

19AMEND1003

TREE CANOPY AMENDMENTS



Planning and Zoning Committee

August 27, 2019

Request(s)

- Amend the Land Development Code as it relates to trees and tree canopy

Case Summary

- Metro Council Resolution
- Planning Committee
- Highlights:
 - Not permitting an application to be filed for a development where tree removal has occurred within two years prior to the application.
 - Sites that are 50% to 100% covered in existing tree canopy are required to preserve 20% of that canopy.
 - Existing canopy preserved receives 2 times the credit
 - Tree canopy provided for suburban form districts only
 - Planted trees receive full canopy credit for each tree.
 - Reduction in the minimum caliper tree required to be planted to 1 ½” caliper (does not apply to street trees).
 - Tree removal permit for non-residential and multi-family sites where a landscape plan was/is required.
 - Street trees required for all uses.

Amendments: Chapters 1, 5, & 9

- **Definitions 1.2.2:**
 - Update TPA and TCPA language to 2016 approved changes
- **Streetscape 5.8.3:**
 - Replaced language regarding who reviews right of way street trees
- **Parking Reduction 9.1.3:**
 - Added language giving a 20% reduction in parking with increased tree canopy and tree planting

Amendments: Chapter 11

- Added language regarding tree removal prior to application (11.4.4 & 11.5.A.4)
 - No application where 20%+ tree removal has occurred within twenty-four (24) months prior to application
 - No tree removal between application submittal and final approval
 - An affidavit is required by the land owner

Amendments: Chapter 10.1.3

- **Methods of Compliance**
 - Increased the availability of the fee in lieu
 - Altered the language to permit the Planning Director or designee to determine amount

Amendments: Chapter 10.1.4

- **Tree Canopy Standards:**
 - Added Language requiring tree preservation:
- Sites with 50% to 100% coverage in existing tree canopy required to preserve 20%
- 20% requirement will not apply to GDDP and Preliminary Subdivision Plans approved prior to regulation
- A reduction to 10% is permitted if approved by the Planning Director or designee under the following conditions:
 - 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.
 - The applicant submits a justification statement outlining why the site cannot meet the 20% requirement.

Amendments: Chapter 10.1.4

- Tree Canopy Standards:
 - Replaced Tree Canopy Tables:

Table 10.1.1 Tree Canopy

Land Use	Suburban Form Districts
Single- Family Residential	40%
Multi-Family and Office	35%
Institutional	35%
Commercial	35%
Industrial *	25%

*Industrial land uses are eligible for a 5% reduction in required tree canopy when a reduced heat island green technology is used on the site (green roofs or cool roofs on all buildings, cool pavement for all vehicle use areas, or other heat island reducing technology as approved by the Planning Director or designee)

- Traditional and Downtown only require street trees
- Removed tree canopy reductions

Amendments: Chapter 10.1.5

- **Calculation:**

- Removed canopy bonus for street trees
- Existing treed areas preserved will be given 2 X canopy credit
- Replaced Tree Credit table:

Caliper	Tree Type**	Amount of Credit (per tree)
1 ½ " to less than 6" caliper	Type A	1,200 sq. ft.
6" to less than 12"	Type A	1,500 sq. ft.
12" to less than 24"	Type A	1,800 sq. ft.
24" and over	Type A	2,100 sq. ft.
1 ½ " to less than 6" caliper	Type B	720 sq. ft.
1 ½ " to less than 6" caliper	Type C	177 sq. ft.

Amendments: Chapter 10.1.8

- **Tree Removal Permit:**

- Added language: A tree removal permit is required for the removal of existing trees on non-residential and multi-family development sites where landscaping and tree canopy were/are required. (see Appendix 10E)

Amendments: Chapter 10.1.9

■ Waivers:

- Added language for tree preservation waiver:
- Required Findings; in granting a waiver from 10.1.4 (20% Tree Preservation Requirement), The Planning 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.

Amendments: Chapter 10.2.8

- **Street Trees:**
 - Modified language:
 - Street trees required for all land uses along all public rights of way
 - Reduction in tree spacing equivalency (consistent with Public Works standards)
 - Spacing can be further reduced depending on tree type and canopy

Staff Finding

- Complies with Plan 2040:
 - Community Form 3 Guidelines 7, 8, and 9
 - Livability 1 Guidelines 2, 5, 7, and 41

Public Meetings

- **Community Meetings:**
 - October 30, 2018, November 13, 2018, November 27, 2018, December 4, 2018, & December 11, 2018
- **Planning Committee:**
 - January 29, 2019, February 25, 2019, March 11, 2019, April 8, 2019, & May 28, 2019
- **Planning Commission:**
 - June 20, 2019 & July 24, 2019

Existing Canopy Chart

Table 10.1.1 Tree Canopy

Land Use	Form District			
	Downtown, Traditional Marketplace Corridor, Traditional Workplace, Town Center	Traditional Neighborhood	Regional Center, Suburban Marketplace Corridor, Neighborhood, Suburban Workplace, Campus	Village
Single-Family Residential	Class A	Class B	Class C*	Class D
Multi-Family and Office	Class A	Class B	Class C	Class D
Institutional	Class A	Class B	Class C	Class D
Commercial	Class A	Class A	Class C	Class C
Industrial	Class A	Class A	Class C	Class C

