Metropolitan Nashville and Davidson County, TN

Legislation Details (With Text)

File #:	BL2022-1409		
Type:	Bill	**Status:**	Withdrawn
File created:	8/30/2022	**In control:**	Metropolitan Council
On agenda:		**Final action:**	3/7/2023
Title:	An ordinance amending Title 2 and Title 17 of the Metropolitan Code of Laws relative to trees (Proposal No. 2022Z-014TX-001).		
Sponsors:	Kathleen Murphy, Tonya Hancock, Gloria Hausser, Russ Bradford, Joy Styles, Jeff Syracuse, John Rutherford, Thom Druffel, Mary Carolyn Roberts, Emily Benedict, Burkley Allen, Kyonzte Toombs		
Indexes:			
Code sections:			
Attachments:	1. Ordinance Text		

Date	Ver.	Action By	Action	Result
3/7/2023	1	Metropolitan Council	withdrawn	
2/23/2023	1	Planning Commission	recommended for withdrawal	
1/3/2023	1	Metropolitan Council	deferred	
11/1/2022	1	Metropolitan Council	public hearing	
11/1/2022	1	Metropolitan Council	deferred	
10/7/2022	1	Metropolitan Council	advertised	
9/6/2022	1	Metropolitan Council	passed on first reading	
8/30/2022	1	Metropolitan Council	filed	

An ordinance amending Title 2 and Title 17 of the Metropolitan Code of Laws relative to trees (Proposal No. 2022Z-014TX-001).

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 visitors; and

WHEREAS, Nashville seeks to keep pace with neighboring and peer cities in protection of the urban canopy and green spaces for both quality of life and economic benefit; and

WHEREAS, Nashville's forests provide benefits including enhancing air and water quality, reducing storm surges, flood attenuation, moderating temperature, providing wildlife habitat, providing recreational opportunities, offsetting carbon emissions, promoting tourism and economic opportunity, and enhancing the beauty and livability of Nashville; and

WHEREAS, Nashville's forests are natural ecosystems that take hundreds of years to develop, the value of these forests depends upon the continuity of intact forested areas, and fragmentation of these forests into small isolated remnants undermines the benefits; and

WHEREAS, NashvilleNext, Metro's General Plan adopted in 2015, identifies protection of forest as a county-wide goal; and

WHEREAS, the NashvilleNext Volume II Natural Resources & Hazard Adaption plan NR Policy 1.4 states "create a street tree policy, residential tree ordinance, maintenance program, and preservation policy";

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WHEREAS, the Metropolitan Nashville Urban Forestry and Landscape Master Plan Goal #1 is to update and implement landscape standards and “develop a landscape ordinance that includes tree protection for healthy mature existing trees”; and

WHEREAS, the Nashville Open Space Plan - Nashville Naturally, sets a goal of acquiring 6,000 acres of new public parks and green spaces, conserving 6,000 acres of privately protected land, and conserving an additional 10,000 acres through planning tools for a total of 22,000 acres of new conserved open space by 2035; and

WHEREAS, the NashvilleNext- Growth Preservation Survey responses show a strong majority of Nashville citizens support preservation of the urban forest; and

WHEREAS, the Metropolitan Planning Commission has the responsibility of guiding development that is consistent with adopted policy documents and established community goals; and

WHEREAS, updates to the zoning code pertaining to forest will help ensure that the benefits provided by forests are experienced by all citizens and visitors of Nashville and Davidson County.

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

Section 1. That Section 2.104.070 of the Metropolitan Code of Laws is hereby deleting in its entirety and replaced with the following:

2.104.070 -- Permitting of arborists.

A. All individuals and firms conducting tree care and removal as a business shall be required to obtain a permit to engage in tree care and removal activities. An application for such permit must be submitted to the urban forester by the individual or firm. Such permit shall be issued by the urban forester proof by the applicant that the applicant or an employee of the applicant with supervisory power over other employees has successfully completed a test of tree knowledge given by the International Society of Arboriculture (ISA Certified Arborist or Board-Certified Master Arborist), and proof that the applicant has a minimum of one million dollars of liability insurance.

B.1. A permit issued under this section shall for two years from the date of the permit’s issuance and shall eligible for renewal.

2. The urban forester may suspend, revoke, or refuse to issue or renew any permit under this chapter for any of the following causes:

a. Fraud in procuring a permit,

b. A violation of the ANSI A-300 standards for tree care,

c. A violation of this chapter or Chapter 2.226, and

d. Unprofessional, immoral, or dishonorable conduct.

3. Applicants may appeal a suspension, revocation or, a refusal to issue or to renew a permit by the urban forester in Chancery court in Davidson County, Tennessee.

C. Individuals and firms permitted pursuant to this section shall ensure that trees are maintained in an appropriate and professional manner, according to the most recent industry standards as described in the ANSI A-300 Standards for Tree Care Operations. Trees that have been severely pruned, sheared, topped, or that no longer meet their intended function in the landscape shall require replacement per Section 17.28.065.C. Individuals and firms conducting tree care and removal as a business without first obtaining a permit, or permittees that do not adhere to the outlined professional standards may be subject to a fine.

D. The fee for this permit shall be set by the director of codes.

Section 2. That Section 17.20.120.C.2 of the Metropolitan Code of Laws is hereby deleted in its entirety and replaced with the following:

2. Sidewalk Design Standards.

a. Sidewalk dimensions and required elements shall comply with the major and collector street plan or, for a street not in the major and collector street plan, the adopted standards of the metropolitan government. Design of sidewalks shall comply with approved standards established by the department of public works.

b. Obstructions are prohibited within the required pedestrian travelway but may be located within a grass strip/green zone or frontage zone. Prior to the issuance of use and occupancy permits, existing obstructions shall be relocated outside of the required pedestrian travelway.

c. For development or redevelopment, street trees shall be required within the grass strip/green zone or frontage zone for any sidewalk constructed.

i. Trees shall be installed according to the provisions of the Metro Nashville Street Tree Specifications prepared and maintained by Metro Water Services in conjunction with Metro Public Works, Planning, and Codes.

ii. Street trees shall be chosen from the Urban Forestry Recommended Tree List. Canopy trees shall be installed, except where conflicts with overhead electrical power lines exist. In those instances, understory trees may be substituted.

iii. The owner of the property frontage along which the street trees are installed shall maintain the trees installed per this title according to the provisions of the Metro Nashville Street Tree Specifications. The owner of the property frontage shall execute and record a restrictive covenant agreeing to these maintenance responsibilities.

iv. Required street trees shall be depicted on a landscape plan, which shall be submitted with construction drawings for the sidewalks. The landscape plan and specifications shall be prepared by, or under the direction of, and bear the seal of a professional landscape architect registered in Tennessee. Redevelopment or infill development located on a single and two-family residential lot shall be exempt from the landscape architect seal requirement.

v. Trees installed pursuant to this section shall be eligible for credit toward the tree density required by Chapter 17.28.065.C of this title, except on a single and two-family residential lot and within the DTC.

vi. In cases where the zoning administrator allows the building permit applicant to make the in-lieu contribution for all or a portion of the street frontage as an alternative to sidewalk construction, the street tree requirement still applies; however, such trees may be located either on the parcel or within the public right of way.

vii. Where the existing grass strip/green zone or right-of-way is insufficient, existing physical features on the property such as utilities, a ditch or drainage ditch, historic wall(s) or stone wall(s), tree(s), steep topography, or other hardship exists that makes to compliance with the foregoing requirements of this subsection C.2.c infeasible, the zoning administrator may allow an application for a contribution to the Tree Bank, as provided for in Section 17.40.480 in lieu of compliance with this section.

