



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2021-829, **Version:** 1

An ordinance establishing tree protection and replacement procedures for trees on the properties of certain Metro Departments.

WHEREAS, the Metropolitan Government of Nashville and Davidson County's urban tree canopy is a utility that improves air quality, manages stormwater, supports public health, provides economic benefits, mitigates the heat island effect, and increases quality of life for Nashville's residents; and,

WHEREAS, the Metropolitan Government should lead by example and hold itself to a higher standard in the protection of its tree canopy; and,

WHEREAS, Mayor Megan Barry signed Executive Order Number 40 in January 2018 to establish a Metropolitan Tree Policy to, in part, coordinate the various Metropolitan Government departments regarding tree-related issues and to establish a Metro Tree Review Panel to review new Metro projects; and,

WHEREAS, Mayor David Briley affirmed the Metropolitan Tree Policy through Executive Order Number 4 signed in June 2018; and,

WHEREAS, in March 2020, Mayor John Cooper signed Executive Order Number 5 "Metropolitan Tree Policy" to ensure this utility will be managed as a continued asset; and,

WHEREAS, it is the best interest of the citizens of Nashville and Davidson County that Executive Order Number 5 be codified to ensure continued protections of trees on Metro Nashville's properties.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Title 2 of the Metropolitan Code is hereby amended by adding the following new Chapter 2.226:

Chapter 2.226 -TREE REPLACEMENT AND PROTECTION ON CERTAIN METRO PROPERTIES

2.226.010 Purpose.

The Metropolitan Government of Nashville and Davidson County's ("Metro Government's") Urban Tree Canopy is a utility that improves air quality, manages storm water, supports public health, provides economic benefits, mitigates the heat island effect, and increases the quality of life for Nashville's residents. Therefore, this utility should be managed as an asset. The Metropolitan Government will lead by example to preserve the tree canopy and pursue retention wherever possible.

2.226.020 Responsible Agencies Identified

The Metropolitan Government conducts tree-related programs and initiatives through the Departments of Water and Sewerage Services, Parks and Recreation, Codes Administration, Public Works (designated in this chapter as the “Nashville Department of Transportation and Multimodal Infrastructure” or “NDOT”), General Services, Nashville Public Library, and Planning within the Metro Government's boundaries (“Responsible Agencies”).

2.226.030 Covered Trees Identified

These Tree Replacement and Protection regulations apply to trees within the Metro Government's rights-of-way and to trees on the properties of the Departments of Water and Sewerage Services, Parks and Recreation, NDOT, General Services, the Nashville Public Library (collectively, “Covered Trees”). Trees that are less than two inches in diameter at breast height, dead, diseased, listed as invasive by the Tennessee Invasive Plants Council, structurally damaged, potentially hazardous, Bradford Pear (*Pyrus calleryana*), or Ash (*Fraxinus*) species are not Covered Trees.

2.226.040 Governance

Tree-related programs and initiatives shall be coordinated by the Metropolitan Department of Water and Sewerage Services (“Metro Water Services”) Urban Forestry Staff and a Tree Working Group. The Tree Working Group shall consist of key program staff selected by the department heads of the Responsible Agencies and shall convene monthly to coordinate and provide updates on tree-related policies and initiatives. The Metro Water Services Urban Forestry Staff will lead coordination and ensure communication with all Responsible Agencies' department heads, project staff, and relevant non-governmental partners.

2.226.050 Tree Review Panel Created.

Covered Trees shall be managed and preserved under the supervision of the Metro Tree Review Panel (the “Panel”). The Panel shall be comprised of representatives from the Departments of Water and Sewerage Services, Parks and Recreation, Codes Administration, NDOT, General Services, Planning, and the Mayor's Office.

