



Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

File #: BL2022-1122

Type: Bill (Ordinance) **Status:** Passed

File created: 2/21/2022 **In control:** Metropolitan Council

On agenda: **Final action:** 5/17/2022

Title: An ordinance to amend Titles 2 and 17 of the Metropolitan Code of Laws, to amend Chapters 17.24 and 17.28 pertaining to Tree Protection and Replacement, and to amend Chapters 2.226, 17.04, 17.12, 17.20, 17.24, 17.28, and 17.40 to make associated housekeeping amendments, all of which is described herein (Proposal No. 2022Z-005TX-001).

Sponsors: Angie Henderson, Kathleen Murphy, Brett Withers, Burkley Allen, Thom Druffel, Emily Benedict, Joy Styles, Mary Carolyn Roberts, Delishia Porterfield

Indexes:

Code sections:

Attachments: 1. Substitute BL2022-1122, 2. Amendment No. 1 to BL2022-1122

Date	Ver.	Action By	Action	Result
5/27/2022	2	Metropolitan Council	effective	
5/18/2022	2	Mayor	approved	
5/17/2022	2	Metropolitan Council	passed on third reading as amended	
5/17/2022	2	Metropolitan Council	amended	
5/16/2022	1	Affordable Housing Committee	approved with an amendment	
5/16/2022	1	Planning and Zoning Committee	approved with an amendment	
5/5/2022	2	Metropolitan Council	passed on second reading	
5/5/2022	1	Metropolitan Council	substituted	
5/5/2022	1	Metropolitan Council	public hearing	
4/28/2022	1	Planning Commission	approved with a substitute	
4/5/2022	1	Metropolitan Council	deferred	
3/4/2022	1	Metropolitan Council	advertised	
3/1/2022	1	Metropolitan Council	passed on first reading	
2/22/2022	1	Metropolitan Council	filed	

An ordinance to amend Titles 2 and 17 of the Metropolitan Code of Laws, to amend Chapters 17.24 and 17.28 pertaining to Tree Protection and Replacement, and to amend Chapters 2.226, 17.04, 17.12, 17.20, 17.24, 17.28, and 17.40 to make associated housekeeping amendments, all of which is described herein (Proposal No. 2022Z-005TX-001).

WHEREAS, Metro Nashville and Davidson County is characterized by rolling hills, steep bluffs, valleys, floodplains, forests, and numerous rivers and streams; and

WHEREAS, NashvilleNext, Metro’s General Plan adopted in 2015, identifies such natural areas as important community assets that provide benefits including enhancing air and water quality, moderating temperature, providing wildlife habitat, and better quality of life for residents; and

WHEREAS, NashvilleNext identifies the importance of sensitive development techniques to minimize hazards associated with development in natural areas and to balance preservation and development to create resiliency; and

WHEREAS, allowing for flexibility in development patterns within existing zoning allowances can help to achieve goals to balance development with protection and conservation of sensitive natural areas; and

WHEREAS, updating the standards of the zoning code pertaining to the cluster lot option will help ensure that flexibility of lot size and development pattern are appropriately balanced and linked with the quantity and quality of natural area conservation achieved by the proposed development.

WHEREAS, the creation of 17.12.090 Conservation Development acknowledges that trees are a natural area worthy of protection.

WHEREAS, the consolidation of tree protection standards in a single Chapter of the code ensures the consistent implementation of environmental standards.

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

Section 1. That Chapter 2.226 of the Metropolitan Code is hereby amended by deleting Section 2.226.060 and replacing it with the following:

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 ninety aggregate inches in diameter at breast height ("DBH") or of any single specimen covered tree over thirty inches in DBH. Projects subject to the tree density requirements of Chapter 17.28 shall comply with Section 2.226.080 of the Metropolitan Code and not this section. The removals of covered trees over ninety aggregate inches in DBH or of any single specimen tree over thirty 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
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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 six 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.

Section 2. That Chapter 2.226 of the Metropolitan Code is hereby amended by deleting section 2.226.080 and replacing it with the following:

2.226.080 - Enhanced tree requirements

Metro projects having tree density requirements pursuant to Chapter 17.28 of the Metropolitan Code shall have a twenty percent higher tree density requirement than private development. The urban forester with the department of codes administration will review projects for compliance with this standard.