Section 3. That Section 17.24.020 of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following:

17.24.020 -- Landscape plan required.

A landscape plan shall accompany any application for final site plan approval under Section 17.40.170 and any application for a tree removal permit under Section 17.40.470, unless exempted by Section 17.24.050, Exemptions. The plan shall show location, size, spacing, species, health condition, form and quality of all existing and proposed materials intended to fulfill the requirements of this chapter. The plan shall also show lot lines, development footprint, preserved areas, topography, location of all utilities, proposed tree protection zones, and locations of either an under-ground sprinkler system or hose bib attachments. Proposed removal of trees in accordance with 17.40.470 must be included in the landscape plan. The plans and specifications submitted pursuant to this section shall be prepared by, or under the direction of, and bear the seal of a professional landscape architect registered in Tennessee for all developments which include five thousand square feet or more of permanent structures. Plans and specifications submitted pursuant to this section for developments with less than five thousand square feet of permanent structures shall be exempt from the landscape architect seal requirement.

Section 4. That Section 17.24.050 of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following:

17.24.050 Exemptions.

The requirements of this chapter shall not apply to:

A. Improvements or repairs to interior and exterior features of existing structures, including the conversion of a non-residential building to residential use either in whole or in part, as provided by this title.

B. Construction previously authorized by a building permit, a final site plan of a planned unit development approved by the planning commission, or an approved subdivision construction plan, any one of which remains valid on the effective date of the ordinance codified in this title. Any development whose permit or approval expires shall not be exempt.

C. In the event of emergencies, which may include but are not limited to snow, ice and rain storms, tornadoes, floods, and similar natural disasters which cause excessive tree damage throughout the community, the mayor may invoke additional exceptions as necessary to deal with the emergency.

D. The interior planting requirements of Section 17.24.160 shall not apply to service loading areas.

Section 5. That Section 17.24.060, Subsection C, of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following:

C. Landscape Buffer Yard Required for Double Frontage Lot. In cases where residential lots are developed with frontage and access to a street within the subdivision and the rear of the lot is oriented toward a public right-of-way, the rear of such double frontage lots shall be screened from the public right-of-way by a landscape buffer yard according to the following standards:

Street Type	Buffer Standard
Local street	B
Collector street	C

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Section 6. That Section 17.24.070 of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following:

17.24.070 Scenic landscape easements.

New developments on property abutting a street designated as scenic, or any major street located within a T2 Rural Transect area, as designated by the major and collector street plan, shall comply with the following requirements:

A. The area of a lot located within twenty feet of the right-of-way shall be designated as a "scenic landscape easement" and shall be planted with a Standard C landscape buffer yard. Existing vegetation may be used, in part or in whole to meet this requirement.

B. No grading, cutting of trees or shrubs exceeding one inch in diameter, or disturbance of prominent natural features shall be performed within a scenic landscape easement except for: 1) minimal disturbance necessary to permit streets, driveways or utility corridors, 2) removal of species listed on the most recent edition of the Tennessee Invasive Exotic Plant List, 3) removal of specimens that are in less than fair or better condition as determined by a permitted arborist, or 4) removal of specimens with major insect, pathogenic, or structural disorders or deficiencies as determined by a permitted arborist. Only those improvements allowed in a landscape buffer yard shall be permitted within the scenic landscape easement.

C. Within the scenic landscape easement, the property owner shall be responsible for removing all trees, shrubs, and vines listed on the most recent edition of the Tennessee Invasive Exotic Plant List.

Section 7. That Section 17.24.075, Subsections D and E, of the Metropolitan Code of Laws are deleted and replaced with the following:

D. Modifications and amendments. The urban forester shall have the authority to grant minor modifications to the adopted street tree plan including, but not limited to, adjustments in spacing or planting location that do not alter the overall concept of the adopted street tree/streetscape plan, so long as the modifications still comply with this chapter. Minor modifications may be granted based on existing physical site conditions such as utilities, a ditch or drainage ditch, historic wall(s) or stone wall(s), existing trees, or steep topography. Modifications that alter the overall concept of the adopted plan shall be considered major and require amendment of the plan by the metro planning commission.

E. Waivers and compliance. The zoning administrator may waive the requirements of this section upon request by the property owner or its agent due to existing physical features on the property such as utilities, a ditch or drainage ditch, historic wall(s) or stone wall(s), existing trees, steep topography, or other hardship. The zoning administrator shall consult with the executive director of the planning department, or their designee, and the director of water services, or their designees, prior to making any final determination. Such waiver is limited only to the location of such plantings, and shall not result in any waiver of planting responsibility or reduced planting requirement; the waiver may only authorize the planting to occur at alternate locations.

Section 8. That Section 17.24.080 of the Metropolitan Code of Laws is deleted in its entirety and replaced with the following:

17.24.080 Maintenance of required landscape materials.

The property owner shall maintain landscaping required by this chapter or by 17.28.065.C in accordance with the following standards:

A. Use of Required Landscape Area. No required landscape area shall be used for accessory structures, garbage or trash collection, parking, or any other functional use contrary to the intent and purpose of this article.

B. Watering. All required landscaping, planted or preserved in accordance with this chapter or Section 17.28.065.C of this title, shall have watering infrastructure that allows for watering by one of the following methods:

1. An underground sprinkler system, so long as the addition or installation of a sprinkler system does not damage existing trees;

2. An outside hose attachment within one hundred feet of all landscaping,

C. All required landscaping shall be watered to ensure survival of the landscaping. While installation of one of the above watering infrastructure systems is required, the means of watering may be by any practical method.

D. The property owner shall be responsible for the ongoing removal of any trees, shrubs, and vines listed on the most recent edition of the Tennessee Invasive Exotic Plant List.

E. All required landscape materials shall be maintained in an appropriate and professional manner, according to the most recent industry standards as described in the ANSI A-300 Standards for Tree Care Operations. Required trees shall not be shaped as shrubs. Landscape materials required by this section or by 17.28.065.C that have been severely pruned, sheared, topped, shaped as shrubs, or that no longer meet their intended function in the landscape shall be considered damaged vegetation in need of replacement and shall be replaced within one year of the date of notice of noncompliance from the metropolitan government.

