

ORDINANCE NO. _____, SERIES 2021

AN ORDINANCE AMENDING THE METRO LAND DEVELOPMENT CODE RELATING TO TREES AND TREE CANOPY (19AMEND1003 AND ORDINANCE NO. 050, SERIES 2020).

**SPONSORED BY: COUNCIL MEMBER MADONNA FLOOD AND
COUNCIL MEMBER BILL HOLLANDER**

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the “Council”) passed Resolution 146, Series 2018 directing the Planning Commission to review the Land Development Code (“LDC”) with regard to the preservation and planting of trees; and

WHEREAS, the Planning Committee of the Planning Commission conducted meetings on February 25, 2019, March 11, 2019, April 8, 2019, and May 28, 2019 and the Planning and Design Services staff held a series of community meetings to gather input regarding trees and tree canopies. Interested stakeholders from the real estate industry and members of the general public participated in these meetings and discussions; and

WHEREAS, Planning and Design Services staff has concluded that the proposed amendments are consistent with the applicable policies of Plan 2040;

WHEREAS, on July 24, 2019, the Planning Commission recommended that the Metro Council adopt the proposed revised regulations as set forth in its minutes;

WHEREAS, the Planning and Zoning Committee of the Council held meetings on September 17, 2019, October 1, 2019, October 15, 2019, October 29, 2019, November 12, 2019, February 11, 2020, February 25, 2020 and March 10, 2020, and amended the proposed revised regulations;

WHEREAS, on April 23, 2020, Council enacted the proposed revised regulations with amendments made by the Planning and Zoning Committee in Ordinance 050, Series 2020 (the “Trees Ordinance”);

WHEREAS, subsequent to the enactment of Trees Ordinance, there have been some implementation issues with respect to Section 10.1.4, specifically, with respect to documentation of the waiver, and

WHEREAS, Council wishes to amend the language of the Trees Ordinance pertaining to Sections 10.1.4 and 10.1.9 of the LDC to clarify the intent previously expressed by the Planning and Zoning Committee at the meeting held on March 10, 2020, which is that the waiver in Subsection 10.1.4 of the LDC, which is also covered by 10.1.9 of the LDC, be rarely granted based on specific, documented factors with respect to the subject site.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: Subsections 10.1.4 and 10.1.9 of the LDC are amended as follows:

10.1.4 Tree Canopy Standards

A. The tree canopy on a development site shall meet the applicable standards according to the site’s form district and proposed land use as set forth in Tables 10.1.1 and 10.1.2 below. (Percentages refer to the relation of tree canopy to gross site area in square feet.)

Section 10.1.2.C allows residential subdivisions and multi-lot commercial developments to group trees in clusters throughout the development rather than meeting the canopy requirements on a lot-by-lot basis. In addition to the standards referenced above, development sites that have 50% to 100% existing tree canopy coverage as of the date of passage of this Ordinance shall be required to preserve 20% of the site area covered with existing tree canopy. The 20% preservation requirement does not apply to General Development Plans and Preliminary Subdivision Plans approved prior to the date of the adoption of this regulation.

A reduction in the required preserved tree canopy to a percentage between 20%

and 10% is permitted if approved **in writing, with the required findings in 10.1.9** by the Planning Director or designee under the following conditions:

1. The applicant may pay a fee in lieu in an amount, as determined by the Planning Director or designee, to a designated tree account for the amount at a ratio of 1.5 trees per lost tree equivalency; and
2. The applicant submits a justification statement outlining why the site cannot meet the 20% requirement **and establishing that the required findings in Section 10.1.9 have been satisfied.**
3. Only the minimum reduction necessary in the required preserved tree canopy shall be granted. As many trees as possible on the site shall be preserved.

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10.1.9 Waivers

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D. Required Findings; in granting a **written** waiver from 10.1.4 (20% Tree Preservation Requirement), the Planning **Director**~~Commission~~ or designee must find that:

1. The waiver is in compliance with the Comprehensive Plan;
2. The applicant made a good faith effort to preserve as many trees as possible on the site, and within the adjacent right of way; and
3. There are other mitigating circumstances affecting this site which do not generally apply to sites developed for the same use and in the same form district.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____
O-301-21 Amend LDC Related To Trees (LF)