Section 3. That Chapter 17.04 of the Metropolitan Code is hereby amended to modify section 17.04.060 by deleting the definitions of Tree, heritage; Tree, historic and specimen; Tree, prohibited; and Tree, protected; and replacing them with the following:

Tree, heritage. "Heritage tree" means any tree meeting the criteria established in 17.28.065 of this title.

Tree, historic and specimen. "Historic and Specimen tree" means any tree meeting the criteria established in Section 17.28.065 of this title.

Tree, prohibited. "Prohibited tree" means any tree which, by the nature of its fruit, root system, brittleness of wood, or susceptibility to disease, is not allowed as a replacement tree.

Tree, protected. "Protected tree" means any tree meeting the criteria established in Section 17.28.065 of this title.

Section 4. That Chapter 17.12.090 of the Metropolitan Code is hereby amended by deleting subsection 17.12.090.D.7 and replacing it with the following:

Tree preservation or removal proposed in a conservation development shall follow the standards of Chapter 17.28.065. If the tree or natural area preservation required in that section is greater than the area required here, then the requirements of that section shall prevail. In no case shall the required natural area preservation be less than that required in this section.

Section 45. That Chapter 17.20 of the Metropolitan Code is hereby amended by deleting subsection 17.20.120.C.2.c.v and replacing it with the following:

v. Trees installed pursuant to this section shall be eligible for credit toward the tree density required by Chapter 17.28 of this title.

Section 56. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting section 17.24.010 and replacing it with the following:

17.24.010 - Purpose and intent.

The general purpose of this chapter is to set standards for landscaping, buffering, and tree requirements in order to implement the precepts of the general plan and the associated subarea plans, as well as the requirements of the various zone districts set out previously, including properties zoned DTC district as set forth in Chapter 17.37. This chapter further establishes standards for screening and landscaping parking areas to reduce their impact on adjacent properties and public thoroughfares, as well as to mitigate the environmental impacts of large areas of unbroken pavement; establishes standards for buffering between different zone districts or selected land uses to mitigate the results of differing activities; and sets standards for plant materials, maintenance of required plants, planning in scenic easements and standards for the screening of unsightly areas.

Section ~~67~~. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting subsection 17.24.075.C.3 and replacing it with the following:

3. Trees installed pursuant to this section shall be eligible for credit toward the tree density required by 17.28.065 Trees.

Section ~~78~~. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting subsection 17.24.080.B and replacing it with the following:

- B. Watering. All required landscaping, excluding trees planted or preserved on residential property in accordance with Section 17.28.065.C of this title, shall be watered by one of the following methods:
 1. An underground sprinkler system;
 2. An outside hose attachment within one hundred feet of all landscaping.

Section ~~89~~. That Chapter 17.28 of the Metropolitan Code is hereby amended to insert a new subsection 17.28.020.E as follows and renumber the subsequent subsections accordingly:

- E. Trees are acknowledged to be an important part of the natural environment and as such shall be protected and replaced as provided in this chapter.

Section ~~810~~. That Chapter 17.24 of the Metropolitan Code is hereby amended by deleting Article II - Tree Protection and Replacement, including sections 17.24.090, 17.24.100, 17.24.110, and 17.24.120, in its entirety and renumbering the subsequent Articles.

Section ~~911~~. That Chapter 17.28 of the Metropolitan Code is hereby amended to create a new section as follows:

17.28.065 - Trees

A. Designation of tree types.

1. Designation of Protected Trees. A protected tree is any existing tree with at least a six-inch diameter at breast height (DBH); or any existing tree two inches in DBH or larger located in the public right-of-way. To qualify as a protected tree, the tree shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List and shall be in fair or better condition with no major insect or pathological problems.