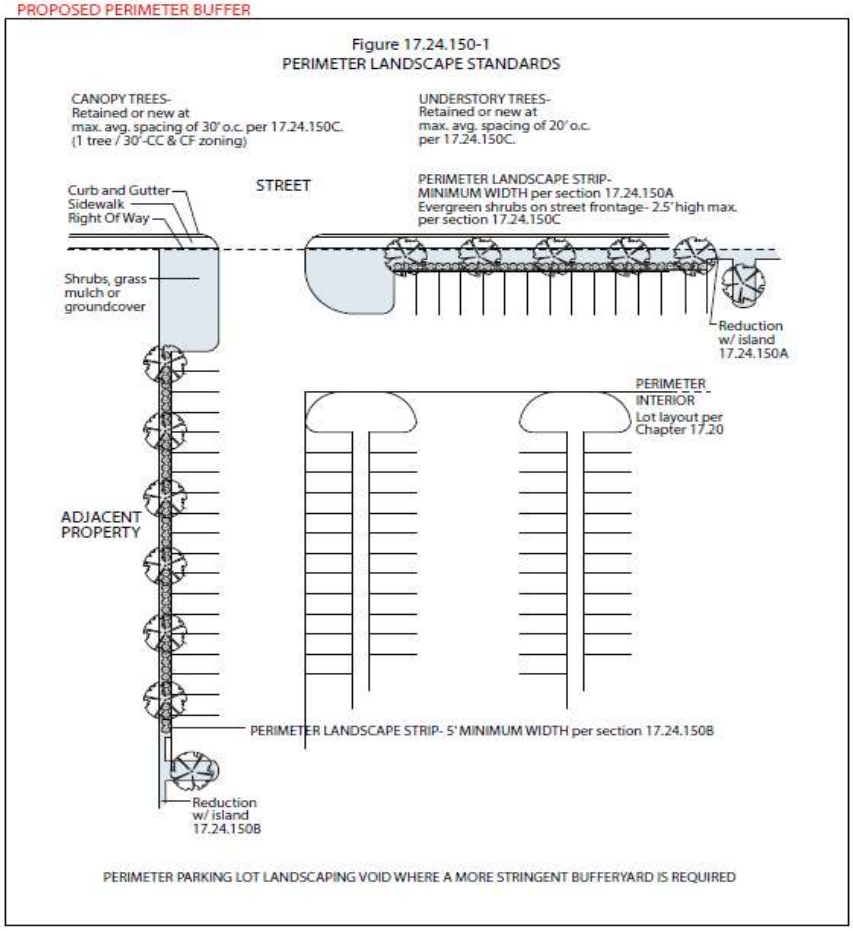
F. Replacement of Dead Materials. The property owner shall replace required plants which die. Replacements shall be installed at the earliest possible time within a planting season, and replacements shall be as shown on the approved landscape plan.

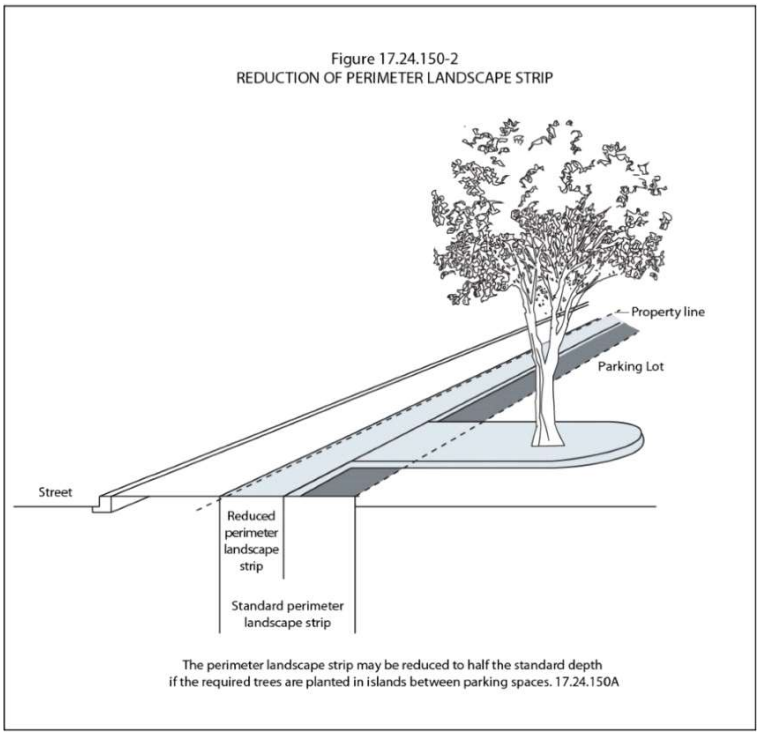
Section 9. That Section 17.24.150, Subsection C, of the Metropolitan Code of Laws is deleted and replaced with the following:

C. Landscape Materials. A minimum of one canopy tree shall be preserved or planted for each thirty feet of parking area perimeter, or portion thereof; in cases of utility conflicts, understory trees shall be substituted, and shall be preserved or planted for each twenty feet of parking area perimeter. Trees planted to meet this requirement shall measure a minimum of two inches in caliper, and six feet in height, as applicable for the type of material specified. The remaining area within the perimeter landscape strip which fronts on a street right-of-way shall be planted with one continuous row of evergreen shrubs which shall be expected to mature at a height not greater than two and one-half feet, except as modified for berms or walls. The remainder of the area within all perimeter strips not occupied by trees or shrubs shall be covered by organic or mineral mulches, other shrubs, groundcover plants or grassed lawns. The use of concrete, asphalt or other impervious surfaces shall be prohibited.

