

ORDINANCE NO. \_\_\_\_\_, SERIES 2020

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

**SPONSORED BY: COUNCILMEMBERS MADONNA FLOOD AND 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; 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 (TIPAs)** – represent those portions of the development site to be left undisturbed during development of roadways, utilities and similar infrastructure. TIPAs are not permanent preservation areas; clearing, grading and/or removal of trees in TIPAs 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

\* \* \* \*

#### 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

\* \* \* \*

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

\* \* \* \*

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:

\* \* \* \*

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 that 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 *	<del>25</del> 30%

\*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%
	0%	15%	15%
Class C If site is 76%	15%	0%	15%
	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
<u>100% covered in existing tree canopy</u>	9%	12%	21%
	6%	18%	24%
	3%	24%	27%
	0%	30%	30%
Class C <u>If site is 41%-75% covered in existing tree canopy</u>	15%	0%	15%
	12%	5%	17%
	9%	10%	19%
	6%	15%	21%
	3%	20%	23%
	0%	25%	25%
Class C <u>If site is 0%-40% covered in existing tree canopy</u>	15%	0%	15%
	12%	4%	16%
	9%	8%	17%
	6%	12%	18%
	3%	16%	19%
	0%	20%	20%
Class D	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:~~

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

**NOTE:** ~~All reductions shall be based on the total square foot 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~~

<b>Development Density (Dwelling Units per Acre)</b>	<b>Total Tree Canopy Reduction</b>
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*

**e. ~~Tree Canopy Reductions for Single Family Residential Developments:~~**

<b>Development Density (Dwelling Units per Acre)</b>	<b>Total Tree Canopy Reduction</b>
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*

\* \* \* \*

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).

\* \* \* \*

**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.

\* \* \* \*

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)
40 inches or greater	Type A	1,200 sq. ft. (100% mature canopy size)
	Type B	720 sq. ft. (100% mature canopy size)
	Type C	477 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	442 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	406 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.*

Table 10.1.3 Deciduous Tree Canopy Credit

<u>Caliper</u>	<u>Tree Type**</u>	<u>Amount of Credit (per tree)</u>
<u>1 ½" to less than 6" caliper</u>	Type A	1,200 sq. ft.
<u>6" to less than 12"</u>	Type A	1,500 sq. ft.
<u>12" to less than 24"</u>	Type A	1,800 sq. ft.
<u>24" and over</u>	Type A	2,100 sq. ft.
<u>1 ½" to less than 6" caliper</u>	Type B	720 sq. ft.
<u>1 ½" to less than 6" caliper</u>	Type C	240 sq. ft.

\* See Chapter 10, Part 4 for criteria to plant trees less than 1 ¼ 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~~ tree 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  
 TCGPA 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*

*Total preserved tree canopy = 130,201 sf*  
*The tree canopy calculations could appear as follows: Gross site area: 1,085,008 sf*  
*Total tree canopy preserved: 130,201 sf (12% of total site)*  
*Total tree canopy required: 173,601 sf (16% of total site on a site that has 0-40% existing canopy coverage)*  
*Total required new canopy: 43,400 sf (4% of total site)*  
*Total canopy provided: 174,121 sf (16%)*  
*If preserved trees are removed from the TCPA, the total number of trees to be replaced would be 58 minimum 3" caliper trees.*

Tree Canopy Calculation Example

Total site area: 251,785 SF  
Existing tree canopy area: 24,477 (10%)  
Total tree canopy required: 88,125 (35%)  
Existing tree canopy to be preserved: (0%)  
Proposed tree canopy to be planted: 88,800 (35%)

B. Standards for Tree Canopy Credit Areas

\* \* \* \*

3. No clearing, grading, construction or other land disturbing activity shall take place within the TCCA/WPA beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified in this part. Underbrush and invasives are ~~is~~ permitted to be removed in the TCCA.

\* \* \* \*

6. Modification of Woodland Preserved Areas shown on approved development plans shall require the approval of the Planning Commission or ~~authorized committee designee~~ after the notification requirements as listed for detailed district development plans in Section 11.4.7.F.1 have been fulfilled.