2. Designation of a Heritage Tree.

- a. A heritage tree is any tree that meets the one or more of the following criteria:

i. Any tree with a DBH that meets or exceeds the following sizes:

TREE TYPE	DBH	EXAMPLES but not limited to:
Deciduous Canopy	24"	Oak, Maple, Poplar, Planetree, Ginko
Evergreen Tall	10"	Am Holly, So. Magnolia, Pine, Spruce, Cedar
Deciduous Understory	8"	Redbud, Dogwood, Flowering Cherry, Jap. Magnolia, Jap. Maple
Evergreen Low	8"	Dwf. Magnolia, Hemlock, Hybrid Holly, Cherry Laurel (tree form)

ii. Any tree registered in the Metro Historic or Specimen Tree program; or

iii. Any tree listed on the Tennessee Champion Tree list or the Tennessee Landmark and Historic Tree Registry as maintained by the Tennessee Division of Forestry.

b. In addition to the criteria listed above, to qualify as a heritage tree the tree shall meet all of the following:

- i. Shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List;
- ii. Must have a life expectancy of greater than fifteen years;
- iii. Must have a structurally sound trunk without extensive decay;
- iv. Must have no more than one major and several minor dead limbs; and
- v. Must have no major insect or pathological problems.

3. Designation of Historic and Specimen Trees. Historic and Specimen Trees program is a volunteer program in which trees shall be designated by the Metropolitan Beautification and Environment Commission based on advice from the Metropolitan Tree Advisory Committee and consent of the property owner. No historic or specimen tree shall be removed without a finding by the Metropolitan Beautification and Environment Commission that the tree is a hazard or a determination that it is not economically or practically feasible to develop the parcel without removing the tree. All trees in the Historic and Specimen Trees program shall also be designated as Heritage trees as defined in Section 17.28.065 Trees.

B. Tree Preservation

- 1. It is the intent of this section to minimize the removal of trees and to ensure that property owners and developers take reasonable measures to design and locate the proposed improvements so that the number of trees to be removed is minimized. In particular, the design shall attempt to preserve protected, heritage, and specimen and historic trees, which meet the criteria set forth in Section 17.28.065
<<https://library.municode>.
- 2. Any tree with a diameter at breast height (DBH) of twenty-four inches or more, or that qualifies as a heritage tree under Section 17.28.065.A of this title, shall be survey located and depicted on the final site plan.

C. Replacement of trees.

1. Trees removed pursuant to Section 17.40.470, tree removal permit procedures, shall be replaced at the expense of the property owner or developer to meet the required tree density standard.

2. Any retained tree that is removed without a tree removal permit shall be replaced on an inch for inch basis as specified 17.28.065.D.

3. Tree density.

a. Each property, other than those residential properties provided for below. of this section, shall attain a tree density factor of at least twenty-two units per acre using retained or replacement trees, or a combination of both.

b. Residential properties shall attain the following tree density factors:

i. Property within a single and/or two-family residential subdivision for which the preliminary site plan is filed with the planning commission after the date of enactment of this subsection shall attain a tree density factor of at least fourteen units per acre using retained or replacement trees, or a combination of both, excluding the area of the building lots. Proof of compliance with this requirement shall be provided prior to the release of any applicable public infrastructure bonds.

ii. Requirements for individual single and two-family residential lots.

(1). Individual single and two-family lots, other than those lots zoned AG or AR2a, shall include at least one two-inch caliper tree for each thirty feet of lot frontage (or portion thereof), excluding alley frontage. Such trees must be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List, and shall be of a form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition).

(2). Individual single and two-family lots on a cul-de-sac shall attain a tree density factor of at least two two-inch caliper trees for each thirty feet of lot frontage (or portion thereof). Such trees must be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List, and shall be of a form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition).

(3). If the width of an individual single or two-family lot is less than twenty-five percent of the average lot depth, the lot shall attain a tree density factor of at least seven units per acre using retained or replacement trees, or both.