Section 10. That Figure 17.24.150-1 and Figure 17.24.150-2 in Section 17.24.150 of the Metropolitan Code is replaced with the following:

PROPOSED PERIMETER BUFFER





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Section 11. That Section 17.24.160 of the Metropolitan Code of Laws is deleted and replaced with the following:

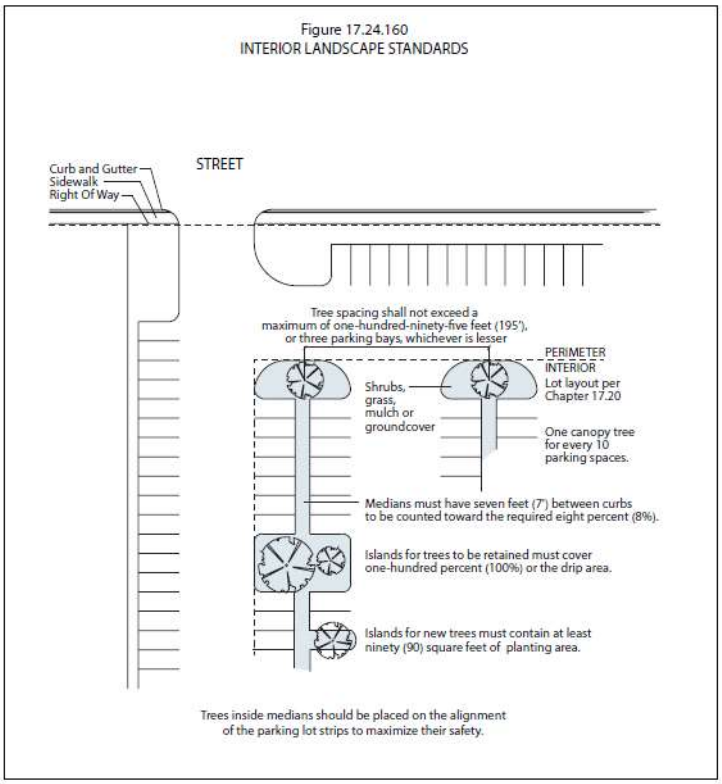
17.24.160 Interior planting requirements.

A. General Requirements. At least eight percent of the gross area of the parking area shall be landscaped and interior planting areas are to be located within or adjacent to the parking area as tree islands, at the end of parking bays or inside seven foot wide or greater medians (where the median area is to be included as a part of the calculations for the interior planting area). Parking lots containing fewer than thirty parking spaces within the urban zoning overlay district shall be exempt from the eight percent area requirement and the seven-foot median size requirement, but shall be required to install trees as described in this section.

1. Trees shall be required at the minimum of one canopy tree for every ten parking spaces. All vehicular use areas located within the same block which serve one or more businesses or uses of land or share unified ingress and egress shall be considered as a single vehicular use area for the purpose of computing the required rate of trees, notwithstanding ownership. Required trees shall be at least six feet in height and two inch caliper. (See Figure 17.24.160) For principal use parking areas located in the CF and CF-NS districts not otherwise exempt from the interior planting requirements, street frontage trees planted to satisfy the requirements of Section 17.24.150 shall count towards the interior planting requirements of this section. Interior planting areas shall be located so as not to impede stormwater runoff and provide shade in large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic.

B. Minimum Size of Interior Planting Areas.

1. Outside the urban zoning overlay district, and for parking lots containing thirty or more parking spaces within the urban zoning overlay district, a minimum of ninety square feet of planting area shall be required for each new canopy tree (See Figure 17.24.160), and a minimum planting area of one hundred percent of the drip line area of the tree shall be required for all existing trees to remain. If the applicant can demonstrate that conditions allow that the tree will be preserved with an area less than one hundred percent, lesser area may be approved by the urban forester. (See Figure 17.24.160)



2. For parking lots containing fewer than thirty parking spaces within the urban overlay zoning district, a minimum planting or tree grate area of one hundred percent of the drip line area of the tree shall be required for all new and existing trees. If the applicant can demonstrate that the tree can remain healthy with an area less than one hundred percent, lesser area may be approved by the urban forester. (See Figure 17.24.160)

Section 12. That Section 17.24.190 of the Metropolitan Code of Laws is deleted and replaced with the following:

17.24.190 Exemptions.

No landscape buffer yard shall be required in the following situations:

A. When a zoning boundary falls along a public street containing four or more travel lanes, or along an elevated railroad bed, utility line easement of fifty feet wide or greater, navigable river, or controlled access highway.

B. When a zoning boundary falls along a public street within the urban zoning overlay district.

Section 13. That Section 17.24.200 of the Metropolitan Code of Laws is deleted and replaced with the following:

17.24.200 Determination of landscape buffer yard requirements.

Generally, a landscape buffer yard shall be located at the perimeter of the building site along zoning district boundaries, or otherwise coincident with the edge of a specified facility that is to be screened and shall not be located in any portion of a public right-of-way. When a zoning district boundary falls along a public street of less than four travel lanes, a B-2 landscape buffer yard may be substituted in lieu of the standard buffer required by Table 17.24.230. When the gross floor area of a building legally existing on the effective date of the ordinance codified in this section is enlarged by more than twenty-five percent, the property shall be brought into conformance with the landscaping buffer yards

standard of this code to the greatest extent considered reasonable by the zoning administrator. When incremental expansions occur over time, the total of all expansions shall be used by the zoning administrator in applying the provisions of this section. The following procedure shall be followed to determine the standard of landscape buffer yard required along a zoning district boundary:

A. Identify the zone district for the proposed site as well as for the abutting site(s);

B. Determine the landscape buffer yard standard required on each building site boundary (or portion thereof) by referring to Table 17.24.230;

C. Select the desired width/screening option from those listed in Section 17.24.240, landscape buffer yard standards. Any of the listed width or screening variations shall satisfy the requirement between abutting zone districts.

Section 14. That Section 17.24.210 of the Metropolitan Code of Laws is amended by adding the following new Subsection B and redesignating the subsequent subsections accordingly:

B. Existing Invasive Plan Material. Existing trees, shrubs, and vines listed on the most recent edition of the Tennessee Invasive Exotic Plant List shall be removed from the buffer.

Section 15. That Table 17.24.230, as referenced in Section 17.24.230 of the Metropolitan Code of Laws, is deleted and replaced with the following:

Table 17.24.230 TABLE OF LANDSCAPE BUFFER YARD REQUIREMENTS

		ZONING DISTRICT PROVIDING BUFFER YARD						
		1 AG, AR2a, RS80, R80, RS40, R40, RS30, R30, RS20, R20, RS15, R15, RS10, R10, RM2, RM2-NS, RM4, RM4-NS	**2** R8, R8-A, RS7.5, RS7.5-A, R6, R6-A, RS5, RS5-A, RS3.75, RS3.75-A, RM6, RM6-NS, RM9, RM9-NS, RM9-A, RM9-A-NS	**3** RM15, RM15-A, RM15-NS, RM20, RM20-NS, RM20-A, RM20-A-NS, RM40, RM40-NS, RM40-A, RM40-A-NS, RM60, RM60-NS, RM60-A, RM60-A-NS, RM80-A, RM80-A-NS, RM100-A, RM100-A-NS, MHP	**4** ON, ON-NS, CN, CN-NS, CN-A, CN-A-NS, MUN, MUN-NS, MUN-A, MUN-A-NS, MUN-A-NS, SCN, SCN-NS, OL, OL-NS, OR20, OR20-NS, OR20-A, OR20-A-NS, OR40, OR40-NS, OR40-A, OR40-A-NS	**5** CL, CL-NS, CL-A, CL-A-NS, CS, CS-NS, CS-A, CS-A-NS, MUL, MUL-NS, MUL-A, MUL-A-NS, SCC, SCC-NS	**6** CA, CA-NS, CF, CF-NS, SCR, SCR-NS, MUG, MUG-NS, MUG-A, MUG-A-NS, MUI, MUI-NS, MUI-A, MUI-A-NS, ORI, ORI-NS, ORI-A, ORI-A-NS, OG, OG-NS	**7** IWD, IR, IG
A B U T T I N G Z O N I N G D I S T R I C T	**1** AG, AR2a, RS80, R80, RS40, R40, RS30, R30, RS20, R20, RS15, R15, RS10, R10, RM2, RM2-NS, RM4, RM4-NS	A	B	C	C	C	D	D

