

SUBSTITUTE ORDINANCE NO. BL2018-1416

An ordinance amending Chapter 17.04, Chapter 17.20, Chapter 17.24 and Chapter 17.40 of Title 17 of the Metropolitan Code, Zoning Regulations, regarding tree density, retention, removal, and replacement requirements, all of which is more particularly described here. (Proposal No. 2018Z-010TX-001)

WHEREAS, pursuant to the authority of Title 13 of Tennessee Code Annotated, Council has adopted zoning regulations that establish standards for tree density, removal and replacement; and

WHEREAS, Nashville’s tree canopy provides benefits including enhancing air and water quality, moderating temperature, providing wildlife habitat, and enhancing the beauty and livability of Nashville’s built areas; and

WHEREAS, NashvilleNext, Metro’s General Plan adopted in 2015, identifies protection and enhancement of the tree canopy as a county-wide goal; and

WHEREAS, the Metropolitan Nashville Urban Forestry and Landscape Master Plan finalized in 2016 establishes tree canopy targets for the community character transects as established in NashvilleNext; and

WHEREAS, the Root Nashville public-private partnership was initiated by the Mayor’s office in 2018 with a goal of planting 500,000 trees in Nashville by 2050; and

WHEREAS, updates to the standards of the zoning code pertaining to trees will help align the zoning code with adopted policy documents and established community goals and ensure that the benefits of trees are experienced by all citizens of Nashville and Davidson County, and

WHEREAS, based on the Zoning Administrator’s recommendation, the Metro Council finds it fitting and proper to amend the zoning code to establish updated standards for tree density, retention, removal and replacement requirements.

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

Section 1. That Section 17.04.060 of the Code of the Metropolitan Government of Nashville and Davidson County be hereby amended by deleting the following term and definition in its entirety and substituting therefore the following:

Tree, protected. “Protected tree” means any tree meeting the criteria established in Section 17.40.450.A of this title.

Section 2. That Section 17.04.060 of the Code of the Metropolitan Government of Nashville and Davidson County be hereby amended by adding the following terms and definitions as indicated, to be arranged alphabetically:

Tree, heritage. “Heritage tree” means any tree meeting the criteria established in Section 17.40.450.B. of this title.

Tree, historic and specimen. “Historic and Specimen tree” means any tree meeting the criteria established in Section 17.40.450.C. of this title.

Tree, retained. “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.

Section 3. That Chapter 17.20 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, be hereby amended by deleting Section 17.20.110 in its entirety and substituting therefore the following:

Section 17.20.110 – Parking reduction for preservation of protected and heritage trees.

- A. A reduction of required parking spaces may be allowed when the reduction would result in the preservation of a protected tree with a trunk of twelve inches in diameter or greater or a heritage tree.
- B. The reduction in required parking spaces shall not exceed the number of parking spaces required to prevent removal of protected or heritage trees, or the number in Table 17.20.110, whichever is less.

Table 17.20.110
MAXIMUM PARKING REDUCTION

<u>Required Parking Spaces</u>	<u>Maximum Reduction</u>
<u>1 – 4</u>	<u>1</u>
<u>5 – 9</u>	<u>2</u>
<u>10 – 19</u>	<u>4</u>
<u>20 or more</u>	<u>20 percent</u>

Section 4. That Chapter 17.24 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, entitled “Landscaping, Buffering and Tree Replacement”, and Section 17.24.10 thereof, be hereby amended by deleting both the title and Section 17.24.010 in their entirety and substituting therefore the following:

Chapter 17.24 – LANDSCAPING, BUFFERING AND TREE REQUIREMENTS

Article I. – General Provisions

17.24.010 – Purpose and Intent

The general purpose of this chapter is to set standards for landscaping, buffering, and tree requirements in order to implement the precepts of the general plan and the associated subarea plans, as well as the requirements of the various zone districts set out previously, including properties zoned DTC district as set forth in Chapter 17.37. This chapter further establishes standards for the protection and replacement of trees to ensure their continued presence and associated benefits; establishes standards for screening and landscaping parking areas to reduce their impact on adjacent properties and public thoroughfares, as well as to mitigate the environmental impacts of large areas of unbroken pavement; establishes standards for buffering between different zone districts or selected land uses to mitigate the results of differing activities; and sets standards for plant materials, maintenance of required plants, planning in scenic easements and standards for the screening of unsightly areas.

Section 5. That Section 17.24.020 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore 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, unless exempted by Section 17.24.050, Exceptions. The plan shall show location, size, spacing, species, form and quality of all existing and proposed materials intended to fulfill the requirements of this chapter. The plan shall also show topography, location of all utilities, and either an under-ground sprinkler system or hose bib attachments 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 5,000 square feet or more of permanent structures. Plans and specifications submitted pursuant to this section for developments with less than 5,000 square feet of permanent structures shall be exempt from the landscape architect seal requirement.

Section 3 6. That Section 17.24.090 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore the following:

17.24.90 - Retention of trees.

- A. It is the intent of this article 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 specimen and historic trees, which meet the criteria set forth in section 17.40.450, 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.

- B. Any tree with a diameter at breast height (DBH) of twenty-four inches (24”) or more shall be survey located and depicted on the final site plan.

Section 7. That Sections 17.24.100.A and 17.24.100.B.1 through B.3 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, are hereby amended by deleting these sections in their entirety and substituting therefore the following:

17.24.100- Replacement of trees.

