

ORDINANCE NO. 050, SERIES 2020

AN ORDINANCE AMENDING THE METRO LAND DEVELOPMENT CODE RELATING TO TREES AND TREE CANOPY (19AMEND1003)(AS AMENDED).

SPONSORED BY: COUNCIL MEMBERS FLOOD, HOLLANDER, COAN, AND PRESIDENT JAMES

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; and

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

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

SECTION I: Chapter 1 of the LDC, Section 1.2.2 – Definitions, is amended to add the following definitions:

Clear-cutting - Harvesting, clearing, or removal of 20% or more of the existing trees located on a lot or development site.

Tree Canopy Protection Credit Area (TCPA-TCCA) – An area of tree canopy preserved to meet the requirements of Chapter 10, Part 1 Tree Canopy.

Temporary Tree Preservation-Protection Areas (TTPAs) – represent those portions of the development site to be left undisturbed during development of roadways, utilities and similar infrastructure. TTPAs are not permanent preservation areas; clearing, grading and/or removal of trees in TTPAs is allowed at the time of individual building or home construction.

Woodland Protection-Preserved Area (WPA) – Vegetated portions of a development site designated at the time of the approval process to be permanently protected (through the use of deed restrictions) either in a natural state or following selective removal of under story, brush and/or trees as specified at time of plan approval.

SECTION II: Chapter 5 of the LDC, Section 5.8.3.C.1.a.i, is amended as follows:

5.8.3 Streetscape

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C. Downtown Form District

1. Streetscape standards have been established to create an attractive and animated sidewalk environment and to permit safe and efficient pedestrian movement. Planning and installation of improvements shall be coordinated to ensure a well-designed and unified streetscape treatment within the Downtown Form District. Streetscape elements provided as part of the development shall conform to those specified in the master plan along those corridors for which a plan has been adopted. All other streetscape elements shall conform to the following standards:
 - a. Street Trees
 - i. 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 ~~the Works Department urban forestry staff~~. 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.

SECTION III: Chapter 9 of the LDC, Section 9.1.3.F, is amended to add number 10 as follows:

9.1.3 Calculating Parking Requirements / Allowances

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F. Off-street Parking Reductions (see Table 9.1.1 for applicable reductions by form district/planned development districts)

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10.A 20% reduction in the minimum number of parking spaces required shall apply to any development in the traditional form districts where any existing healthy, non-invasive tree is preserved. A 20% reduction in the minimum number of parking spaces required shall apply to any development in suburban form districts that exceeds the minimum tree canopy required by 5%.

SECTION IV: Section 10.1 of the LDC is amended as follows:

10.1.3 Methods of Compliance

A. The tree canopy requirements of this Part may be satisfied in the following order of preference:

* * * *

3. If a development site cannot meet the tree canopy requirements through preservation or the planting of new trees, then the applicant may come into compliance by planting new trees on an alternative site under the following requirements:

* * * *

c. The Planning Director or designee may determine an alternative site for the planting of an equivalent number/amount of trees that meets any one of the following criteria:

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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 within the same Council District as the project site as determined by the Urban Forester.

~~4. If one of the above methods of compliance cannot be met for the development site then the applicant may pay a fee in lieu in an amount as determined by the~~

~~Planning Director or designee and Urban Forestry Coordinator (or comparable position), to a designated tree account per 1 3/4" caliper tree required to meet a sites tree canopy requirement. These tree funds will be administered and tracked by the Urban Forestry Coordinator for the planting and maintenance of trees pursuant to the City's most recent tree canopy study or at sites determined by the Planning Director or designee and the Urban Forestry Coordinator.~~

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 and the amount of tree preservation, 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 coverage.

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 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.

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.

