

Town of Nashville

DONALD B. STREET
MAYOR

RANDY LANSING
TOWN MANAGER



TOWN COUNCIL
LOUISE W. HINTON
KATE C. BURNS
CHARLES P. TAYLOR
LARRY D. TAYLOR

ORDINANCE AMENDMENT 2019-02B

AN ORDINANCE AMENDING THE TEXT OF THE TOWN OF NASHVILLE CODE OF ORDINANCES, CHAPTER 18, LAND USE REGULATIONS, ARTICLE III. SUBDIVISIONS, DIVISION 3. MINIMUM DESIGN STANDARDS

WHEREAS, a Public Hearing of the Nashville Town Council and Nashville Planning Board was scheduled, advertised, and conducted on October 30, 2019; and

WHEREAS, the Nashville Planning Board made a favorable recommendation to approve the proposed Ordinance Amendment at its October 30, 2019 meeting,

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Nashville that the recommendation is favorably acted upon and provides that the following amendment be included in Chapter 18, Land Use Regulations, Article III. Subdivisions, Division 3. Minimum Design Standards, of the Town of Nashville Code of Ordinances:

By Moving:

Sec. 18-404. - Required vegetation and protection.

- ~~(a) Trees along dedicated streets. Along both sides of all newly created streets that are constructed in accordance with the Town of Nashville Minimum Design Standards, the developer shall either plant or retain sufficient trees so that, between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that shall obtain a minimum height of at least 50 feet and provide a canopy of at least 30 feet in diameter at maturity.~~

*This section moved to §18-405.

~~(b) Protection of large trees. (1) Every development shall retain all existing trees 12 inches in diameter or more unless the retention of such trees would unreasonably burden the development. (2) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 12 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within the drip line of any tree 12 inches in diameter (measured at a height of four and one-half feet above ground level) or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground. (3) If the retention or protection of trees 12 inches in diameter or more as provided in subsections (1) and (2) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer the planning director or his designee may reduce this requirement to a level that removes the unreasonable burden. (4) If space that would otherwise be devoted to parking cannot be so used because of these requirements and, as a result, the parking requirements cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsections up to a maximum of 15 percent of the required spaces.~~

~~*This section moved to §18-415.~~

By Adding:

Sec. 18-404. – Definitions.

Street trees are defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees are defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

Sec. 18-405. – Tree Species to be Planted.

- (a) The Town Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet) and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species.**
- (b) Lists of trees not suitable for planting will also be created by the Tree Board.**
- (c) Along both sides of all newly created streets that are constructed in accordance with the Town of Nashville Minimum Design Standards, the developer shall either plant or retain sufficient trees so that, between the paved portion of the street and a line running parallel to and 50 feet from the centerline of the street, there is for every 30 feet of street frontage at least an average of one deciduous tree that shall obtain a minimum height of at least 50 feet and provide a canopy of at least 30 feet in diameter at maturity.**

Sec. 18-406. Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in §18-405 of this ordinance, and no trees may be planted closer together than the following: small trees, 20 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect or the Planning Director.

Sec. 18-407. Distance from Curb and Sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in §18-405 of this ordinance, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.

Sec. 18-408. Distance from Street Corners and Fireplugs.

- (a) **No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines.**
- (b) **No street tree shall be planted within ten feet of any fireplug; except in special plantings designed or approved by a landscape architect, or the Planning Director.**

Sec. 18-409. Utilities.

No Street Trees other than those species listed as Small Trees in §18-405 may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Sec. 18-410 Public Tree Care.

- (a) **The Town shall have the right to, but not the obligation to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.**
- (b) **The Town may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.**
- (c) **This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with all town ordinances.**

Sec. 18-411. Tree Topping.

- (a) **It shall be unlawful as a normal practice for any person, firm, or city department to top any Street Tree, Park Tree, or other tree on public property.**

- (b) Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate.
- (c) Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Tree Board, Planning Director, or Public Works Director.

Sec. 18-412. Pruning; Corner Clearance.

- (a) Every owner of any tree overhanging any street or right of way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet above the surface of the street or sidewalk.
- (b) The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.
- (c) The Town shall have the right to, but not the obligation to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.
- (d) Tree limbs that grow near high voltage electrical conductors shall be maintained clear of the conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and Town Tree Board prior to any trimming by the utility company.

Sec 18-413. Dead or Diseased Tree Removal on Private Property.

- (a) The town shall notify the Planning Director who may cause the removal of any dead or diseased trees on private property within the town, when the trees

constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the town.

- (b) Those actions are to be administrated as a nuisance violation or public nuisance. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice.
- (c) In the event of failure of owners to comply with these provisions, the town shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

Sec. 18-414. Removal of Stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

Sec. 18-415. Protection of Trees.

- (a) Every development shall retain all existing trees 12 inches in diameter or more unless the retention of such trees would unreasonably burden the development.
- (b) No excavation or other subsurface disturbance may be undertaken within the drip line of any tree 12 inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within the drip line of any tree 12 inches in diameter (measured at a height of four and one-half feet above ground level) or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
- (c) If the retention or protection of trees 12 inches in diameter or more as provided in subsections (1) and (2) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be

substantially altered and such alteration would work an unreasonable hardship upon the developer the Town Manager, Planning Director or their designee may reduce this requirement to a level that removes the unreasonable burden.

- (d) If space that would otherwise be devoted to parking cannot be so used because of these requirements and, as a result, the parking requirements cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsections up to a maximum of 15 percent of the required spaces.

Sec. 18-416. Interference with Town.

It shall be unlawful for any person to prevent, delay or interfere with the town staff, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

Sec. 18-417. Arborist License and Bond.

- (a) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the town without first applying for and procuring a license.
- (b) The license fee shall be adopted in the Town of Nashville Fee Schedule: provided, however, that no license shall be required of any public service company including electric utilities and their agents and contractors or town employees doing the work in the pursuit of their public service endeavors.
- (c) Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000 for bodily injury and \$100,000 property damage indemnifying the town or any person injured or damaged resulting from the pursuit of the endeavors as herein described.

Sec. 18-418. Review by Town Council.

- (a) The Town Council shall have the right to review the conduct, acts and decisions of the Town Tree Board.
- (b) Any person may appeal from any ruling or the notice of violation to the Planning Director or to the Board of Adjustments who shall hear the matter and make final decision.

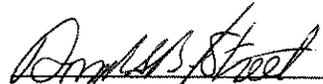
Sec. 18-419. Penalty.

Any person violating any provision of this section shall be, upon conviction or a plea of guilty, subject to a fine as provided in the Town of Nashville code of ordinances for nuisance violations and or public nuisances as in accordance with § 1-12. - General penalty; citations; additional remedies.

These text amendments will become effective immediately upon adoption.

Adopted this 6th day of November, 2019.

(SEAL)


Donald B. Street, Mayor

ATTEST:


Lou C. Bunch, Town Clerk