\* \* \* \*

**10.1.8 Tree Removal Permit**

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)

\* \* \* \*

**10.1.89 Waivers**

\* \* \* \*

D. 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.

**SECTION V:** Numerous subsections of Section 10.2 of the LDC are amended as follows:

#### **10.2.4 Property Perimeter Landscape Buffer Areas**

\* \* \* \*

B. Explanatory Text and Exceptions

\* \* \* \*

6. Sites with a Conditional Use Permit that are located in a residential zoning district shall be considered the same as a C-1 Commercial use for the purposes of application of Chapter 10, sites located in non-residential districts will follow the landscaping requirements for the zoning district that they are in, unless the Board of Zoning Adjustment deems a different classification is appropriate. Exception: Private schools and churches shall follow paragraph 5 above.

\* \* \* \*

#### **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 are required for residentially zoned property along collector and arterial level roadways. Street trees shall be provided in the public right-of-way, with permission of the agency having jurisdiction over the right-of-way. Street trees are required along all streets and for all uses within the Downtown Form District. 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. In Suburban Forms alone, 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. All street trees shall conform to the minimum

requirements of the Streetscape Master Plan Manual. 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 3/4" minimum caliper. Street trees, for all uses except commercial in Traditional Forms, shall be regularly spaced and planted at a ratio of no less than 1 Large (Type A) tree per 50 30-50 lineal feet of right-of-way, or 1 Medium (Type B) tree per 40 2025 lineal feet, or 1 Small (Type C) tree per 30 1520 lineal feet. Street trees for commercial uses in 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).

**NOTE:** See Appendix 10A for listing of Type A, B and C trees.

- ~~A. **Voluntary:** Street trees may be provided adjacent to non-residentially zoned property, as well as residential sites abutting local streets or private access easements providing the principal means of access.~~
- ~~C. **Tree Canopy Bonus:** Street tree plantings shall qualify for a 25% bonus in calculating compliance with tree canopy requirements refer to 10.1.5.D.~~

DB. Please refer to Chapter 10, Part 6, for Streetscape Master Plans.

### 10.2.12 Vehicular Use Area Interior Landscape Areas

Landscape areas shall be provided within all Vehicular Use Areas to break up large impervious areas and allow for a greater distribution of tree canopy coverage and to provide the opportunity: to capture parking lot stormwater runoff, thus increasing water quality: and retaining greater amounts of storm water on site through infiltration. Dimensional requirements have been established to insure that interior landscape areas serve the intended goals and provide enough ground area to support required plant material. Interior landscape areas shall not be required for enclosed VUAs that are secured from access by a fence, wall or similar barrier at least 3.5 feet in height and used for storage, loading docks or their associated maneuvering areas, or for loading, unloading, and storage areas in an industrial zone, PD (industrial uses), C-M, M-1, M-2, M-3, PEC, and & EZ-1 or in loading dock and truck maneuvering areas in Commercial and Office zones. These VUA areas shall still count toward the overall ILA requirement for the development site.

\* \* \* \*

### 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 LBA 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.**

**10.2.1415 Alternative Landscape Plans**

\* \* \* \*

**10.2.1516 Landscape Architect Seal Requirement**

\* \* \* \*

**10.2.1617 Form District Specific Landscape Requirements**

\* \* \* \*

**SECTION VI:** Chapter 10 of the LDC, Sections 10.4.3, 10.4.4, and 10.4.12, are amended as follows:

**10.4.3 Plant Sizes**

\* \* \* \*

Size criteria for deciduous tree species shall be determined based on its Size Type as described in Chapter 1, Part 2 (Definitions) of the Land Development Code. Installation criteria for each Size Type is as follows:

Small Tree (under 25 feet in height at maturity)	6 feet high
Medium Tree (25 feet-50 feet in height at maturity)	1 ¾ ½ inch caliper*
Large Tree (over 50 feet in height at maturity)	1 ¾ ½ inch caliper*
* Medium and Large street trees are required to be planted at 1 ¾ inch caliper.	

\* \* \* \*

**10.4.4 Spacing**

No newly planted trees may be planted closer together than ~~40~~ 15 feet for Small trees, ~~25~~ 20 feet for Medium trees, and 30 feet for Large trees- unless specifically approved by the Planning Director or designee. When planting new trees near existing mature trees, leave a minimum distance of half of the new tree’s mature spread between the new tree and the existing trees. The ~~Planning Commission staff~~ Director or designee can authorize a closer spacing of trees in special circumstances. When GMP planting areas are used within perimeter buffer area, the screening intent of this part should still be met.