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

Land Use	Suburban Form Districts
Single-Family Residential	40%
Multi-Family and Office	35%
Institutional	35%
Commercial	35%
Industrial *	2530%

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

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%
Class-C	0%	15%	15%
	15%	0%	15%
If site is 76%	12%	6%	18%

Class Canopy Requirement per Table 10.1.1	Preserved Tree Canopy Coverage Area	New Tree Canopy Coverage Area	Total Tree Canopy Coverage Area Required
100% covered in existing tree canopy	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%
Class C If site is 0%-40% covered in existing tree canopy	0%	25%	25%
	15%	0%	15%
	12%	4%	16%
	9%	8%	17%
	6%	12%	18%
Class D	3%	16%	19%
	0%	20%	20%
	20%	0%	20%
	15%	6%	21%
	10%	12%	22%
	5%	18%	23%
	0%	24%	24%

B. ~~Tree Canopy Credit Areas (TCCAs) and Woodland Preserved Areas (WPAs) can be used to satisfy tree canopy requirements while Temporary Tree Protection Areas (TTPAs) may not be used to satisfy tree canopy requirements. Developments shall be entitled to a reduction in the tree canopy requirement prescribed in Tables 10.1.1 and 10.1.2 as follows:~~

~~1. Any residential subdivision receiving at least 3.5 points for the provision of diversity housing in accordance with Chapter 4 Part 5 (Alternative Development Incentives) of the Land Development Code shall receive a 33% reduction.~~

~~2. Any development located in the Downtown, Traditional Marketplace Corridor, Traditional Workplace and Traditional Neighborhood Form Districts shall receive reductions as follows:~~

~~a. Tree Canopy Reduction for Nonresidential Development:~~

Development Floor Area Ratio (FAR)	Total Tree Canopy Reduction
FAR 0.29 or Less	No Reduction
FAR 0.30 to 0.49	33% Reduction
FAR 0.50 and Greater	66% Reduction
FAR 1.0 and Greater in Downtown Form District only	100% Reduction

NOTE: ~~All reductions shall be based on the total square feet of tree canopy needed on a site to meet the requirements of Tables 10.1.1 and 10.1.2. Total Tree Canopy~~

~~b. Tree Canopy Reduction for Multi-Family Residential Development~~

Development Density (Dwelling Units per Acre)	Total Tree Canopy Reduction
12.00 Du/Acre or Less	No Reduction
12.01 to 16.00 Du/Acre	33% Reduction
16.01 Du/Acre and Greater	66% Reduction
22.01 Du/Acre and Greater in Downtown Form District Only	100% Reduction

NOTE: These reductions in the tree canopy requirements have been created in an effort to support a more compact and efficient urban form and to support infill development opportunities

c. Tree Canopy Reductions for Single Family Residential Developments:

Development Density (Dwelling Units per Acre)	Total Tree Canopy Reduction
4.4 Du/Acre or Less	No Reduction
4.41 to 5.5 Du/Acre	33% Reduction
5.51 Du/Acre and Greater	66% Reduction

NOTE: Any trees or tree stands that are being preserved to meet the minimum requirements of this Part shall also be subject to the requirements of Chapter 10 Part 4 (Implementation) of the Land development Code

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F. When trees are planted off-site or on private property to meet the requirements of this Part, the applicant shall provide the Planning Director with documentation that sufficient measures have been taken to ensure the preservation and, when necessary, the replacement of said trees. Examples of such measures would include, but not be limited to, including preservation and replacement provisions in a subdivision's deed of restrictions or within a development's binding elements or by placing all of the required trees within a conservation easement or a Woodland Protection Preserved Area (WPA).

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10.1.5 Calculation

A. Any development site greater than two acres in size shall be permitted to determine the area of existing tree canopy coverage to be preserved by ground checking, aerial analysis, or any other method determined to be accurate by DPDS staff. If ground checking is utilized, credit for existing trees intended to be retained may be calculated in either of two ways:

1. Measurement of the trunk of each individual tree (i.e. a tree not grouped with other trees or a part of a tree stand) to determine its caliper and the credit given for that tree shall be in accordance with Table 10.1.3, below; or
2. The dripline may be plotted on the site plan and given two (2) times the tree canopy credit given for the square footage of the site within the dripline.

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C. New trees planted to meet the requirement 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 shows 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.

D. ~~Street trees planted in accordance with Section 10.2.8 shall qualify for a 25% bonus in the amount of credit listed in Table 10.1.3. This credit shall apply to street trees that are mandated as well as those planted on a voluntary basis.~~

E.~~D.~~ All approved WPAs shall qualify for a 10% bonus in the amount of credit listed in Table 10.1.3. as indicated above in 10.1.5.A and B.

NOTE: Street tree bonus: for example a development that provides three Type A trees two inches in caliper shall receive credit for 2 250 sq ft of tree canopy.