2.226.060 Panel Review and Replacement Standards

The Panel will review Metropolitan Government projects and land-management activities on Metro Government properties of the Responsible Agencies that include the removal of Covered Trees over 90 aggregate inches in diameter at breast height (“DBH”) or of any single specimen Covered Tree over 30 inches in DBH. Projects subject to the tree density requirements of 17.24 shall comply with Section 2.226.080 of the Metropolitan Code and not this section. The removals of Covered Trees over 90 aggregate inches in DBH or of any single specimen tree over 30 inches in DBH will be subject to the replacement standards contained in this section. Covered Trees that are less than six inches in DBH and/or located within a public utility easement will not count toward the aggregate total or the single specimen requirement. Covered Trees located in the Metro Government rights-of-way will not count as removals under this section unless located in a planting strip of at

least four feet in width measured from the road or curb to the sidewalk, or they are being removed for a new Metro Government sidewalk installation. This protocol will not apply to areas within Metro Parks that are (1) greenways or trails, (2) managed as grasslands or mixed-grass meadows, (3) areas designated as protected natural areas in the Metro Parks Natural Resource Management Plan, or (4) impacted by infrastructure maintenance or repair.; Metro Parks will supply an annual report of the counts to the Tree Review Panel on Covered Tree removals in these exempted areas for data and public information purposes. The Panel will review the projects for compliance with the replacement standards and will pursue retention where feasible. The Panel may provide a recommendation of an alternate plan to the department head of the Responsible Agency that is proposing the removal, or their designee. The tree replacement standards for all Covered Trees are as follows:

Replacement Standards:

Size of Tree Removed (DBH)	Number of New Canopy Trees Required
≤ 10 inches	1
10.1 to 15 inches	2
15.1 to 20 inches	3
Greater than 20.1 inches	4

If authorized as a substitute for canopy trees, understory trees shall be planted at twice the rate of canopy trees. Replacement trees shall be nurse stock, at least 2.0 inches DBH, and 6 feet tall. Responsible agencies can track trees planted on their properties or within the Metro Government right-of-way and may apply them to the replacements required under this section if the planting occurred within one year of the tree removal activity.

2.226.070 Notification

Metro Government tree removals governed by 2.226.060 will be noticed via onsite signage where legally permissible and by electronic communication a minimum of 14 days prior to the work. The notification will contain the location of the removal; the number, species, and size of tree(s) to be removed; the replacement plan; and information on public comment submission. Public comments received shall be provided to the Panel and to the department head of the Responsible Agency that is proposing the tree removal, or their designee.

2.226.080 Enhanced Tree Requirements

Metro projects having tree density requirements pursuant to Chapter 17.24 of the Metropolitan Code shall have a 20% higher tree density requirement than private development. The Urban Forester with the Department of Codes Administration will review projects for compliance with this standard.

2.226.090 Violations

Each Responsible Agency shall take all actions necessary to ensure implementation of this chapter for all properties under that department's jurisdiction. Violations of this chapter shall be reported to the department head of the Responsible Agency, or their designee. Continued violations shall be reported to the Mayor's Office and Metro Council.

2.226.100 Removal of or Damage to Covered Trees

No private person or entity shall damage or remove a Covered Tree without the permission of the Urban Forester at Codes, NDOT, or the Metro Government department, agency, board, or commission responsible for the property. Damage to and or removal of Covered Trees shall be subject to replacement or payment into the Metro tree bank as determined by the Urban Forester at Codes, NDOT, or the Metro Government department, agency, board, or commission responsible for the property. The number of replacement trees shall be determined by the replacement standards in Section 2.226.060. Replacement trees shall meet the standards for size, form, and quality set out in the latest edition of the American Standard for Nursery Stock (ANSI) Z60.1. The responsible party shall replace any required trees that die and replacement trees shall be installed at the earliest possible time within a planting season. Developments subject to Section 17.20.120, Chapter 17.37, and/or Chapter 17.24 of the Metropolitan Code are not governed by this section.

2.226.110 Tracking and Data Collection

The Metropolitan Government will monitor its Tree Canopy and will complete and update a county-wide urban tree canopy study no less frequently than every five years, with more frequent analysis as conditions require. Metro Water Services Urban Forestry Staff will develop and maintain an inventory of all street trees and potential tree-planting locations inside Nashville's Urban Zoning Overlay district.