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	2 R8, R8-A, RS7.5, RS7.5-A, R6, R6-A, RS5, RS5-A, RS3.75, RS3.75-A, RM6, RM6-NS, RM9, RM9-NS, RM9-A, RM9-A-NS	-	A	B	C	C	D	D
	3 RM15, RM15-NS, RM15-A, RM15-A-NS, RM20, RM20-NS, RM20-A, RM20-A-NS, RM40, RM40-NS, RM40-A, RM40-A-NS, RM60, RM60-NS, RM60-A, RM60-A-NS, RM80-A, RM80-A-NS, RM100-A, RM100-A-NS, MHP	-	-	A	B	B	C	D
	4 ON, CN, CN-NS, CN-A, CN-A-NS, MUN, MUN-NS, MUN-A, MUN-A-NS, SCN, SCN-NS, OL, OR20, OR20-NS, OR20-A, OR20-A-NS, OR40, OR40-NS, OR40-A, OR40-A-NS	-	-	-	-	A	B	C
	5 CL, CL-NS, CL-A, CL-A-NS, CS, CS-NS, CS-A, CS-A-NS, MUL, MUL-NS, MUL-A, MUL-A-NS, SCC, SCC-NS	-	-	-	-	-	A	B
	6 CA, CA-NS, CF, CF-NS, SCR, SCR-NS, MUG, MUG-NS, MUG-A, MUG-A-NS, MUI, MUI-NS, MUI-A, MUI-A-NS, ORI, ORI-NS, ORI-A, ORI-A-NS, OG, OG-NS	-	-	-	-	-	-	B
	7 IWD, IR, IG	-	-	-	-	-	-	-

Note 1: The zoning administrator may allow a necessary adjustment to the landscape buffer yard located along a rear property line to provide for necessary building area after determining an adjustment to a required build-to zone is necessary as permitted by Table 17.12.020.D. The zoning administrator may allow a necessary adjustment to the landscape buffer yard based on the nature of the existing and future land uses and site conditions in the general vicinity after receiving a written recommendation from the planning department.

Section 16. That Figure 17.24.240.A in Section 17.24.240 of the Metropolitan Code is replaced with the following

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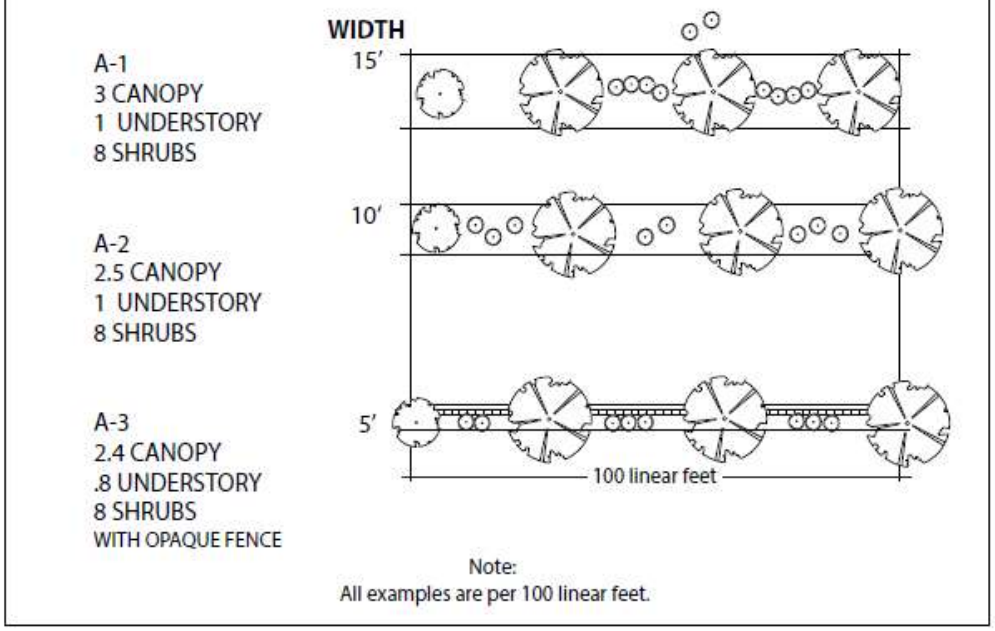
PROPOSED BUFFER A REVISIONS

Figure 17.24.240A
STANDARD A- LANDSCAPE BUFFER YARDS



Note:
All examples are per 100 linear feet.

Section 17. That Section 17.28.065 of the Metropolitan Code is deleted in its entirety and replaced with the following:17.28.065 - Trees

A. The following definitions shall apply to this Section:

1. “Owner” means the person primarily responsible for the subject property. This may include but is not limited to the lot owner, builder, developer, project proponent, project manager, contractor, and owner’s representative.

2. “Forest” means a natural ecosystem with a contiguous tree canopy that is at least 80% closed and that contains some trees of at least 10 inches diameter at breast height.

3. “Interior Forest” means an area of forest that is more than a 500 foot buffer distance from any road, building, or other area not covered by forest

4. "Existing tree canopy" means a contiguous area of 10,000 square feet or greater which consists of the crowns of healthy, self-supporting trees with a diameter at breast height (DBH) of three inches or greater, and which are not listed on the most recent edition of the Tennessee Invasive Exotic Plant List.

B. Applicability. Notwithstanding any provision to the contrary, the applicability standards in Section 17.28.020 shall not apply to this section.

C. 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.

D. 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 historic and specimen trees, which meet the criteria set forth in Section 17.28.065.A, designation of tree types. For purposes of this chapter, the term 'retained tree' means a tree that is selected to be saved or preserved for purposes of being counted toward the required tree density for the property and which is not listed on the most recent edition of the Tennessee Invasive Exotic Plant List and which is in fair or better condition, with no major insect, pathogenic, or structural disorders or deficiencies as determined by a permitted arborist.

2. Tree Inventory and Map. Prior to beginning any tree clearing, development work, or land disturbing activity impacting trees, a tree inventory and map shall be completed per the requirements described in Section 17.40.470.A -Tree removal permit procedures.