- A. Trees removed pursuant to Section 17.40.470 -- tree removal permit procedures -- shall be replaced at the expense of the property owner or developer to meet the required tree density standard.

- B. Tree density.

- 1. Each property, other than those residential properties provided for in subsection B.2. 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.

- 2. Residential properties shall attain the following tree density factors:

- a. Property within a single and/or two-family residential subdivision for which the preliminary site plan is filed with the planning commission after the date of enactment of this subsection B.2. shall attain a tree density factor of at least fourteen units per acre using retained or replacement trees, or a combination of both, excluding the area of the building lots. Proof of compliance with this requirement shall be provided prior to the release of any applicable public infrastructure bonds.

- b. Requirements for individual single and two-family residential lots.

- i. Individual single and two-family lots, other than those lots zoned AG or AR2a, shall include at least one two-inch caliper tree for each thirty feet of lot frontage (or portion thereof), excluding alley frontage. Such trees must be chosen from the Forestry Recommended and Prohibited Tree and Shrub List, and shall be of a form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition).
- ii. Individual single and two-family lots on a cul-de-sac shall attain a tree density factor of at least two two-inch caliper trees for each thirty feet of lot frontage (or portion thereof). Such trees must be chosen from the Forestry Recommended and Prohibited Tree and Shrub List, and shall be of a form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition).
- iii. 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 seven units per acre using retained or replacement trees, or both.

iv. (Proof of compliance with this subsection B.2.b. shall be provided prior to the issuance of a certificate of occupancy.

c. Alternative tree density requirements for single and two-family residential lots. In lieu of the requirements of subsection B.2.b. of this section, a home builder may petition the urban forester for credit for retaining existing trees on the building lot, provided that the overall tree density, including both replacement and retained trees, is not less than seven units per acre. Retained trees used to satisfy this requirement shall be protected according to Section 17.24.110. Proof of compliance with this requirement shall be provided prior to the issuance of a certificate of occupancy.

3. Compliance with this subsection B. shall be calculated using gross acreage of the property but shall not include the following:

- a. The portion of the land area currently or proposed to be covered by buildings;
- b. The fenced area of any athletic field;
- c. The area of a lake or pond which is covered by water year round; and
- d. Open areas of golf facilities.

Retained and replacement trees shall contribute toward the tree density.

4. 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

<u>DBH</u>	<u>UNITS</u>	<u>DBH</u>	<u>UNITS</u>	<u>DBH</u>	<u>UNITS</u>	<u>DBH</u>	<u>UNITS</u>
<u>6</u>	<u>1.8</u>	<u>20</u>	<u>6.0</u>	<u>34</u>	<u>11.9</u>	<u>48</u>	<u>28.8</u>
<u>8</u>	<u>2.4</u>	<u>22</u>	<u>6.6</u>	<u>36</u>	<u>12.6</u>	<u>50</u>	<u>30.0</u>
<u>10</u>	<u>3.0</u>	<u>24</u>	<u>8.4</u>	<u>38</u>	<u>13.3</u>	<u>52</u>	<u>31.2</u>
<u>12</u>	<u>3.6</u>	<u>26</u>	<u>9.1</u>	<u>40</u>	<u>20.0</u>	<u>54</u>	<u>35.1</u>
<u>14</u>	<u>4.2</u>	<u>28</u>	<u>9.8</u>	<u>42</u>	<u>23.1</u>	<u>56</u>	<u>36.4</u>
<u>16</u>	<u>4.8</u>	<u>30</u>	<u>10.5</u>	<u>44</u>	<u>26.1</u>	<u>58</u>	<u>37.7</u>
<u>18</u>	<u>5.4</u>	<u>32</u>	<u>11.2</u>	<u>46</u>	<u>27.6</u>	<u>60</u>	<u>42.0</u>

Heritage Tree Schedule

UNITS represents basal area

DBH refers to diameter at breast height

<u>DBH</u>	<u>UNITS</u>	<u>DBH</u>	<u>UNITS</u>	<u>DBH</u>	<u>UNITS</u>
<u>8</u>	<u>3.2</u>	<u>14</u>	<u>5.6</u>	<u>20</u>	<u>8.0</u>
<u>10</u>	<u>4.0</u>	<u>16</u>	<u>6.4</u>	<u>22</u>	<u>8.8</u>
<u>12</u>	<u>4.8</u>	<u>18</u>	<u>7.2</u>	<u>24*</u>	<u>9.6</u>

*Greater than 24" equals DBH x 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)

<u>CAL</u>	<u>UNITS</u>	<u>CAL</u>	<u>UNITS</u>	<u>CAL</u>	<u>UNITS</u>	<u>CAL</u>	<u>UNITS</u>
<u>2</u>	<u>0.5</u>	<u>5</u>	<u>0.9</u>	<u>8</u>	<u>1.3</u>	<u>11</u>	<u>1.9</u>
<u>3</u>	<u>0.6</u>	<u>6</u>	<u>1.0</u>	<u>9</u>	<u>1.5</u>	<u>12</u>	<u>2.1</u>
<u>4</u>	<u>0.7</u>	<u>7</u>	<u>1.2</u>	<u>10</u>	<u>1.7</u>	<u>14</u>	<u>2.3</u>

- C. 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.
- D. Single-trunk replacement trees shall be a minimum of two-inch caliper and a minimum of six feet in overall height.
- E. A retained tree moved from one location to another on the site may be given credit upon approval of the urban forester.
- F. Except for sites located within the Downtown Code (DTC) zoning district, credit toward the required tree density may be given for the installation of street trees that meet the following criteria:
 - 1. 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.
 - 2. Street trees installed for tree density credit shall be depicted on the landscape plan.
 - 3. 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.
 - 4. The owner of the property frontage along which the street trees are installed shall maintain street trees installed per this title to International Society of Arboriculture standards.
- G. Subdivision developments, other than single and two-family residential subdivisions required to meet the tree density requirements of subsection B. 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 section 17.40.450, 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

17.40.450, 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.