Table 10.4.12

TREE SPACING AGAINST BUILDINGS	
Tree Height	Minimum Spacing from Building Edge
Up to 25 feet (small tree)	40 feet
25 feet-50 feet (medium tree)	45 feet
50 feet + (large tree)	45 feet
No tree shall be planted in a space less than 3 feet in width. Only small trees shall be planted in spaces less than 4 feet in width.	

\* \* \* \*

### 10.4.12 Implementation

A. For development sites that require a landscape architect seal in accordance with Chapter 10 (10.2.15) of the LDC the following requirements shall apply:

1. Prior to receiving a certificate of occupancy, a landscape architect shall inspect and certify that all required landscaping shown on the approved landscape plan has been installed.
2. EXCEPTION: A temporary certificate of occupancy may be received for periods outside of the planting season. The temporary certificate of occupancy shall be for a period no greater than six months. Before expiration of the temporary certificate of occupancy the required landscaping shown on the approved landscape plan shall be installed and shall be inspected and certified by a landscape architect.

B. For Major Subdivisions the LDC the following requirements shall apply:

1. Prior to bond release, a landscape architect shall inspect and certify that all required landscaping shown on the approved landscape plan has been installed.
2. Parkway, scenic corridor, and Gene Snyder Expressway plantings shall be inspected and certified within 6 months from the issuance of the site disturbance/clearing and grading permit.

C. On sites two (2) acres or less in size, all new trees proposed to meet the requirements of Chapter 10, parts 1, 2, 3 and 6 shall be planted within six months of the completion of the development or next planting season per PDS staff. The following further clarifies "completion of the development":

#### A.1. Subdivisions

- 4.a. Perimeter Landscaping – Landscaping shall be installed prior to recording of the record plat of the particular subdivision section.
- 2.b. Street Trees – The time line of installation shall be established by condition of approval for the subdivision at time of preliminary plan approval.

#### B.2. All Development Plans

4.a. Installation of landscaping shall be established and a note placed on the approved landscape plan indicating installation time line.

**SECTION VII:** Chapter 11 of the LDC, Sections 11.4.4.B–F and 11.5A.4, are added or amended as follows:

#### **11.4.4 Application**

\* \* \* \*

B. A site shall be ineligible for filing an application for a rezone 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 Louisville Metro Code of Ordinances for safety reasons (including dead tree removal), routine maintenance (including removal of invasive species), 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.

BD. A development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed development and the potential impacts of the development on the community and its environs. In instances where a general development plan is submitted, the Planning Commission may require submission of a detailed development plan prior to issuance of site disturbance and building permits. In certain instances, a preliminary subdivision plan will satisfy the requirements for a general or detailed development plan. These circumstances are identified in Part 2 of this Chapter. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.

CE. Technical studies or reports required by this Land Development Code including but not limited to air quality, traffic, historic and cultural resource, geologic, hydrologic, and hydro-geologic.

DE. Upon receipt of a complete application, as determined by the Planning Director, staff of Planning and Design Services shall cause notice of the application to be given. Not less than ten (10) calendar days prior to initial consideration of an application by either the Commission or a Committee thereof, notice of the application shall be given to first and second tier adjoining property owners. In addition, staff shall endeavor to assure

that notice is given to all neighborhood groups who have registered to receive notice of development applications.

#### 11.5A.4 Application

- A. Applications for Conditional Use Permit shall be submitted on forms supplied by the department. Applications shall be signed by the property owner or his/her agent and filed with Planning and Design Services in accordance with these regulations and the Board of Zoning Adjustment By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of Planning and Design Services. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for Conditional Use Permit:
1. A "Demonstration of Appropriateness" document which addresses as applicable the items listed in Section 11.5A.1.B above.
  2. A site shall be ineligible for filing an application for a conditional use permit 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 Louisville Metro Code of Ordinances for safety reasons (including dead tree removal), routine maintenance (including removal of invasive species), 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 pre-application submittal indicating that 20% or less tree removal took place two (2) years prior to development submittal.
  24. A development plan of sufficient detail to demonstrate to the Board the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.
  35. Not all Waivers, Variances and Conditional Use Permits require engineered surveys. However, where dimensional information is determined to be essential for consideration of such waivers, variances or Conditional Use Permits by staff, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of KY. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.



**SECTION VIII:** 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-259-19 Amend LDC Related To Trees (Tier 4 Amendments 2-25-2020) (TF)