(4). Proof of compliance with this subsection shall be provided prior to the issuance of a certificate of occupancy.

iii. Alternative tree density requirements for single and two-family residential lots. In lieu of the requirements of subsection 2.a.ii of this section, a home builder may petition the urban forester for credit for retaining existing trees on the building lot, provided that the overall tree density, including both replacement and retained trees, is not less than seven units per acre. Retained trees used to satisfy this requirement shall be protected according to Section 17.28.065.A. Proof of compliance with this requirement shall be provided prior to the issuance of a certificate of occupancy.

c. Compliance with this subsection 3. Tree density, shall be calculated using gross acreage of the property but shall not include the following:

- i. The portion of the land area currently or proposed to be covered by buildings;
- ii. The fenced area of any athletic field;
- iii. The area of a lake or pond which is covered by water year round; and
- iv. Open areas of golf facilities.
- v. Natural areas preserved in open space pursuant to 17.12.090 Conservation Development.

d. Retained and replacement trees shall contribute toward the tree density.

e. Tree density schedules shall be calculated according to the following schedules.

Retained Tree Schedule

UNITS represents basal area

DBH refers to diameter at breast height

DBH	UNITS	DBH	UNITS	DBH	UNITS	DBH	UNITS
6	1.8	20	6.0	34	11.9	48	28.8
8	2.4	22	6.6	36	12.6	50	30.0
10	3.0	24	8.4	38	13.3	52	31.2
12	3.6	26	9.1	40	20.0	54	35.1
14	4.2	28	9.8	42	23.1	56	36.4
16	4.8	30	10.5	44	26.1	58	37.7
18	5.4	32	11.2	46	27.6	60	42.0

Heritage Tree Schedule

UNITS represents basal area

DBH refers to diameter at breast height

DBH	UNITS	DBH	UNITS	DBH	UNITS
8	3.2	14	5.6	20	8.0
10	4.0	16	6.4	22	8.8
12	4.8	18	7.2	24*	9.6

*Greater than 24" equals DBH × 0.5 per inch

Replacement Tree Schedule

UNITS represents basal area

CAL refers to caliper size (a tree's diameter measured six inches from the top of the root

ball)

Canopy Trees							
CAL	UNIT S	CA L	UNITS	CAL	UNITS	CAL	UNITS
2	0.5	5	0.9	8	1.3	11	1.9
3	0.6	6	1.0	9	1.5	12	2.1
4	0.7	7	1.2	10	1.7	14	2.3

Understory and Columnar Trees							
CAL	UNITS	CA L	UNITS	CAL	UNITS	CAL	UNITS
2	0.25	5	0.5	8	0.7	11	1.0
3	0.3	6	0.5	9	0.8	12	1.1
4	0.4	7	0.6	10	0.9	14	1.2

4. Existing prohibited trees may be counted for full credit of the tree density requirement if in the opinion of the urban forester, they are healthy existing trees.
5. Single-trunk replacement trees shall be (i) a minimum width of two-inch calipers; (ii) a minimum height of six feet; and (iii) shall consist of recommended species listed in the Urban Forestry Recommended and Prohibited Tree and Shrub List.
6. A retained tree moved from one location to another on the site may be given credit upon approval of the urban forester.
7. Except for sites located within the Downtown Code (DTC) zoning district, credit toward the required tree density may be given for the installation of street trees that meet the following criteria:
 - a. Street trees shall be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List and shall be a minimum of two-inch caliper and a minimum of six feet in overall height. Canopy trees shall be installed except where conflicts with overhead utility lines exist; in those instances, understory trees may be substituted.
 - b. Street trees installed for tree density credit shall be depicted on the landscape plan.
 - c. The proposed location of street trees and planting area dimensions and standards shall be subject to review and approval by the urban forester and metro public works.
 - d. The owner of the property frontage along which the street trees are installed shall maintain street trees installed per this title to International Society of Arboriculture standards.
8. Subdivision developments, other than single and two-family residential subdivisions required to meet the tree density requirements of subsection B2. of this section, shall be exempt from the tree replacement provisions of this title during the phases of construction to install streets, utilities and drainage structures required to be installed or bonded prior to recording of a final plat, so long as: (1) the tree survey includes the area to be disturbed by the construction of streets, utilities and required drainage facilities; and (2) the removal of protected and heritage

trees, as set forth in subsection 17.28.065, is confined to the area of disturbance determined by the planning commission to be the minimum area necessary to install the infrastructure required by the subdivision regulations; and (3) so long as no protected and heritage trees, as set forth in subsection 17.28.065, are to be removed outside of the agreed upon disturbed area. Development of individual parcels within the subdivision must comply with the tree replacement provisions unless exempted by other provisions of this title.