H. Existing developments not otherwise exempted shall comply with the tree replacement provisions of this title when undergoing expansions as follows:

1. No additional compliance is required if there is no enlargement of the lot, or in the improved portion of the existing lot, and either:

a. 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

b. 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.

2. When the previously improved portion of a lot is enlarged, or additional area is incorporated into the lot, only the additional area or expanded area of improvement is required to be brought into compliance with the tree replacement requirements, if either:

a. 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

b. 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 footage of all improvements on the lot prior to expansion.

3. Total compliance is required if exemption cannot be claimed under other provisions of this section.

I. 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. Notwithstanding the foregoing provision of this subsection to the contrary, there is no requirement that a replacement tree planted for credit be replaced if the tree dies as a result of a natural disaster or other act of God. For purposes of this section, 'natural disaster' shall not include drought.

J. 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.

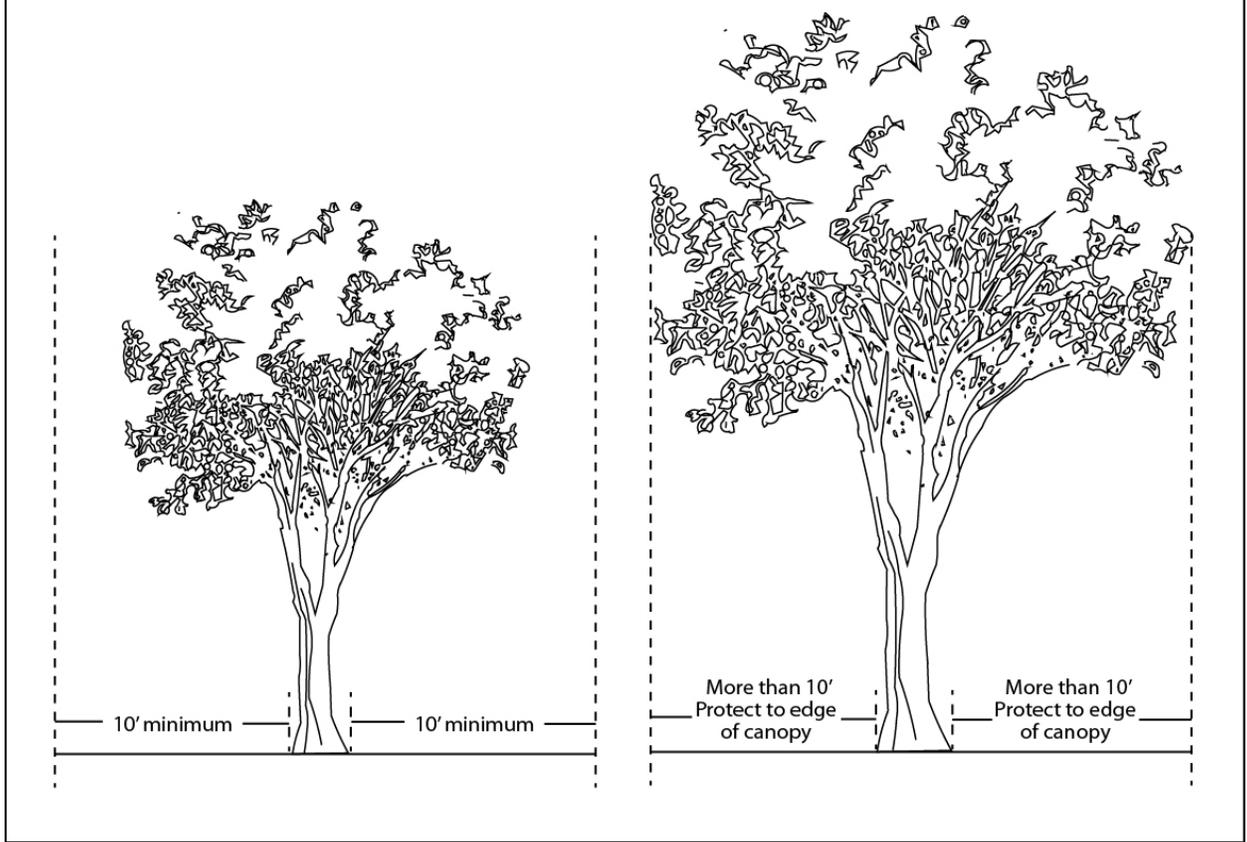
K. Notwithstanding any provisions of this title to the contrary, the board of zoning appeals may hear and decide appeals from any order, requirement, decision or determination made by the urban forester in carrying out the enforcement of this chapter.

Section 8. That Section 17.24.110 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore the following:

Section 17.24.110 – Protection of trees during development activities

- A. Generally. To assure the health and survival of retained trees, the following kinds of tree injuries shall be avoided during all development activities:
1. Mechanical injuries to roots, trunk and branches;
 2. Injuries by chemical poisoning;
 3. Injuries by grade changes;
 4. Injuries by excavations; and
 5. Injuries by paving.
- B. Tree Protection Zone. A circular tree protection zone shall be established around each retained tree as shown in Figure 17.24.110.