* Docket No. 9-26-03; see website for adoption status outside Louisville Metro

Class Canopy Requirement per Table 10.1.1	Preserved Tree Canopy Coverage Area	New Tree Canopy Coverage Area	Total Tree Canopy Coverage Area Required
Class A	5%	0%	5%
	4%	2%	6%
	3%	4%	7%
	2%	6%	8%
	1%	8%	9%
	0%	10%	10%
Class B	10%	0%	10%
	8%	3%	11%
	6%	6%	12%
	4%	9%	13%
	2%	12%	14%
	0%	15%	15%
Class C If site is 76%-100% covered in existing tree canopy	15%	0%	15%
	12%	6%	18%
	9%	12%	21%
	6%	18%	24%
	3%	24%	27%
	0%	30%	30%
Class C If site is 41%-75% covered in existing tree canopy	15%	0%	15%
	12%	5%	17%
	9%	10%	19%
	6%	15%	21%
	3%	20%	23%
	0%	25%	25%
Class C If site is 0%-40% covered in existing tree canopy	15%	0%	15%
	12%	4%	16%
	9%	8%	17%
	6%	12%	18%
	3%	16%	19%
	0%	20%	20%

Proposed Clarifications

- **10.1.3 Methods of Compliance**
- 6. The applicant may pay a fee in lieu in an amount as determined by the Planning Director or designee, to a designated tree account per 1 3/4" caliper tree required to meet a sites tree canopy requirement.
- All fees paid shall be used for trees to be planted on an alternative site pursuant to 10.1.3.A.3 deemed most necessary as determined by the Urban Forester. Or;
- All fees paid shall be used for trees to be planted on an alternative site pursuant to 10.1.3.A.3 within the same Council District as the project site as determined by the Urban Forester.

Proposed Clarifications

■ 10.1.4 Tree Canopy Standards

- 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, paragraph 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 percent to 100 percent existing tree canopy coverage shall be required to preserve 20 percent of the site area covered with existing tree canopy.

Proposed Clarifications

■ 10.2.8 Street Trees

- A. **Mandatory:** Street trees are required for all land uses along all public rights of way (excluding alleys). Street trees shall be selected and placed with the approval of Planning and Design Services with consultation from the Director of Public Works or designee. If the sidewalk width, utility locations or similar conditions make it impractical to install street trees, the Director of Works or designee may waive the requirement for street tree planting or unobstructed sidewalk width. If the Public Works Department or Kentucky Transportation Cabinet refuses to allow plantings in the right-of-way, street trees shall be provided adjacent to the right-of-way, in a minimum 6 foot wide planting area (Suburban Forms only). If a streetscape master plan has been approved for a specific street, all street trees shall be planted in accordance with the approved master plan. Street trees shall be planted at a 1 ¾" minimum caliper. Street trees, for all uses except commercial, shall be planted at a ratio of no less than 1 Large (Type A) tree per 50 lineal feet of right- of-way, or 1 Medium (Type B) tree per 20 lineal feet, or 1 Small (Type C) tree per 15 lineal feet. Street trees for commercial uses shall be planted at a ratio of no less than 1 large (Type A) tree per 30 lineal feet of right of way, or 1 medium (Type B) tree per 25 lineal feet, or 1 small (Type C) tree per 20 lineal feet. Small trees are permitted only where utility lines or other site constraints will not allow installation of Large or Medium trees. (EXCEPTION: Refer to Chapter 3 for Floyds Fork Overlay information). In the event that an MSD approved Green Management Practice (GMP) is being proposed within the right of way or along the edge of the property, the street tree{s} shall be chosen from Chapter 13: Native Revegetation from the MSD Design Manual (a link to document found in Appendix 10A).

Proposed Clarifications

- 11.4.4/11.5A.4 Application
- B. A disclosure agreement shall be filed at the time of rezone/CUP pre-application that provides the known history of tree removal on the site if 20% or more of a site has been clear-cut at any time within twenty-four (24) months prior to pre-application submittal without consultation and approval of the Planning Director or designee. In addition, no such tree removal shall take place in the time between pre-application submittal and final approval. This requirement shall not prohibit tree removal per Chapter 102.02 of the Metro Code of Ordinances, for safety reasons, (including dead tree removal), routine maintenance (including removal of invasive species), for required geotechnical work, utility work, or anything protected by state statute. Existing and on-going tree farms and nurseries are exempt.
- ~~C. An affidavit by the land owner shall be filed at time of rezone pre-application submittal indicating that 20% or less tree removal took place two (2) years prior to development submittal.~~

Proposed Clarifications

- 10.1.5 Calculation
- C. New trees planted to meet the requirements of this Part shall be given credit in accordance with Table 10.1.3, below. Such trees must meet the standards of Chapter 10 Part 4 at the time of planting. Trees within major subdivisions may be planted on private lots as shown on the approved landscape plan. Those trees shall be used to calculate the overall tree canopy for a major subdivision. Enforcement for trees planted on private lots pursuant to an approved landscape plan shall occur only if the overall major subdivision is not meeting the minimum tree requirement.