3. Minimum tree canopy retention. A percentage of the existing tree canopy shall be retained on a site in accordance with the table below:

Existing Tree Canopy Cover (as a percentage of the total development site size)	Minimum Tree Canopy Retention by Transect (as a percentage of total tree canopy cover)		
	T1, T2	T3	T4, T5,
80-100%	48%	24%	10%
60-79%	54%	27%	11%
40-59%	60%	30%	12%
20-39%	66%	33%	13%
19% or less	72%	36%	14%

4. Tree Save Areas.

a. The minimum tree canopy to be retained within the development site shall be placed in Tree Save Areas, which shall include the areas occupied by the critical root zones of all healthy trees being retained in accordance with this section.

b. The location of Tree Save Areas shall be based on the presence of any:

i. Forest;

ii. Established tree stands;

iii. Tree rows; or

iv. Heritage and specimen trees.

c. Tree Save Areas shall be depicted as an open space lot, conservation easement, or deed restriction on the development plan, site plan, or preliminary plat, and recorded on the final plat.

d. Individual single and two-family residential lots with Tree Save Areas in conservation easements or deed restrictions shall be identified on the site plan as Critical Lots, pursuant to Section 17.28.030, and shall be platted on the final plat with denotation on an individual lot.

e. Consideration shall be given to the following when determining Tree Save

Areas:

i. Interior Forests;

ii. Riparian buffers, natural drainage courses, or wetlands;

iii. Land with naturally occurring slopes of 20 percent or greater;

iv. Habitat used by endangered or threatened species;

v. Scenic corridors and viewsheds;

f. Tree Save Areas shall be protected per the requirements of Section 17.28.065.D - Protection of trees during development activities.

5. Removal of existing vegetation shall not occur on a proposed or future development site until such time as the development has been approved and the tree removal permit has been issued. Grading permits shall not be approved until after the development plans have received all appropriate approvals.

6. In the event vegetation requiring protection pursuant to this section is removed from a site, including within five- years prior to application for development, such development shall be subject to the revegetation requirements of Section 17.40.490 - Unauthorized Activities and Preparatory Land Clearing.

E. 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 to meet the required tree density standard described in subsection E.3 of this section.

2. Any tree that is removed without a required tree removal permit shall be replaced as specified in 17.40.490. On a parcel where a tree removal permit has been issued, or trees have been removed on the site, within five years prior to a building permit, grading permit, site plan, subdivision, or other development, the property shall be subject to the revegetation requirements of Section 17.40.490.

3. Tree density.

a. Each Heritage Tree to be removed shall be replaced according to the 'Heritage Tree Schedule' in this section.

b. Each property, other than those residential properties provided for in E.3.c 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. The replacement of Heritage Trees provided for in E.3.a. may be utilized towards this tree density requirement.

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

i. Property within a single and/or two-family residential subdivision shall attain a tree density factor of at least twenty-two units per acre using retained or replacement trees, or a combination of both, excluding the area of the building lots. The replacement of Heritage Trees provided for in subsection E.3.a may be utilized towards this tree density requirement. 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 shall include at least one new two-inch caliper tree for each twenty feet of frontage (or portion thereof), excluding alley frontage only placed a minimum of fifteen feet from the building envelope, not to exceed a total of eight trees per lot. Such trees must be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List, should be included within the canopy trees list wherever possible, 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 include at least two new two-inch caliper trees for each twenty feet of lot frontage (or portion thereof),

placed a minimum of fifteen feet from the building envelope. Such trees must be chosen from the Urban Forestry Recommended and Prohibited Tree and Shrub List, should be included within the canopy trees list wherever possible 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 twenty-two 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. This subsection shall apply to new and existing single and two-family lots where there is new construction of a principal structure or accessory dwelling unit, or an addition to an existing structure equal to or greater than fifty percent of the total square footage of all structures of the lot.

iv. The replacement of Heritage Trees provided for in subsectionE.3.a may be utilized to satisfy this tree density requirement.

d. In order to reduce mortality rates of newly planted trees during summer months, the owner may opt to plant trees in the fall or winter months of the season. The following actions must occur in order to defer tree planting to a later date:

i. Proof of purchase must be supplied to the Urban Forester showing that the trees are fully paid for, and scheduled to be planted in the fall or winter.

ii. A bond is paid per property and is held until proof of planting is shown to the urban forester; the value of the bond must meet or exceed 125% of the metro tree bank value of the required trees.

iii. where proof of planting is not supplied to the Urban Forester within one calendar year of the bond submission, the bond shall be deposited in the metro tree bank described in section 17.40.490.

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

i. 50% of 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 section 17.12.090of this title.

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

g. Trees within required landscape buffer yards shall only contribute toward 50% of the required tree density.

h. 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	UNITS	CAL	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	CAL	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, and if the species is not listed on the most recent edition of the Tennessee Invasive Exotic Plant List. Trees to be counted for credit

must be cleared of vines listed on the Tennessee Invasive Exotic Plant List.

5. Single-trunk replacement trees shall be (i) a minimum width of two-inch caliper; (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 and individual single and two-family residential lots, 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 be responsible for maintenance and replacement, when necessary, of street trees installed per this title to ANSI A300 tree care industry standards.

8. Subdivision developments, other than single and two-family residential subdivisions required to meet the tree density requirements of subsection C.3.c. 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.A, 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 Section 17.28.065.A, 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 redevelopment or expansions as follows:

   a. No additional compliance is required 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 feet of all improvements on the lot prior to expansion.

   b. Unless excluded from compliance under Subsection E.9.a, when the previously improved portion of a lot is enlarged, or additional area is incorporated into the lot, the entire lot is required to be brought into compliance with the tree replacement requirements.

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

this section.

10. Replacement trees planted for credit shall be properly maintained per the requirements described within 17.24.80 - Maintenance of Required Landscape Materials.

11. 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. Where a replacement tree dies as a result of a natural disaster or other unforeseeable event, excluding drought, owners of single and two family properties may be eligible to receive funding from the tree bank for tree replacement, where determined appropriate by Metro Water Services.

12. 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.

13. 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.

F. 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 prohibited during all development activities:

   a. Mechanical injuries to roots, trunk and branches;

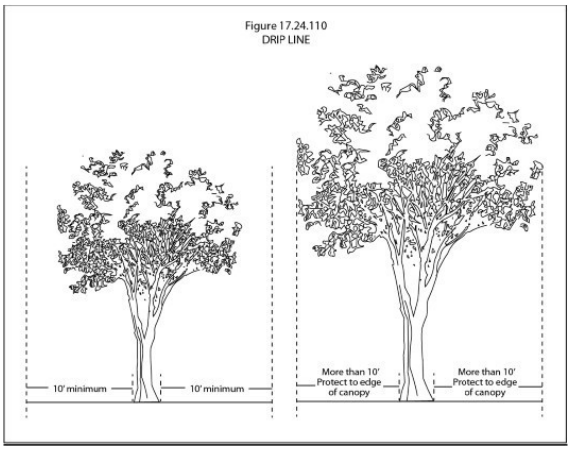
   b. Injuries by chemical poisoning or soil flooding;

   c. Injuries by grade changes;

   d. Injuries by excavations, trenching, or soil compaction; and

   e. Injuries by paving or other soil covering or material storage.