9. Existing developments not otherwise exempted shall comply with the tree replacement provisions of this title when undergoing expansions as follows:

a. No additional compliance is required if there is no enlargement of the lot, or in the improved portion of the existing lot, and either:

i. The value of any one expansion is less than twenty-five percent, or the value of multiple expansions during any five-year period is less than fifty percent, of the value of all improvements on the lot prior to expansion; or

ii. The total building square footage of any one expansion is less than twenty-five percent, or the total building square footage of multiple expansions during any five-year period is less than fifty percent of the total building square feet of all improvements on the lot prior to expansion.

b. When the previously improved portion of a lot is enlarged, or additional area is incorporated into the lot, only the additional area or expanded area of improvement is required to be brought into compliance with the tree replacement requirements, if either:

i. The value of any one expansion is less than twenty-five percent, or the value of multiple expansions during any five-year period is less than fifty percent of the value of all improvements on the lot prior to expansion; or

ii. The total building square footage of any one expansion is less than twenty-five percent, or the total building square footage of multiple expansions during any five-year period is less than fifty percent of the total building square footage of all improvements on the lot prior to expansion.

c. Total compliance is required if exemption cannot be claimed under other provisions of this section.

10. Any replacement tree planted for credit shall be replaced by a tree of equal or greater diameter than originally planted if the tree dies. Under no circumstances shall any replacement tree, planted for credit, be removed by the owner or developer without the prior permission of the urban forester. All trees and shrubs required by this code shall be inspected within three years of initial planting. Notwithstanding the foregoing provision of this subsection to the contrary, there is no requirement that a replacement tree planted for credit be replaced if the tree dies as a result of a natural disaster or other act of God. For purposes of this section, 'natural disaster' shall not include drought.

11. Where construction work will be completed under a phased schedule, site work and tree removal for the entire tract may be completed at one time and replacement or addition of trees can be deferred for a maximum of five years, so long as each phase is in compliance with the tree density requirements upon completion of that phase, and so long as the entire site is in compliance with the tree density requirements within five years, or upon completion of the entire project, whichever occurs first.

12. Notwithstanding any provisions of this title to the contrary, the board of zoning appeals may hear and decide appeals from any order, requirement, decision or determination made by the

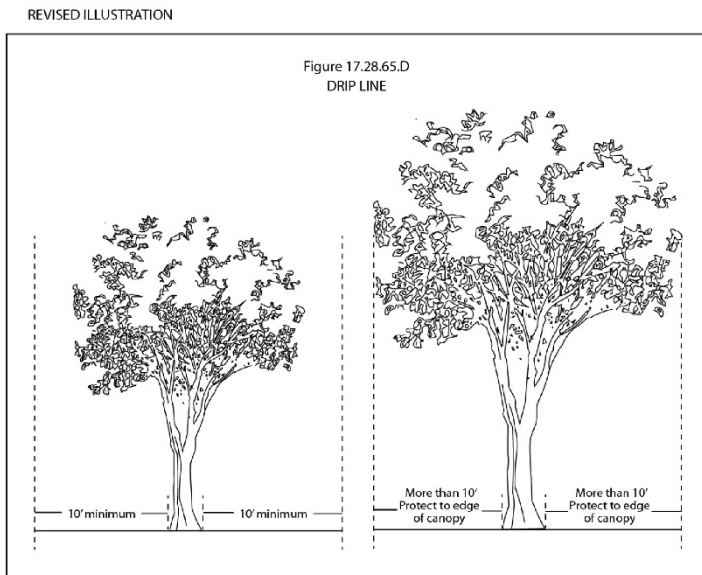
urban forester in carrying out the enforcement of this chapter.

D. Protection of trees during development activities.

1. Generally. To assure the health and survival of retained trees, the following kinds of tree injuries shall be avoided prohibited during all development activities:

- a. Mechanical injuries to roots, trunk and branches;
- b. Injuries by chemical poisoning;
- c. Injuries by grade changes;
- d. Injuries by excavations; and
- e. Injuries by paving.

