



Metropolitan Nashville and Davidson County, TN

Legislation Text

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An ordinance amending Title 5 of the Metropolitan Code of Laws relative to providing funds for restoring and maintaining Nashville and Davidson County's tree canopy.

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

WHEREAS, in addition to its utility value, the tree canopy in Davidson County adds priceless aesthetic value to the appearance of Nashville's streetscapes, residential and commercial properties, and urban landscapes; and

WHEREAS, the most recent report regarding Davidson County's urban tree population and tree canopy, conducted in 2018, confirmed that Davidson County has lost over nine hundred eighteen (918) acres of tree canopy on parcels undergoing development during the period 2008 through 2016; and

WHEREAS, approximately thirteen percent (13%) of the existing tree canopy within the Urban Zoning Overlay of Davidson County disappeared between 2008 to 2016. According to the report, Nashville's downtown area would have to increase its canopy coverage by over one hundred percent (100%) in order to meet the transect goals for this area; and

WHEREAS, as a result of just this particular period of canopy degradation between 2008 to 2016, the Metropolitan Government sustained substantial losses, including:

- (a) \$308,873 in lost stormwater abatement and filtration benefits;
- (b) \$66,458 in lost air quality benefits, including removal of particulate matter;
- (c) \$258,378 in electricity and/or natural gas costs from additional home utility use; and

WHEREAS, due to the 918-acre canopy loss over the 8-year period between 2008 to 2016, over 30,000 metric tons of carbon were released into Davidson County's atmosphere; and

WHEREAS, additional threats to Nashville's tree canopy continue unabated. The emerald ash borer infestation will decimate an estimated 1.6 million trees in Davidson County within the next ten (10) years. As a result, estimated additional forthcoming losses include:

- (a) \$31.5 million in lost stormwater abatement and filtration benefits by the Metropolitan Government by 2030;
- (b) \$6.8 million in lost air quality benefits, including removal of particulate matter, by 2030;
- (c) \$26.4 million in electricity and/or natural gas costs from additional home utility use by 2030; and

WHEREAS, national studies reveal that the majority of tree canopy loss is occurring in low-income neighborhoods. In a two-year study, the *Nature Conservancy* determined that 92% of low-income neighborhoods in the U.S. have less tree cover -- specifically, 15% less canopy -- compared to high-income neighborhoods, with 62 million fewer trees by comparison. The result is an average higher temperature in low-income neighborhoods of 1½ degrees Celsius. Similarly, the American Forests "Tree Equity Score" analysis

found that communities of color have 33% less tree canopy on average than majority white communities. And neighborhoods with 90% or more of their residents living in poverty have 41% less tree canopy than communities with only 10% or less of the population in poverty. In Nashville and Davidson County, formerly red-lined areas generally match and overlap current canopy loss impact areas; and

WHEREAS, to address rapidly diminishing tree populations in Davidson County, and to avert the effects of canopy degradation, the Metropolitan Government developed the “Root Nashville” campaign with the objective of planting 500,000 trees by 2050, stemming the loss of trees in Nashville and prioritizing an equitable distribution of trees throughout the county; and

WHEREAS, the majority of tree canopy degradation in Davidson County is occurring on private property. While the Metropolitan Government subscribes to heightened tree density requirements for its own public projects, Metro-owned properties comprise only 6% of the total land volume in Davison County. Therefore, any impactful planting campaign must concentrate on private property opportunities; and

WHEREAS, tree-planting projects on private properties are best undertaken by private operational partners who can advocate tree-planting programs on private properties -- working in collaboration with the Metropolitan Government and in particular the Metro Water Services Department - Stormwater Division. Currently, the Cumberland River Compact serves as the official nonprofit operational partner in the “Root Nashville” campaign, working in conjunction with Metro Water Services Department - Stormwater Division, to plant and maintain trees on private property; and

WHEREAS, because the majority of tree canopy degradation in Davidson County has resulted from residential, commercial, and industrial development, funding mechanisms for restoration and maintenance of the tree canopy should be sensitive to, and correlate with, barometers of development activity such as (a) the Metropolitan Government’s annual building permits revenues, (b) annual grading permits revenues, and (c) general obligation bonds issued by the Metropolitan Government to fund construction projects; and

WHEREAS, available funding for tree canopy restoration and maintenance on private properties can be allocated to qualified private operational partners in the form of grants or agreements to fund initiatives by the Metropolitan Government through the Metro Water Services Department - Stormwater Division; and