2. Tree Protection Zone. A tree protection zone shall be established around each retained tree and Tree Save Area (Section 17.28.065.B.4) as shown in Figure 17.28.065.D. All permitted construction within the Critical Root Zone must use pier and beam construction to cause no damage to the tree.



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 D.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 temporary 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 50 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 owner 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 may be permitted within the tree protection zone. Utilities should be located away from the tree protection zone wherever possible. If trees are damaged or destroyed during excavation or trenching, the damaged or destroyed trees shall be replaced in accordance with the tree density tables in this section. 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, so long as tree roots in the area are not damaged by the method of preparation.

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 ANSI A300 standards 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.

G. 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 18. That Section 17.40.440 of the Metropolitan Code is deleted in its entirety and replaced 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 ANSI A300 tree care industry standards, or replaced as provided in Section 17.40.490.

Section 19. That Section 17.40.460 of the Metropolitan Code is deleted in its entirety and replaced with the following:

17.40.460 General exemptions.

The following uses or activities shall be exempt from the tree removal requirements of this article; however, these exemptions do not apply to any tree registered in the Historic or Specimen Tree program, any tree listed on the Tennessee Champion Tree list, or any tree listed on the Tennessee Landmark and Historic Tree Registry as maintained by the Tennessee Division of Forestry:

A. Commercial Growers. All commercial nurseries, botanical gardens, tree farms and grove operations shall be exempt from the provisions of this article, but only as to those trees and sites which were planted or managed for silvicultural or agricultural purposes or for the sale or intended sale in the ordinary course of business.

B. Surveyors and Engineers. A Tennessee-licensed land surveyor or engineer in the performance of duties, provided such alteration or removal is limited to a swath of three feet or less in width.

C. Activities conducted at individual single and two-family residential lots where a building permit, grading permit, site plan, subdivision, or other development are not to be sought within the current or upcoming five-year periods.

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Section 20. That Section 17.40.470 of the Metropolitan Code is deleted in its entirety and replaced with the following:

17.40.470 Tree removal permit procedures.

The application procedures and standards for review of tree removal permit applications shall be as follows:

A Application Requirements. Unless exempt under Section 17.40.460 - General exemptions, no person shall remove or in any way damage any retained, protected, or Heritage Tree without first obtaining a permit from the zoning administrator; this requirement applies within all zoning districts. Any person desiring a tree removal permit, including any person or entity engaged in the business of tree removal services, shall make application to the zoning administrator upon forms provided by the zoning administrator along with the following information:

1. The application shall include the name, address, telephone number, email address, and signature of the landowner and/or agent. If a tree removal permit is desired for a boundary tree, such information must be included within the application for all boundary landowners and/or agents. For the purposes of this section, “boundary tree” means a tree in which a property line passes through any part of its trunk.

2. Except for development approved pursuant to Section 17.12.090, each application for a tree removal permit shall be accompanied by a tree inventory and map based upon current information and a landscape plan that includes the tree replacement requirements. An application for a tree removal permit for a Conservation Development approved pursuant to Section 17.12.090 shall submit a tree inventory and map based upon current information and a landscape plan that includes the tree replacement requirements for any trees located outside of the natural areas required to be preserved in open space. Any tree inventory and map and landscape plan required by this section, at sites which include five thousand square feet or more of permanent structures, shall be prepared by, or under the direction of, a permitted arborist or registered forester and bear the seal of a landscape architect, surveyor, or engineer registered in Tennessee. The map shall have an accuracy of plus or minus three feet for all sites which include five thousand square feet or more of permanent structures. Any tree inventory and map and landscape plan submitted pursuant to this section for sites with less than five thousand square feet of permanent structures shall not require

professional credentials as described within this subsection. The tree inventory and map shall show the location, size, health, and type of retained, protected and Heritage Trees, including common or scientific names. The inventory and map shall indicate which retained, protected and Heritage Trees are intended for removal and/or grubbing and which will be left undisturbed. The inventory and map and final site plan shall illustrate the following:

a. The locations of existing and proposed buildings, property boundaries, layout of roads, utilities, parking areas for vehicles, storage areas for construction materials, and other items that disturb or compact the soil in tree root zones.

b. Existing and proposed grades and subsequent erosion control measures to prevent siltation over the roots of protected and Heritage Trees and appropriate tree protection fencing for those trees.

c. For a conservation development approved pursuant to 17.12.090 survey plans shall locate and label all natural areas to be preserved and show and label the limits of disturbance.

d. For a conservation development approved pursuant to 17.12.090, the site analysis plan shall be included with the submittal.

e. All trees six inches diameter at breast height (DBH) and above, within the area of disturbance must be inventoried and shown on the inventory and map or final site plan. All trees twenty-four inches DBH and greater, or those that qualify as Heritage Trees under Section 17.28.065.A.2 of this title, must be inventoried and shown on the map or final site plan whether they are within the area of disturbance or not.

f. The inventory and map must depict the location, species, size, and health of each tree. Any proposed tree protection zones and Tree Save Areas must be depicted. In instances of large, established tree stands, the zoning administrator may accept an approximation of the location, species, size, and health of such trees, utilizing a scientifically defensible methodology.

g. The inventory and map shall include a recent and accurate photograph or representation with the date the photograph or representation was taken or created and shall include the location and extent of the existing onsite tree canopy, including an estimate of the total percentage. Publicly available images are acceptable but any portion of the publicly available image which is no longer accurate shall be noted with supplemental images or descriptions

3. Each application for a tree removal permit shall include a plan for disposal of the tree.

4. The application shall include sufficient information to demonstrate that the activity is designed and constructed to avoid and minimize adverse effects to retained, protected and Heritage Trees, to the maximum extent practicable at the site.

5. The application shall include a tree replacement proposal that complies with the requirements of Section 17.28.065.E.

6. The application shall include sufficient information to demonstrate that the activity complies with the requirements of section 17.28.065.D.

7. The application shall include the contact information, business license, and arborist permit obtained pursuant to Section 2.104.070 for the person or entity to be engaged in the business of tree removal services at the site.

8. The application and accompanying documents shall be submitted in copies sufficient to

administer this article.

9. The filing of an application shall be deemed to extend permission to the urban forester to inspect the subject site if necessary for purpose of evaluating the application.

10. Tree permits allowing for pruning or removal of trees necessitated by the installation and/or on-going maintenance of public utilities and communications facilities may be issued by the urban forester to public utilities and communications facilities for a period of one year and may be renewed annually subject to continued compliance with the conditions of this article.