2. Tree Protection Zone. A circular tree protection zone shall be established around each retained tree as shown in Figure 17.28.065.D.



- a. If the drip line is less than ten feet, the protection zone shall be ten feet.
- b. If the drip line is more than ten feet, the protection zone shall be the full drip line of the tree.
- c. The configuration of the tree protection zone may be adjusted upon recommendation of the urban forester and upon verification that measures will be taken during construction or installation to protect the well-being of the tree.

3. Development Prohibited within the Tree Protection Zone. All development activities except those specifically permitted by subsection 6 of this section shall be prohibited within the tree protection zone provided for any protected trees or natural area created by section 17.12.090 conservation development, including any construction of buildings, structures, paving surfaces, and storm-water retention/detention ponds. All temporary construction activities shall also be prohibited within tree protection areas, including all digging, concrete washing, storage of

construction material, and parking of construction vehicles.

4. Development Prohibited within the Natural Areas. All development activities shall be prohibited within any tree protection zone established for a natural area preserved in open space pursuant to Section 17.12.090 Conservation Development.

5. Fencing of Tree Protection Zone or Natural Area Open Space. Prior to the commencement of construction, the developer shall enclose the entire tree protection zone or natural area open space within a fence as follows:

a. Chain link fencing at least four feet in height and secured using appropriate posts spaced not more than ten feet apart.

b. During construction, each tree protection zone shall be identified with a temporary sign or signs to clearly demarcate the extent of the zone. Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area at a rate of at least one sign for every 150 linear feet. The size of each sign must be a minimum of two feet by two feet and shall contain the following language in English and Spanish: "TREE PROTECTION ZONE: KEEP OUT. ZONA DE LA PROTECCION DEL ARBOL. NO SE PERMITE ENTRAR". The developer shall maintain the protective barrier during the entire construction process and shall make certain that it is observed by the contractor.

c. The location of tree fence shall be coordinated with any required silt fence. Tree fence shall be located toward the tree with the silt fence outside to prevent erosion inside a tree preservation area.

6. Permitted Activities within Tree Protection Zone.

a. Utility Excavation. Excavating or trenching by duly constituted utilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case utility lines shall be tunneled beneath tree roots in order to protect feeder roots. The urban forester may propose rules and regulations governing and/or limiting excavation or trenching by duly constituted utilities in the tree protection zone. Upon approval by the metropolitan planning commission of such rules and regulations pursuant to Metropolitan Code of Laws Section 2.104.020, excavation and trenching in the tree protection zone shall be permitted only pursuant to such rules and regulations.

b. Sodding and Groundcover. Placement of sod or other groundcovers and the preparation of the ground surface for such covers shall be permitted within the tree protection zone.

7. Inspections.

a. All retained trees, pursuant to a tree survey shall be inspected by the urban forester one year following completion of the project to ensure that they are surviving in a healthy condition.

b. Retained trees which require repair or replacement shall be determined by the urban forester.

c. Any retained tree which is damaged during construction, or with damage occurring as a result of construction, shall be repaired according to accepted International Society of Arboriculture practices, or replaced on an inch for inch basis. Trees planted to replace damaged or removed protected trees shall not be counted toward the site TDU.

d. The owner shall be notified in writing of the urban forester's determinations.

8. Trees destroyed by natural disaster. There is no requirement that a retained tree be replaced if the tree dies as a result of natural disaster or other act of God, including a drought. For purposes of this subsection, 'drought' means a prolonged period of dryness that has caused extensive damage to, or prevented the successful growth of, crops within the Middle Tennessee area.

E. Less desirable trees.

The urban forester shall compile a list of plants which are considered less desirable in the area of the metropolitan government. Upon adoption following public hearing and comment by the metropolitan planning commission, such list shall have the force and effect of regulation. The metropolitan beautification and environment commission, upon advice of the tree advisory board, may add or delete trees from such list from time to time following public hearing. Once such list of less desirable plants is duly adopted, the plants included therein may not be used to satisfy the requirements of Section 17.28.065.C, except as specifically permitted therein. Use of such trees in excess of the requirements of sections listed above is not prohibited.