WHEREAS, the Metropolitan Code of Laws already provides a dedicated funding mechanism for other public priorities based upon a percentage of the net proceeds of any general obligation bond issued to fund construction projects; and

WHEREAS, according to a 2021 report compiled by the Financial Solutions Group of MGT of America Consulting LLC, a consultant retained by the Metropolitan Government to survey tree canopy-related ordinances and fee structures in three peer cities for the Metropolitan Department of Codes, and based on data provided by the Metropolitan Government, funding necessary to achieve the objectives of “Root Nashville” of planting 500,000 trees by 2050 would need to provide approximately \$3 million per year; and a dedicated funding mechanism for tree canopy restoration and maintenance, including mechanisms similar to that enacted in Chapter 5.10 of the Metropolitan Codes of Laws, can provide a significant portion of that funding.

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

Section 1. That Title 5 of the Metropolitan Code of Laws be amended to add a new Chapter 5.11 Tree Canopy Restoration and Maintenance - Financing, effective July 1, 2022, as follows:

Chapter 5.11 TREE CANOPY RESTORATION AND MAINTENANCE - FINANCING

5.11.010 Definitions.

"Stormwater Division" means the Stormwater Division of the Metropolitan Water and Sewer Services Department.

"Construction project" means any capital project, approved in the capital improvements budget and included in an initial resolution determining to issue general obligation bonds of the Metropolitan Government of Nashville and Davidson County involving the building or erection of any public building, structure, park, or parking facility, which project is funded in compliance with federal and state law. Construction project shall also include the reconstruction, replacement, extension, repairing, betterment or improvement of any public building, structure, park, or parking facility where the cost of the improvement exceeds fifty percent of the value of the building, structure, park, or parking facility before the reconstruction, replacement, repair, or improvement.

"Construction project" shall also include eligible capital projects being undertaken by the metropolitan government in conformance with agreements in existence on the effective date of this ordinance.

"Tree canopy restoration and maintenance guidelines" mean the guidelines referenced in Section 5.11.030 of this chapter.

"Tree canopy restoration and maintenance project" means a project funded through reserved funding derived from annual building permits revenues, grading permits revenues, or as part of a general obligation bond issue or through the commercial paper program as identified in Section 5.11.020 of this chapter, and which has been approved in accordance with tree canopy restoration and maintenance guidelines.

5.11.020 Sources of funding.

A. Building permit revenues

1. An allocation from the general fund equivalent to one percent (1%) of the annual revenues budgeted by the Metropolitan Government of Nashville and Davidson County for building permits issued pursuant to Chapter 16.28 of the Metropolitan Code of Laws for new construction or substantial improvements shall be deposited, set aside, and made available to fund tree canopy restoration and maintenance by the end of the following calendar quarter, subject to annual appropriations.

2. Proceeds so deposited may be expended, in conformance with existing agreements and state and federal law, toward the planting, replacement, irrigation, maintenance, betterment, or improvement of trees, tree planting projects, or tree canopy improvement projects, as prescribed by Stormwater Division of Metro Water Services.

B. Grading permit revenues

1. An allocation from the general fund equivalent to one percent (1%) of the annual revenues budgeted by the Metropolitan Government of Nashville and Davidson County for grading permits issued pursuant to Chapter 15.64 of the Metropolitan Code of Laws for new construction or substantial improvements shall be deposited, set aside, and made available to fund tree canopy restoration and maintenance by the end of the following calendar quarter, subject to annual appropriations.

2. Proceeds so deposited may be expended, in conformance with existing agreements and state and federal law, toward the planting, replacement, irrigation, maintenance, betterment, or improvement of trees, tree planting projects, or tree canopy improvement projects, as prescribed by Stormwater Division of Metro Water Services.

C. General obligation bonds issued to fund construction projects

1. An allocation from the general fund equivalent to one percent (1%) of the preceding five-year average of net proceeds of general obligation bonds issued to fund construction project(s) not initially funded with

commercial paper bond anticipation notes shall be set aside and made available to fund tree canopy restoration and maintenance by the end of the following calendar quarter, subject to annual appropriations.

2. If a construction project is initially funded through the metropolitan government's commercial paper program with bond anticipation notes, an allocation from the general fund equivalent to one percent (1%) of the preceding five-year average net expenditures spent to fund such construction projects each calendar quarter shall be set aside and made available to fund tree canopy restoration and maintenance by the end of the following calendar quarter, subject to annual appropriations.