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 compliance with sections 17.28.065.D and 17.28.065.E, and satisfies 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.

C. Tree Removal Permit Review Procedures.

1. If the site requires a grading permit and/or development plan approval, tree removal permits shall not be issued until after the grading permit and development plans have received all appropriate approvals.

2. Where a tree poses a threat of harm to inhabitants or guests of the property, such as when a tree is diseased, insect-ridden, weakened, or damaged, the landowner or agent may remove the tree immediately and retroactively file the removal permit within three months after the removal. Tree replacement requirements shall be the same as tree removals that required removal permits prior to removal.

3. Applications that involve subdivision review or any form of site plan review before the planning commission, shall be reviewed by the planning commission in accordance with the applicable review procedures.

4. Applications that do not involve final site plan review, but only the issuance of grading or building permits shall be reviewed by the zoning administrator and urban forester in accordance with the review procedures already in effect for the review and approval of such permits.

5. The filing of an application shall be deemed to extend permission to the urban forester

to inspect the subject site if necessary for purposes of evaluating the application.

6. Unless otherwise specified, a tree removal permit shall automatically expire and become void if the work authorized by such permit is not commenced within six months after the date of the permit or if, once commenced, removal work is suspended, discontinued, or abandoned for a period equal to or greater than six months.

7. Tree removal authorized by the approval of a final site plan or by approved subdivision construction plans shall remain valid concurrent with the approved plans.

8. Notice of commencement and completion of the work or other activity authorized by the tree permit shall be made by signed affidavit to the urban forester as stated on the permit issued.

D. Tree Removal Permit Efficiency and Transparency.

1. The zoning administrator shall use an electronic permitting process for all tree removal permit applications, including all accompanying materials required by this section.

2. All tree removal permit applications, and all approved tree removal permits, including all accompanying materials required by this section, shall be made electronically accessible to the public within one business day through an electronic permitting system and through an interactive mapping system.

3. The zoning administrator shall be responsible for maintaining a functional, comprehensive, and current webpage for the urban forestry program within the Metro Nashville website. The website must include;

a. Requirements and procedures for applying for tree removal permits,

b. Requirements and procedures for licensure and permitting of arborists,

c. Most current version of the Urban Forestry Recommended and Tree and Shrub List,

d. All applicable tree density worksheets,

e. Procedures related to planting, maintenance, and removal of street trees,

f. Requirements for protection of trees during development activities,

g. Information on tree topping restrictions,

h. Information related to consequences of unauthorized removals of protected tree canopy, and

i. Current and accurate contact information for all urban forestry staff members.

E. Notification. Any person obtaining a tree removal permit shall provide notice to the public by posting signage on the subject property a minimum of seven days prior to the start of work. Such signage shall remain posted on the property until completion of tree removal activities. The signage shall include the address of the removal, name and phone number of the applicant, permit number for the tree permit, the permit number for the permitted arborist, phone number of the urban forester, number of trees to be removed, number of replacement trees, and the applicable tree removal permit tracking number. The size of each sign must be 24" (vertical) × 36" (horizontal) and shall contain the following language “TREE REMOVAL PERMIT”. The signage shall have a bright yellow background with large, bold, dark text and shall be constructed of weather resistant materials.

Section 21. That Metropolitan Code of Laws is amended by adding the following new Section 17.40.490:

17.40.490 Unauthorized Activities and Preparatory Land Clearing.

In cases where tree clearing, development work, land disturbance, or intentional damage to trees occurs in violation of the standards of this section, including tree removals or damage on a parcel within five years prior to receiving a building permit, grading permit, site plan approval, subdivision approval, or other development approval, the following shall apply:

A. Tree replacement shall be required at a rate of 80 trees for each acre disturbed or at a rate of two caliper inches for each caliper inch of tree removed, whichever rate is higher.

B. Replacement trees shall have a minimum of two-inch caliper at the time planted, and shall be planted within 12 months of the removal, or prior to issuance of use and occupancy permits in cases of permitted development activities.

C. In cases of unauthorized tree removals or preparatory land clearing, the required replacement trees shall not count towards tree density units required by this Article nor by section 17.28.065. For the purposes of this section, “preparatory land clearing” means the removal, destruction, or irreparable damage of Protected Trees from a parcel within five years prior to receiving a building permit, grading permit, site plan approval, subdivision approval, or other development approval.

D. Replacement trees shall be maintained through an establishment period of three years. If the replacement trees do not survive the establishment period, the owner shall purchase and install new replacement trees, and the establishment period shall reset.

E. In addition to any other penalty imposed for failure to obtain a permit, where work for which a permit is required, is commenced before a permit is issued, a fine of fifty dollars per day of violation shall be imposed.

Section 22. The Metropolitan Clerk is directed to publish a notice announcing such change in a newspaper of general circulation within five days following final passage.

Section 23. This Ordinance shall take effect upon publication of above said notice announcing such change in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance was recommended for withdrawal by the Planning Commission at the request of the sponsor. The Council Office anticipates that this ordinance will be withdrawn.

This ordinance amends Titles 2 and 17 to amend various provisions related to the regulation of trees.

First, the ordinance amends the provisions related to arborist permits in Section 2.104.070 of the Metropolitan Code of Laws, including the increase of required liability coverage, the ability for the Metropolitan Government to rescind the permit, and allows the Director of the Codes Department to set the permit fee.

The ordinance further amends Section 17.20.120 of the Metropolitan Code of Laws related to street trees to require all development and redevelopment to be subject to the street tree requirement under certain conditions.

Chapter 17.24 of the Metropolitan Code, related to landscaping, buffering, and tree requirements, would be amended related to the requirements of the landscape plan requirements, a removal of tractor trailer staging and parking from the exemptions for a landscape buffer, along with changes to the special screening requirements, scenic landscape easement requirements, and maintenance requirements, among other changes.

Section 17.28.065, recently added to the Metropolitan Code as a consolidation of existing tree requirements pursuant to Substitute Ordinance No. BL2022-1122, as amended, would also be subject to various amendments. These amendments include the addition of new definitions, requires a tree survey for all developments, increases the minimum tree canopy retention, requires tree save areas, increases the replacement tree requirements, and adds new tree removal permit requirements, among other changes.

This ordinance was recommended for withdrawal by the Planning Commission.

A redlined version of this ordinance showing the changes from the existing Metropolitan Code provisions is available from the Council Office upon request. In addition, the staff report for the Metropolitan Planning Commission meeting on October 27, 2022, contains a helpful chart and additional information regarding the proposed substitute. The Planning Commission Staff report can be found at the following link:
<https://www.nashville.gov/sites/default/files/2022-10/MPC-221027sr.pdf?ct=1666392142>