Section 4012. That Chapter 17.36 of the Metropolitan Code is hereby amended by deleting section 17.36.160 and replacing it with the following:

17.36.160 - Dedication incentives.

Development incentives are established by this section to encourage participation in the implementation of a comprehensive greenway network. In return for a development bonus, the landowner shall locate all development outside the overlay district, design and orient all development in a manner which protects the functional and operational integrity of the greenway network, and dedicate all areas within the overlay district for public use by conveyance of easements, property title or equivalent means. The following incentives may be applied to properties lying within a mapped greenway overlay district, and are to be considered bonuses granted above and beyond all other cluster incentives established elsewhere in this title.

- A. Multifamily development in the RM and mixed-use districts may achieve a twenty-five percent bonus in achievable density derived from that amount of land area dedicated for public greenway use. Area dedicated for public greenway use in a PUD development may count one and one-half times towards satisfying the minimum common open space requirement of Section 17.36.070B; all protected trees within the area of dedication may count one and one-half times in satisfying the tree density requirements of Section 17.28.065.
- B. Nonresidential development may be granted a floor area ratio (FAR) bonus of twenty-five percent for that amount of land area dedicated for public greenway use. All protected trees within the area of greenway dedication may count one and one-half times in satisfying the tree density requirements of Section 17.28.065.
- C. Nonresidential development may be granted a floor area ratio (FAR) bonus of twenty-five percent for that amount of land area dedicated for public greenway use. All protected trees within the area of greenway dedication may count one and one-half times in satisfying the tree density requirements of [Section 17.28.065](#)
<<https://library.municode>.

Section 4413. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting section 17.40.440 and replacing it with the following:

17.40.440 - General.

Unless exempt from the provisions of this chapter, no person shall remove or in any way damage any retained, protected or heritage tree without first obtaining a permit from the zoning administrator. Any

tree which is damaged, destroyed or removed without the required tree permit shall be repaired according to accepted International Society of Arboriculture practices, or replaced with the equivalent density units of replacement trees as provided in Chapters 17.24 and 17.28.

Section 4214. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting section 17.40.450 in its entirety.

Section 4315. That Chapter 17.40 of the Metropolitan Code is hereby amended by deleting subsection 17.40.470.B and replacing it with the following:

B. Tree Removal Permit Review Criteria. No permit for the removal of a retained, protected or heritage tree shall be granted unless the petitioner demonstrates one or more of the following conditions:

1. The site has received development, site plan or subdivision approval.
2. The tree is located in such proximity to an existing structure that the safety, utility or structural integrity of the structure is materially impaired.
3. The tree materially interferes with the installation, servicing or functioning of existing or infrastructure, utility lines or services for which there is no feasible relocation alternative.
4. The tree creates a substantial hazard to motor, bicycle or pedestrian traffic by virtue of physical proximity to traffic or impairment of vision.
5. The tree is diseased, insect ridden or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or other improvements.
6. The removal of the tree is necessary to promote the growth of surrounding protected and heritage trees. Under this provision, the applicant must demonstrate a preference for protecting heritage trees. Trees removed pursuant to this subsection are exempt from tree replacement requirements.
7. Any law or regulation requires the removal.
8. The site will maintain the required tree density after the removal of specified trees either with retained trees or with the installation of replacement trees in accordance with section 17.28.065.C Replacement of Trees.

Section 4416. Be it further enacted that this ordinance shall take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance, as substituted, is a companion to BL2022-1121 and amends the Metropolitan Code Chapters 2.226, 17.04, 17.12, 17.20, 17.24, 17.28, and 17.40 by relocating Chapter 17.24, Article II *Tree Protection and Replacement* and Section 17.40.450 *Designation of Tree Types* to a newly created Section 17.28.065 *Trees* and making associated housekeeping amendments.

This ordinance relocates existing sections of the zoning code pertaining to tree preservation and replacement so that these standards are consolidated into a single proposed section in Chapter 17.28. Additionally, the proposal includes housekeeping amendments to update references to tree preservation throughout the code.

A substitute was added at the May 5, 2022 Council meeting to make housekeeping changes.

This has been approved, as substituted, by the Planning Commission.