Section 2. This ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance establishes tree protection and replacement standards on property owned by the Metropolitan Government. In January 2018, Mayor Megan Barry signed Executive Order No. 40 to establish a Metropolitan Tree Policy to coordinate Metro Departments on tree-related issues and to establish a Metro Tree Review Panel to review new Metro projects. This was affirmed by Mayor David Briley in June 2018. In March 2020, Mayor John Cooper signed Executive Order No. 5 to continue the Metropolitan Tree Policy. This ordinance codifies the Metropolitan Tree Policy.

The standards outlined in this ordinance apply to trees within Metro's right-of-way and trees on the properties of the Metro Departments of Water and Sewerage Services ("MWS"), Parks and Recreation, Public Works/Nashville Department of Transportation and Multimodal Infrastructure ("NDOT"), General Services, and the Nashville Public Library. These Departments are referred to collectively as the "Responsible Agencies".

Tree related programs and initiatives are coordinated by MWS Urban Forestry staff and a Tree Working Group. The Tree Working Group consists of staff from the Responsible Agencies and convene monthly to coordinate and provides updates on tree-related policies and initiatives. MWS Urban Forestry staff is in charge of leading coordination and ensuring communications with the Responsible Agencies and relevant non-governmental partners.

The Metro Tree Review Panel is comprised of representatives from MWS, Parks and Recreation, Codes, NDOT, General Services, Planning, and the Mayor's Office. Pursuant to proposed Section 2.226.060 of the Metro Code, the Panel reviews Metro projects and land-management activities that include the removal of certain trees over 90 aggregate inches in diameter at breast height (DBH) or any single specimen covered tree over 30 inches in DBH. Removal of these trees must follow the following replacement standards:

- Less than 10 inches DBH - 1 new canopy tree required
- 10.1 to 15 inches DBH - 2 new canopy trees required
- 15.1 to 20 inches DBH - 3 new canopy trees required
- Greater than 20.1 inches DBH - 4 new canopy trees required

Different standards apply to Metro projects having tree density requirements under Chapter 17.24 of the Metro Code. This requirement would not apply to removals of covered trees in the Metro rights-of-way unless located in a planting strip of at least four feet in width, or if removed for a new Metro sidewalk installation. This would also not apply to areas within Metro Parks that are (1) greenways or trails, (2) managed as grasslands or mixed-grass meadows, (3) areas designated as protected natural areas in the Metro Parks Natural Resource Management Plan, or (4) impacted by infrastructure maintenance or repair. The Panel reviews projects for compliance with replacement standards and may provide recommendations for alternate plans to the department head that is proposing the removal.

Tree removals governed by proposed Section 2.226.060 of the Metro Code are subject to public notice requirements, including onsite signage and electronic communication at least 14 days prior to the work. The notice must contain the location of the removal; the number, species, and size of trees to be removed; the replacement plan; and information on public comment submission. Public comments are provided to the Metro Tree Review Panel and to the head of the department proposing the tree removal.

For Metro projects having tree density requirements under Chapter 17.24 of the Metro Code, there is a 20% higher tree density requirement than for private development. The Urban Forester reviews projects for compliance with this standard.

Violations of this Chapter would be required to be reported to the department head for the Responsible Agency. Continued violations would be reported to the Mayor's Office and Metropolitan Council.

No private person or entity may damage or remove a covered tree without the permission of the Urban Forester at Codes, NDOT, or the Metro department, agency, board, or commission responsible for the property. Damage to and removal of trees are subject to replacement or payment into the Metro Tree Bank.

Metro will monitor the tree canopy and will complete and update a county-wide urban tree canopy study at least every five years, with more frequent analysis as conditions require. MWS Urban Forestry staff will

develop and maintain an inventory of all street trees and potential tree-planting locations inside Nashville's Urban Zoning Overlay district.