Proposed Clarifications 2/25/20

■ 10.1.3 Methods of Compliance

6. The applicant may pay a fee in lieu in an amount as determined by the Planning Director or designee, to a designated tree account per 1 3/4" caliper tree required to meet a sites tree canopy requirement. Fees collected will go towards trees planted within the Council District where the development site seeking the alternative is located after consultation with the Urban Forester.

Proposed Clarifications 2/25/20

■ 10.1.4 Tree Canopy Standards

- 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, paragraph 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 percent to 100 percent existing tree canopy coverage **as of March 1, 2020** shall be required to preserve 20 percent 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.
- **The 20% preservation requirement may be reduced to a minimum between 20% and 10% (only the minimum reduction shall be granted) if approved by the Planning Director or designee under the following conditions (only the minimum reduction shall be granted):**
 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.

Proposed Clarifications 2/25/20

- Table 10.1.1
 - Industrial

Table 10.1.1 Tree Canopy

Land Use	Suburban Form Districts
Single-Family Residential	40%
Multi-Family and Office	35%
Institutional	35%
Commercial	35%
Industrial *	25% 30%

~~*Industrial land uses are eligible for a 5% reduction in required tree canopy when a reduced heat island green technology is used on the site (green roofs or cool roofs on all buildings, cool pavement for all vehicle use areas, or other heat island reducing technology as approved by the Planning Director or designee).~~

- Planning Commission 20%-25% recommendation (ALL sites will meet requirement)
- Planning and Design 25%-30% recommendation (1% would not be able to meet requirement)
- Other 30% requirement (15% industrial sites within 4 years may choose an alternate to compliance)

Proposed Clarifications 2/25/20

■ 10.2.8 Street Trees

- A. **Mandatory:**... Street trees, for all uses except commercial **in Traditional Forms**, shall be planted at a ratio of no less than 1 Large (Type A) tree per 50 lineal feet of right- of-way, or 1 Medium (Type B) tree per **25** lineal feet, or 1 Small (Type C) tree per **20** lineal feet.
- Street trees for commercial uses (**Traditional Forms**) shall be planted at a ratio of no less than 1 large (Type A) tree per 30 lineal feet of right of way, or 1 medium (Type B) tree per 25 lineal feet, or 1 small (Type C) tree per 20 lineal feet.
- Small trees are permitted only where utility lines or other site constraints will not allow installation of Large or Medium trees. (EXCEPTION: Refer to Chapter 3 for Floyds Fork Overlay information). In the event that an MSD approved Green Management Practice (GMP) is being proposed within the right of way or along the edge of the property, the street tree{s} shall be chosen from Chapter 13: Native Revegetation from the MSD Design Manual (a link to document found in Appendix 10A).

Proposed Clarifications 2/25/20

- ~~10.2.14~~ ~~Alternative Landscape Plans~~ **Tree Planting Compliance**
- If a Landscape Buffer Area (LBA) or Interior Landscape Area (ILA) cannot meet the tree planting requirements in the buffer or ILA then the site may utilize the fee in lieu as described in Chapter 10.1.3.A.3. c.6 per tree that cannot be planted within the LBA or ILA.
- ~~10.2.14~~**15** Alternative Landscape Plans
- ~~10.2.15~~**16** Landscape Architect Seal Requirement
- ~~10.2.16~~**17** Form District Specific Landscape Requirements

Proposed Clarifications 2/25/20

Proposed language for Section 11.4.4:

- B. A site shall be ineligible for filing an application for a rezone if any tree removal has taken place on the site at any time within twenty-four (24) months prior to pre-application submittal without consultation and approval of the Planning Director or designee. In addition, no such tree removal shall take place in the time between pre-application submittal and final approval. This requirement shall not prohibit tree removal per Chapter 102.02 of the Metro Code of Ordinances, for safety reasons (including dead tree removal), routine maintenance (including removal of invasive species), for required geotechnical work, utility work, or anything protected by state statute. Existing and on-going tree farms and nurseries are exempt.
- C. An affidavit by the land owner shall be filed at time of rezone application submittal indicating no tree removal took place two (2) years prior to application submittal.

Proposed Clarifications 2/25/20

Proposed language for Section 11.5A.4:

- 2. A site shall be ineligible for filing an application for a Conditional Use Permit if any tree removal has taken place on the site at any time within twenty-four (24) months prior to pre-application submittal without consultation and approval of the Planning Director or designee. In addition, no such tree removal shall take place in the time between pre-application submittal and final approval. This requirement shall not prohibit tree removal per Chapter 102.02 of the Metro Code of Ordinances, for safety reasons (including dead tree removal), routine maintenance (including removal of invasive species), for required geotechnical work, utility work, or anything protected by state statute. Existing and on-going tree farms and nurseries are exempt.
- 3. An affidavit by the land owner shall be filed at time of Conditional Use Permit application submittal indicating no tree removal took place two (2) years prior to application submittal.