Figure 17.24.110
DRIP LINE



1. If the drop line is less than ten feet, the protection zone shall be ten feet.
 2. If the drip line is more than ten feet, the protection zone shall be the full drip line of the tree.
 3. 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.
- C. Development Prohibited within the Tree Protection Zone. All development activities except those specifically permitted by subsection E of this section shall be prohibited within the tree protection zone provided for any protected trees, 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.
- D. Fencing of Tree Protection Zone. Prior to the commencement of construction, the developer shall enclose the entire tree protection zone within a fence or similar barrier as follows:

1. Chain link fencing at least four feet in height and secured using appropriate posts spaced not more than ten feet apart.
2. During construction, each tree protection zone shall be identified with a temporary sign or signs to clearly demarcate the extent of the zone. The developer shall maintain the protective barrier during the entire construction process and shall make certain that it is observed by the contractor.

E. Permitted Activities within Tree Protection Zone.

1. Utility Excavation. Excavating or trenching by duly constituted utilities shall be permitted within the tree protection zone, except where the trees are historic or specimen, in which case utility lines shall be tunneled beneath tree roots in order to protect feeder roots. 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.
2. 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.

F. Inspections.

1. All retained trees, pursuant to a tree survey shall be inspected by the urban forester one year following completion of the project to insure that they are surviving in a healthy condition.
2. Retained trees which require repair or replacement shall be determined by the urban forester.
3. Any retained tree which is damaged during construction, or with damage occurring as a result of construction, shall be repaired according to accepted International Society of Arboriculture practices, or replaced such that the total density units of the replacement tree(s) meets or exceeds the total density units of the protected tree.
4. The owner shall be notified in writing of the urban forester's determinations.

G. Trees destroyed by natural disaster. There is no requirement that a retained tree be replaced if the tree dies as a result of natural disaster or other act of God, including a drought. For purposes of this subsection, 'drought' means a prolonged period of dryness that has caused extensive damage to, or prevented the successful growth of, crops within the Middle Tennessee area.

Section 9. That Section 17.24.150 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore the following:

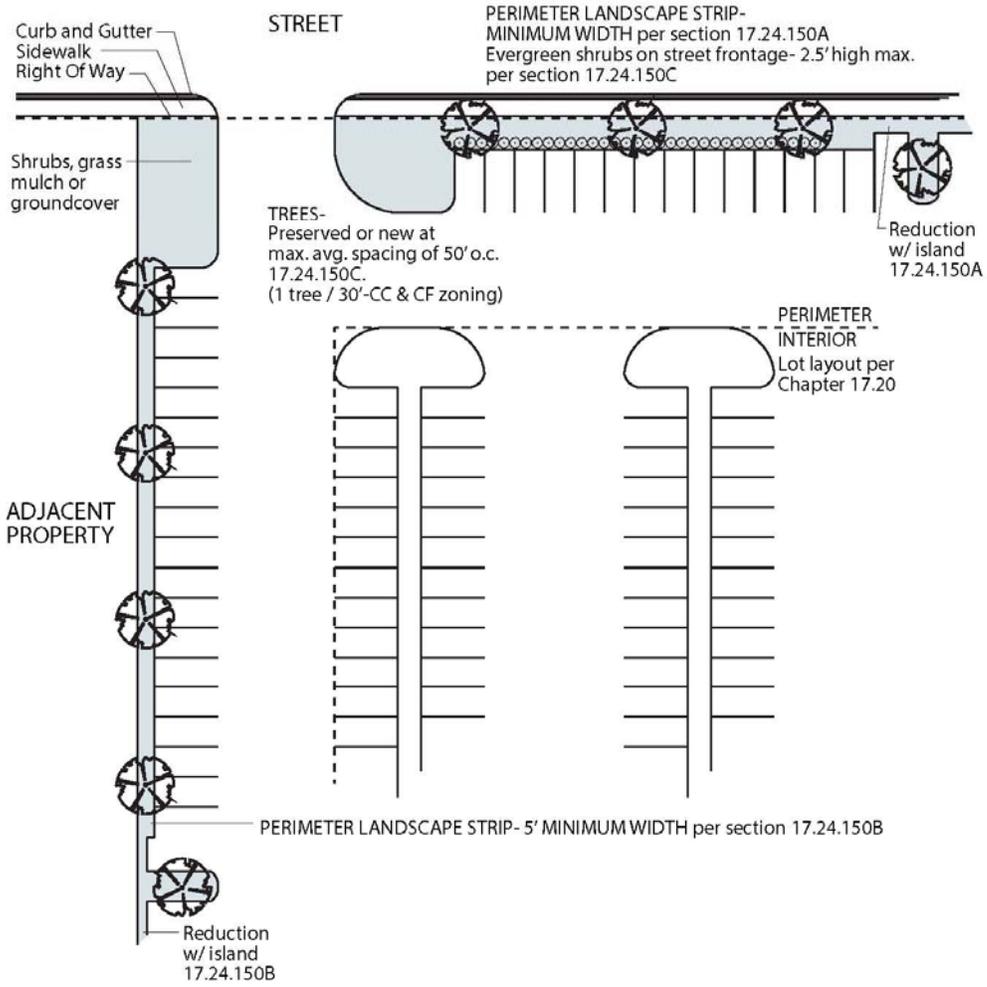
Section 17.24.150 – Perimeter screening requirements

