to perform these duties if the clerk position is vacant.

20. Places other City goals above saving the tree canopy, such as City Design growth area projects, multi-family residential properties, small residential construction projects, and allowing people to cut a healthy tree without paying recompense.

(Division IX. Removal of healthy, non-hazardous trees - site plan requirements, review process, and site density requirements, C. Minimum Tree Density Standards and Preservation Thresholds., 1-3. & Division VII. Protection of Healthy, Non-Hazardous trees: Procedure for Obtaining Removal Permit, E. Allowance for reasonable, periodic removal of healthy trees)

- a. Tree density levels can be reduced by 50% for projects planned in the City Design Growth areas – how does this help save tree canopy? (Division IX, C., 3.)
- b. Recompense can be substituted for minimum tree density standards for non-single-family residential projects – how does this help save tree canopy? (Division IX, C., 2.)
- c. Minimum tree density standards are waived for “residential projects that disturb 1,000 square feet or less of land and have construction cost less than \$50,000”. This exemption allows someone to bring a property below minimum tree density standards to add a small addition, build an outdoor kitchen or pool. How does this help save tree canopy? (Division IX, C, 1)
- d. One can remove one tree or 5% of total site DBH with no recompense for non-construction purposes if the site meets or exceeds 150% of the minimum site density requirements before and after the removal. How does this help save tree canopy? (Division VII, E)
- e. Tree density requirements must be enforced in all zoning categories. Currently commercial zoning is not enforcing tree density standards, ensuring no green/open space in commercial zones.

21. Does not clearly state how Tree Trust Fund (TTF) money is overseen and spent.

(Division XII. Tree Trust Fund)

- a. Given how the Tree Trust Fund has been misappropriated in the past and continues to be misappropriated, this section of the ordinance needs language that more strictly governs how money in the fund is overseen and spent.
- b. Presently, over \$400K of recompense collected each year can be used on salaries and other activities that do not replace trees or buy forested land.
- c. The addition of a clerk position’s undefined salary decreases the amount of TTF money that can be spent replacing or preserving tree canopy. The clerk position should replace one of the city arborist positions currently paid from the TTF which would maintain the same number of staff positions.

- d. No limits are given for how much TTF money can be spent on an Urban Forestry Master Plan or Tree Canopy Studies – this needs to be specified.
- e. Forested land purchases should be used for the purchase of forested land and to maintain the trees within the forest only, not to cover park maintenance, land development, or employee salaries of any kind.
- f. No more than a certain percentage of recompense money collected each year should be used for activities that do not replace trees or buy forested land.
- g. TTF contributions obtained from recompense should be used for tree replanting only, or else, we are not replacing the destroyed canopy.
- h. TTF revenues obtained from other sources – penalties, grants, sale of wood products from public trees, and voluntary contributions -- can be used to pay for the other tree-related salaries and activities authorized to be paid from the TTF.
- i. An entity other than the Department of Planning or Parks and Recreation should be appointed to oversee the TTF.
- j. An annual TTF report documenting all fund income and expenses must be published and made available to the public and presented for approval to the TCC before the new fiscal year. This report should integrate information from the quarterly report to include information on things such as:
 - i. Trees planted, location, size, species and date of planting.
 - ii. Recompense and fines collected.
 - iii. An audit of recompense and fines, paid and unpaid.
- k. A TTF budget for each fiscal year should be developed by the Tree Conservation Commission to align with the goals of Urban Forest Master Plan. This budget needs to include proposed tree planting and forested land expenditures, as well as the anticipated expenditures from the Educational Outreach Fund.

22. Does not effectively protect parking lot trees.

(Division XI. Parking lot landscaping and tree planting requirements)

- a. For years, the Parking Lots section of the current TPO has been rarely enforced, so we need to ensure greater compliance with the new TPO.
- b. Parking lots comprise about 10% of the land area in Atlanta but have less than 5% canopy coverage.
- c. Increasing pressures on Atlanta from Climate Change and rising urban temperatures make putting trees on parking lots a priority.
- d. Parking lots that are being sealed, restriped, or resurfaced should not be exempt from the TPO requirements, but instead, be granted one year to bring the parking lots into compliance with all the landscaping and tree requirements.
 - i. The Arborist Office can issue a continuance, but a plan and a permit must be submitted to receive the continuance.
- e. No grandfathered parking lots -- all parking lots must come into compliance with this section of the TPO by the time this law has been into effect for one year.
- f. Parking lots that do not come into compliance after being granted the one-year extension should be fined \$1,000 a month until coming into compliance. It will be the responsibility of the Arborist Office to enforce this law.

- g.* The City should incentivize compliance and seek funding to assist parking lot owners with coming into compliance.
- h.* The only adjustment that should be allowed is reducing required spaces. It is imperative that parking lots in the city not be heat islands and sources of stormwater into the public sewer system.
- i.* No other exemptions should be allowed without going through the appeals process.
- j.* Spaces for other modes of transportation should be allowed to be used as credit to reduce the number of spaces required for automobiles.

23. Contains other confusing and contradictory language.

(Various sections)

- a.* It needs to be made clear that if complying with the tree ordinance prevents someone from complying with “any other federal, state, or local laws or regulations including, but not limited to, the City of Atlanta Building Code, the City of Atlanta Zoning Ordinance, the ordinances enforced by the Department of Watershed Management, and any other required permits and/or approvals”, that the other codes and ordinances do not take precedent if it results in a loss of trees. *(Division I, E., 1.)*
- b.* There is an amendment which allows “the city arborist [to] approve minor amendments to the permit without there being any new right of appeal from such approval” provided they don’t conflict with a ruling by the TCC, affect Heritage or Specimen trees, and don’t increase the amount of DBH removal by more than 10%. It needs to be made clear that any tree deemed “saved” on a site plan that was upheld by the TCC is not included in the amendments. *(Division XIII, B., 16.)*
- c.* Not sure what is meant by “When interpreting and applying the provisions of this ordinance, such provisions shall be held to the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare. What purpose is this statement trying to accomplish? *(Division I, F.)*
- d.* Not clear if the tree preservation methods to be included on site plans would be required to save trees or are just suggestions the city arborist may make to save trees. They should be required, where appropriate, to save trees. *(Division IX, B., 5. b., i–v.)*