3. Proceeds so made available may be expended, in conformance with existing agreements and state and federal law, toward the planting, replacement, irrigation, maintenance, betterment, or improvement of trees, tree planting projects, or tree canopy improvement projects, as prescribed by Stormwater Division of Metro Water Services. If funds are made available with respect to a construction project funded through the commercial paper program as outlined in this section, then no set-aside equivalent to one percent (1%) of any general obligation bond net proceeds shall be permitted as provided in Subsection C. 1 to fund tree canopy restoration and maintenance.

4. If an allocation pursuant to subsection C.1 or C.2 above is insufficient to fund a particular tree canopy restoration or maintenance project, proceeds so set aside or made available may, in conformance with applicable state and federal law, accumulate until they are sufficient to fund such project(s).

5. In addition to allocations based upon general obligation bond funds and commercial paper program funds, donations from private persons or entities and state or federal monies may be expended on tree canopy restoration or maintenance projects in accordance with guidelines provided by the Stormwater Division of Metro Water Services. No part of the general fund reserve fund of the general services district ("four percent funds") may be used to finance tree canopy restoration or maintenance projects.

5.11.030 - Allocation of funding

Funding derived from the sources identified in Section 5.11.020 which is deposited, set aside, and made available to fund tree canopy restoration and maintenance shall be allocated, subject to annual appropriations, to qualified private operational partners in the form of grants or agreements to fund initiatives by the Metropolitan Government through the Metro Water Services Department - Stormwater Division.

5.11.040 - Funding cap

The annual amount of funding derived from the sources identified in Section 5.11.020 to be deposited, set aside, and made available to fund tree canopy restoration and maintenance shall not exceed two million five hundred thousand dollars (\$2,500,000) per fiscal year. Should the funding generated from the sources identified in Section 5.11.020 exceed this cap in any fiscal year, the surplus funds shall be restored to the general fund.

5.11.050 Duties of the Metro Water Services Stormwater Division.

The Metro Water Services Stormwater Division shall:

A. Adopt tree canopy restoration guidelines, which shall include a method or methods for the selection of tree planting projects and requirements for tree maintenance.

B. Procure any tree planting and maintenance services, landscape design services, and any other services required for the maintenance and restoration of the tree canopy.

C. Allocate funding derived from the sources identified in Section 5.11.020 for tree canopy restoration and

maintenance on private properties to qualified private operational partners in the form of grants and/or agreements to fund initiatives. The operational partner may grant funds to additional non-profit organizations for the planting of trees on private properties.

D. Promulgate rules and regulations consistent with this ordinance to facilitate the implementation of its responsibilities hereunder, which rules and regulations shall be approved by a resolution approved by a majority of the metropolitan council.

5.11.060 - Sunset provision.

The provisions of this chapter shall expire and be null and void on June 30, 2023 ("sunset date") unless extended by resolution of the metropolitan council. This provision is included to ensure that the effectiveness and necessity of this chapter is reviewed by the metropolitan council after its adoption. If the provisions of this chapter are not extended by resolution of the metropolitan council before the sunset date, no funding allocations shall be deposited, set aside, or made available to fund tree canopy restoration and maintenance after the sunset date. This sunset provision shall not operate to terminate any existing grant agreement in effect as of the sunset date.

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

Analysis

This ordinance creates a mechanism for providing funds for restoring and maintaining the tree canopy in Nashville and Davidson County. An allocation from the general fund equivalent to one percent of the annual revenues for building permits, the annual revenues for grading permits, and the five-year average of net proceeds of general obligation bonds issues to fund construction projects. These allocations would be deposited, set aside, and made available to fund tree canopy restoration and maintenance. The funds would be used by the Stormwater Division of Metro Water Services for the purposes of planting, replacement, irrigation, maintenance, betterment, or improvement of trees, tree planting projects, or tree canopy improvement projects.

There would be an annual funding cap of \$2,500,000 per fiscal year. If the funding generated from the sources identified above exceeds this cap, the surplus funds would be restored to the general fund.

The Stormwater Division of Metro Water Services would be directed to adopt tree canopy restoration guidelines, procure tree planting and maintenance services, landscape design services, and other services required for maintenance and restoration of the tree canopy, and allocate funding from the sources identified above for tree canopy maintenance and restoration. Stormwater would also be authorized to promulgate rules and regulations to facilitate the implementation of these responsibilities. The rules and regulations would be subject to approval by resolution of the Metro Council.

This program would sunset on June 30, 2023, unless extended by a resolution of the Metro Council.