Unless supplanted by more stringent standards in Article IV of this chapter, Landscape Buffer Yard Requirements, the perimeters of parking lots shall be landscaped as follows (See Figure 17.24.150-1):

- A. Parking Areas Adjacent to Public Streets. Parking areas adjacent to public streets shall be separated from the edge of the right-of-way by a perimeter landscape strip which shall be landscaped per the standards set out in subsection C of this section. The public right-of-way and areas reserved for future rights-of-way in compliance with the adopted major street plan shall not be used to satisfy the requirements of this article. Perimeter landscape strips shall be continuous and unbroken except for driveways or sidewalks required to access the parking area. No single driveway/sidewalk penetration shall exceed thirty-five feet.
1. Perimeter landscape strips adjacent to public streets with four or more travel lanes (as classified by the major street plan) shall be a minimum of ten feet in width, unless: (a) the strip includes a permanent finished wall no less than thirty inches in height; or (b) the required trees are planted in islands between the parking spaces. In such cases the perimeter landscape strip may be reduced to five feet in width. (See Figure 17.24.150-2)
 2. Perimeter landscape strips adjacent to public streets with less than four travel lanes (as classified by the major street plan) shall be a minimum of five feet in width, unless: (a) the strip includes a permanent finished wall no less than thirty inches in height; or (b) the required trees are planted in islands between the parking spaces. In such cases the perimeter landscape strip may be reduced to two and one-half feet in width. (See Figure 17.24.150-2)
 3. Permanent landscape strips which use walls or earthen berms are desirable for the reliability of the screening effect they provide. Berms shall not have slopes steeper than 2:1 (horizontal to vertical). Berms with slopes flatter than 4:1 may be stabilized with lawn grasses, and berms with slopes in the range 2:1 to 4:1 shall be stabilized by a continuous perennial plant groundcover which does not require mowing in order to maintain a neat appearance. The wall or combination of berm and perennial groundcover shall be a minimum of two and one-half feet in height.
- B. Parking Areas Adjacent to Side Property Lines. A perimeter landscape strip shall separate a driveway or parking area from an adjacent side property line by one of the following standards: (a) a five-foot (minimum) wide planting strip shall be provided if required trees are to be planted within the strip; (b) a two and one-half foot (minimum) planting strip may be provided to accommodate shrubs if all required trees are planted within tree islands located adjacent to the property line; or (c) two adjacent properties may share equally in the establishment of a seven-foot (minimum) planting strip along the common property line. In instances where the common perimeter planting strip is part of plan for shared access, each owner may count the respective area contributed toward that common planting strip toward the interior planting requirements for the lot. All landscaping strips shall be planted to satisfy the planting requirements of subsection C of this section.

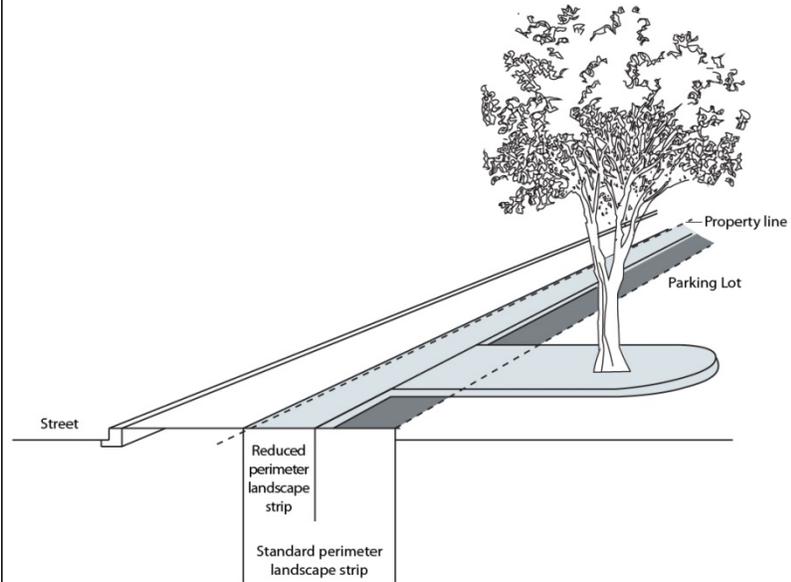
- C. Landscape Materials. A minimum of one tree shall be preserved or planted for each fifty feet of parking area perimeter, or portion thereof; for principal use parking areas located with the DTC and CF zoning districts, street trees shall be installed at a rate of one tree per thirty feet of street frontage. 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.
- D. Corner Visibility. Trees and other landscaping required in the perimeter strip shall be maintained to assure unobstructed corner visibility pursuant to Section 17.20.180, Visibility.
- E. Adjacent Parking Areas with Shared Access. Parking areas on adjacent properties, which are designed to share a common access from the public right-of-way and a vehicular travelway along their common property line shall be exempt from the requirement for a parking area perimeter landscape strip along their common property line, upon the recording of an easement agreement which provides for the mutual right of ingress and egress for both property owners. (See Figure 17.24.150-3)