F.~~E.~~ In calculating the required number of trees, fractions less than .5 shall be dropped and greater than or equal to .5 shall be rounded up. Table 10.1.3 Deciduous Tree Canopy Credit

NOTE: "Caliper" The diameter of a tree trunk, measured 6 inches above the ground for newly installed trees and at 4 feet 6 inches above the ground (breast height) for existing trees.

Caliper	Tree Type**	Amount of Credit (per tree)
10 inches or greater	Type A	1,200 sq. ft. (100% mature canopy size)
	Type B	720 sq. ft. (100% mature canopy size)
	Type C	177 sq. ft. (100% mature canopy size)
Greater than or equal to 3 inches and less than 10 inches	Type A	960 sq. ft. (80% mature canopy size)
	Type B	576 sq. ft. (80% mature canopy size)
	Type C	142 sq. ft. (80% mature canopy size)
Greater than or equal to 1 3/4 inches and less than 3 inches	Type A	720 sq. ft. (60% mature canopy size)
	Type B	432 sq. ft. (60% mature canopy size)
	Type C	106 sq. ft. (60% mature canopy size)
Greater than or equal to 1 inch and less than 1 3/4 inches*	Type A	600 sq. ft. (50% mature canopy size)
	Type B	360 sq. ft. (50% mature canopy size)
	Type C	89 sq. ft. (50% mature canopy size)

* See Chapter 10, Part 4 for criteria to plant trees less than 1 3/4 inch caliper.
 ** Trees are categorized as A, B and C—Large, Medium and Small; refer to Appendix 10A for species that fall within each category.
 NOTE: Table 10.1.3 gives credit for 50% of the mature canopy size when a 1 3/4" – 3" caliper tree is planted.
 NOTE: Upon approval by the Planning Director, or designee, other reputable tree information sources, such as the Manual of Wood Landscape by Michael Dirr, may be used in lieu of or in addition to Table 10.1.3.
 NOTE: For particularly mature trees, ground checking may yield larger credits than those based on this table.

NOTE: Canopy credit for evergreen trees to be determined by the Planning Director, or designee, in working with the applicant, using a reputable tree information such as the Manual of Woody Landscape Plants by Michael Dirr or other similar publication.

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	240 sq. ft.

** See Chapter 10, Part 4 for criteria to plant trees less than 1 ¾ inch caliper.*
*** Trees are categorized as A, B and C—Large, Medium and Small; refer to Appendix 10A for species that fall within each category.*

NOTE: Upon approval by the Planning Director, or designee, other reputable tree information sources, such as the Manual of Wood Landscape by Michael Dirr, may be used in lieu of or in addition to Table 10.1.3.
NOTE: Canopy credit for evergreen trees to be determined by the Planning Director, or designee, in working with the applicant, using a reputable tree information such as the Manual of Woody Landscape Plants by Michael Dirr or other similar publication.

10.1.6 Tree Preservation Plan Requirement

- A. All Temporary Tree Protection, Tree Canopy Credit, and Woodland Preserved areas shall be identified, protected, and/or preserved in accordance with Chapter 10 Part 4 and the Tree Preservation ~~Politics~~ Policies of Louisville Metro Planning and Design Services (Appendix 10D). All applicants for development proposals which seek credit for existing tree canopy to attain the minimum canopy coverage specified in this Part shall submit a Tree protection preservation plan.
1. The content of such a plan is dependent upon the means by which the existing tree canopy is to be calculated.
 2. Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Director, or designee, if the changes are in keeping with the intent of the approved development plan.

NOTE:
Example of an area inventory:
 4- 9' ht Cedar @ 576 sf of credit each =2,304 sf
 3- 4" caliper Hackberry @ 960 sf of credit each =2,880 sf
 3- 24" caliper Maple @ 1,200 sf of credit each =3,600 sf
 5- 10" caliper Hackberry/Maple @ 1,200 sf of credit each =6,000 sf
 1- 8" caliper Oak @ 960 sf of credit each = 960 sf
 Total square footage =15,744 sf
 TCPA on plan is 2.68 acres or 116,957 sf
 116,957 sf - 2,500 sf (sample area) = 114,457 sf
 114,457 sf + 15,744 sf (total sample area credit) =130,201 sf