Figure 17.24.150-1
PERIMETER LANDSCAPE STANDARDS



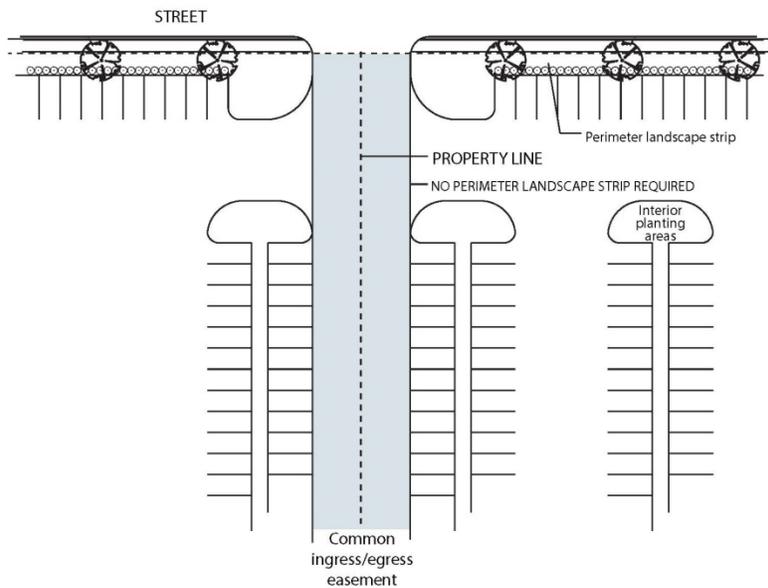
PERIMETER PARKING LOT LANDSCAPING VOID WHERE A MORE STRINGENT BUFFERYARD IS REQUIRED

Figure 17.24.150-2
REDUCTION OF PERIMETER LANDSCAPE STRIP



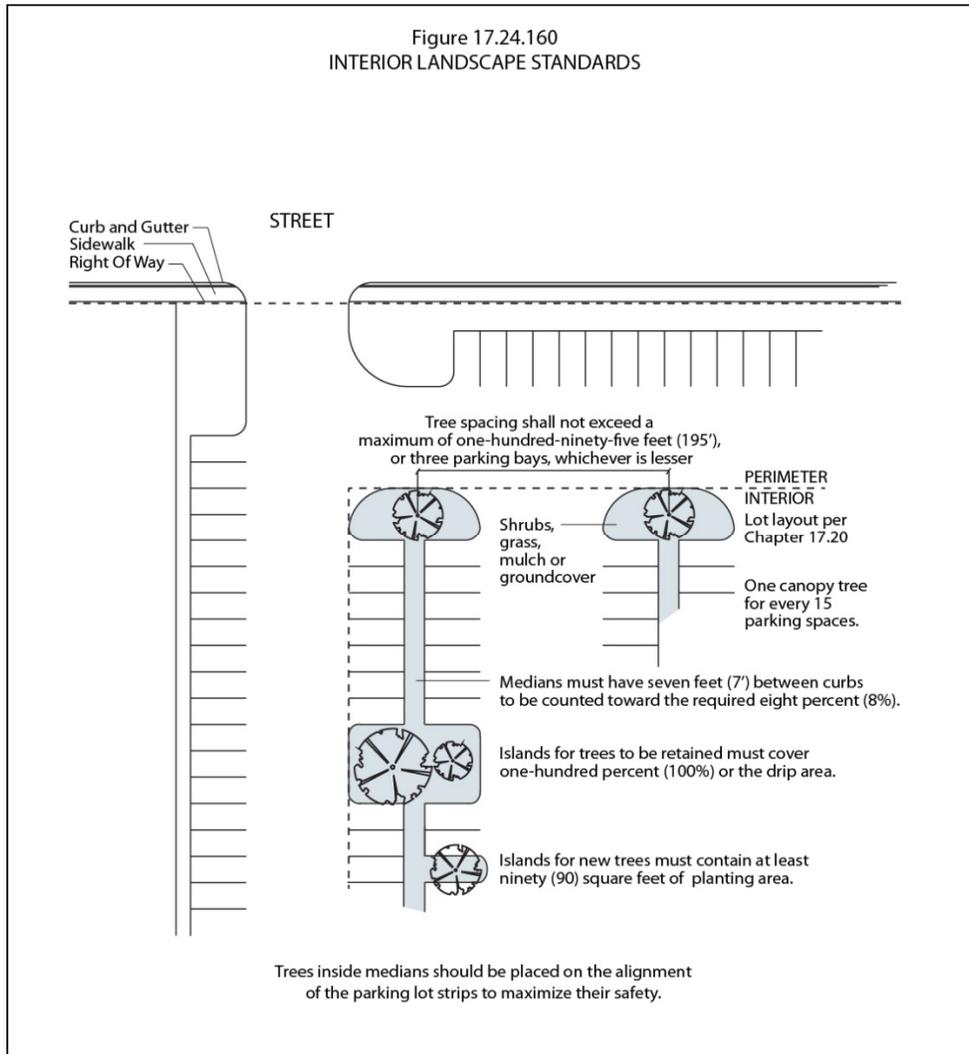
The perimeter landscape strip may be reduced to half the standard depth if the required trees are planted in islands between parking spaces. 17.24.150A

Figure 17.24.150-3
WAIVER OF LANDSCAPE STRIP



PERIMETER LANDSCAPE STRIP WAIVED WITH COMMON ACCESS AGREEMENT 17.24.150E

Section 10. That Section 17.24.160 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting Figure 17.24.160 and substituting therefore the following:



Section 11. That Section 17.24.240 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting Figures 17.24.240A, 17.24.240B, 17.24.240C, and 17.24.240D and substituting therefore the following:

Figure 17.24.240A
STANDARD A- LANDSCAPE BUFFER YARDS

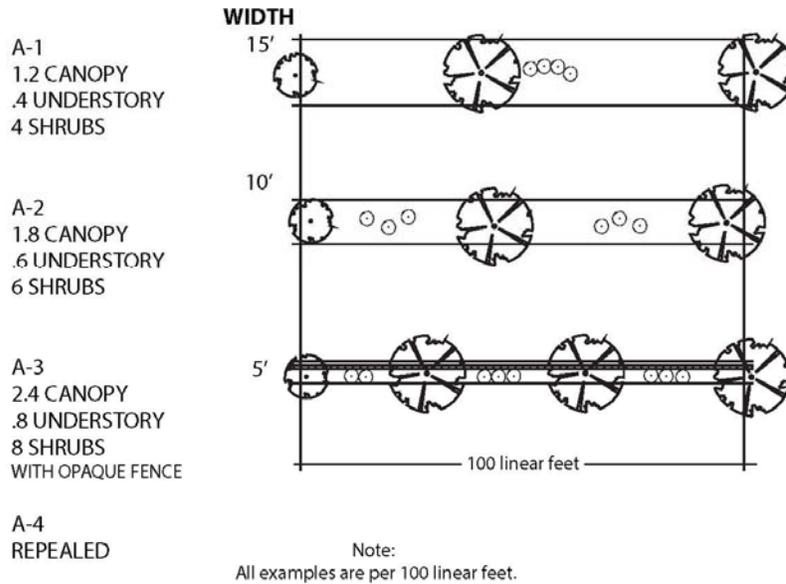
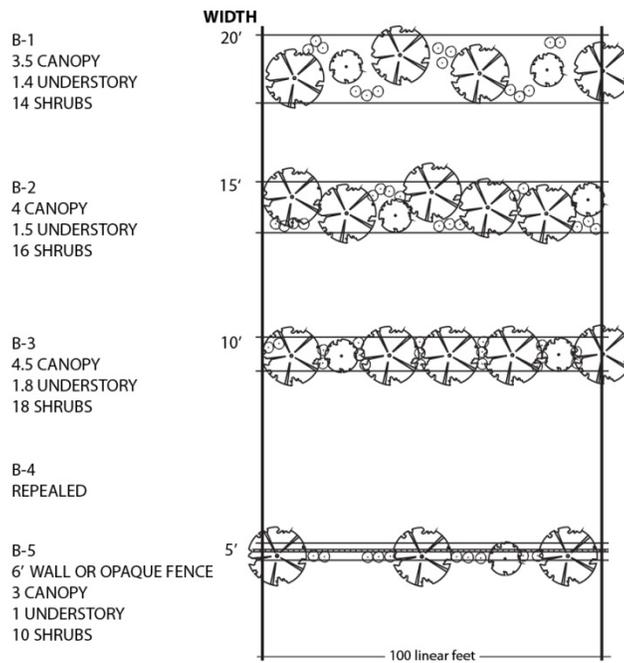
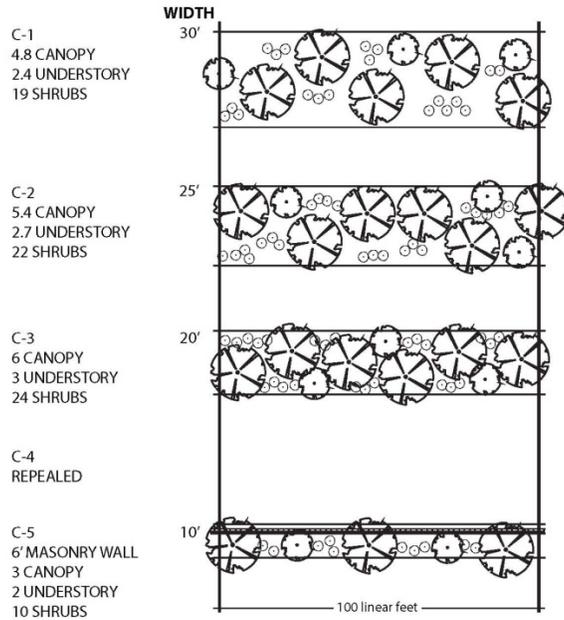


Figure 17.24.240B
STANDARD B- LANDSCAPE BUFFER YARDS



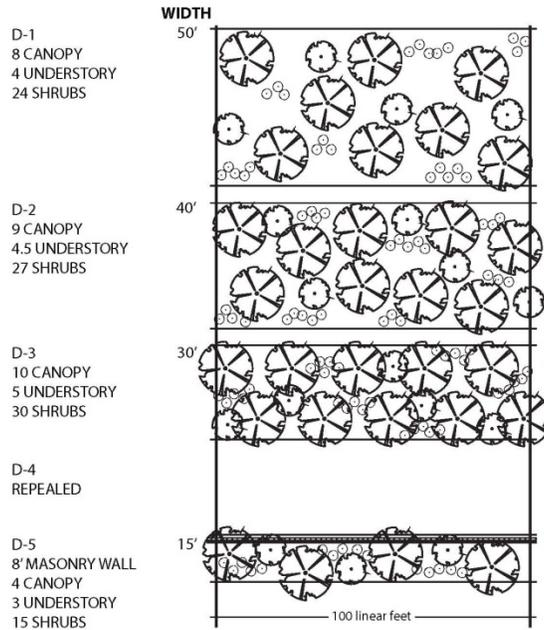
Note: Landscape Buffer Yard B-5 is only available within the urban zoning overlay district.
all examples are per 100 linear feet.

Figure 17.24.240C
STANDARD C- LANDSCAPE BUFFER YARDS



Note: Landscape Buffer Yard C-5 is only available within the urban zoning overlay district.
all examples are per 100 linear feet.

Figure 17.24.240D
STANDARD D- LANDSCAPE BUFFER YARDS



Note: Landscape Buffer Yard D-5 is only available within the urban zoning overlay district.
all examples are per 100 linear feet.

Section 12. That Section 17.24.230 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting Table 17.24.230, Table of Landscape Buffer Yard Requirements, and substituting therefore the following:

Table 17.24.230 TABLE OF LANDSCAPE BUFFER YARD REQUIREMENTS

	ZONING DISTRICT PROVIDING BUFFER YARD						
	1	2	3	4	5	6	7
	AG, AR2a, RS80, R80, RS40, R40, RS30, R30, RS20, R20, RS15, R15, RS10, R10, RM2, RM4	R8, R8-A, RS7.5, RS7.5-A, R6, R6-A, RS5, RS5-A, RS3.75, RS3.75-A, RM6, RM6-A, RM9, RM9-A	RM15, RM15-A, RM20, RM20-A, RM40, RM40-A, RM60, RM60-A, RM80-A, RM100-A, MHP	ON, CN, CN-A, MUN, MUN-A, SCN, OL, OR20, OR20-A, OR40, OR40-A	CL, CL-A, CS, CS-A, MUG, MUG-A, MUL, MUL-A, SCC	CA, CF, SCR, MUG, MUG-A, MUJ, MUJ-A, ORI, ORI-A, OG	IWD, IR, IG
1	AG, AR2a, RS80, R80, RS40, R40, RS30, R30, RS20, R20, RS15, R15, RS10, R10, RM2, RM4	B	C	C	C	D	D
2	R8, R8-A, RS7.5, RS7.5-A, R6, R6-A, RS5, RS5-A, RS3.75, RS3.75-A, RM6, RM6-A, RM9, RM9-A	-	B	C	C	D	D
3	RM15, RM15-A, RM20, RM20-A, RM40, RM40-A, RM60, RM60-A, RM80-A, RM100-A, MHP	-	-	B	B	C	D
4	ON, CN, CN-A, MUN, MUN-A, SCN, OL, OR20, OR20-A, OR40, OR40-A	-	-	-	A	B	C
5	CL, CL-A, CS, CS-A, MUG, MUG-A, MUL, MUL-A, SCC	-	-	-	-	A	B
6	CA, CF, SCR, MUG, MUG-A, MUJ, MUJ-A, ORI, ORI-A, OG	-	-	-	-	-	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 13. That Section 17.40.440 of Article X., Tree Protection and Replacement Procedures, of Chapter 17.40 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore 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 International Society of Arboriculture practices, or replaced with the equivalent density units of replacement trees as provided in Chapter 17.24.

Section 14. That Section 17.40.450 of Article X., Tree Protection and Replacement Procedures, of Chapter 17.40 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore the following:

17.40.450– Designation of Tree Types

- A. 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.
- B. Designation of a Heritage Tree.
 - 1. A heritage tree is any tree that meets the one or more of the following criteria:
 - a. 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, Ginkgo
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)

- b. Any tree registered in the Metro Historic or Specimen Tree program; or
- c. 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.

2. In addition to the criteria listed above, to qualify as a heritage tree the tree shall meet all of the following:
 - a. Shall not be listed on the most recent edition of the Tennessee Invasive Exotic Plant List;
 - b. Must have a life expectancy of greater than fifteen (15) years;
 - c. Must have a structurally sound trunk without extensive decay;
 - d. Must have no more than one (1) major and several minor dead limbs; and
 - e. Must have no major insect or pathological problems.

- C. 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 Subsection 17.40.450.B of this Article.

Section 15. That Section 17.40.470 of Article X., Tree Protection and Replacement Procedures, of Chapter 17.40 of the Code of The Metropolitan Government of Nashville and Davidson County, Zoning Regulations, is hereby amended by deleting this section in its entirety and substituting therefore the following:

Section 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. Any person desiring a tree removal permit, including any person or entity engaged in the business of tree removal services on commercial property, shall make written 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 and telephone number of the landowner and/or agent.
 2. Each application for a tree removal permit shall be accompanied by a tree survey based upon current information. The survey shall show the location, size and type of retained, protected and heritage trees upon the site, including common or scientific names. The survey shall indicate which retained, protected and heritage trees are intended for removal and/or grubbing and which will be left undisturbed. An application for new construction does not require a tree survey when a final site plan shows that the required tree density will be met by showing the location, size and type of replacement or retained trees upon the site which are to be installed or maintained

as required to meet the tree density requirement. A final site plan prepared to the same scale shall be submitted which illustrates the following:

- a. The locations of existing and proposed buildings, 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.
3. Each application for a tree removal permit shall include a plan for disposal of the tree.
 4. The application and accompanying documents shall be submitted in copies sufficient to administer this article.
 5. 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.
 6. 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 one or more of the following conditions:
1. A permissible use of the site cannot reasonably be undertaken unless specific trees are removed or relocated.
 2. The tree is located in such proximity to an existing or proposed 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 proposed 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.
 8. The site will maintain the required tree density after the removal of specified trees either with retained trees or with the installation of replacement trees in accordance with ordinance 17.24.100 Replacement of Trees.

C. Tree Removal Permit Review Procedures.

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.

Section 516. Be it further enacted that this ordinance take effect immediately after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Member(s) of Council