

ORDINANCE NO. \_\_\_\_\_ - 2019

AN ORDINANCE AMENDING ARTICLES 18 AND 26 OF THE ZONING ORDINANCE AND AMENDING THE PLANTING MANUAL TO DESIGNATE ALL COLUMNAR TREE VARIETIES AS SMALL TREES; TO REDUCE THE CANOPY CREDIT TO 100 SQUARE FEET; AND TO OFFICIALLY TRANSFER OVERSIGHT OF TREE CANOPY REQUIREMENTS IN THE PLANTING MANUAL FROM THE DIVISION OF BUILDING INSPECTION TO THE DIVISION OF ENVIRONMENTAL SERVICES. (LFUCG TREE BOARD).

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WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Articles 18-4(a), (b), 18-4(c)(2), and 26-2-Interpretations and Definitions-Greenway and 26-5(e) of the Zoning Ordinance and the Planting Manual to designate all columnar tree varieties as small trees and reduce the canopy credit to 100 square feet and to provide that all references to oversight of tree canopy requirements in the Planting Manual will be updated from the Division of Building Inspection to the Division of Environmental Services. Planning Commission did recommend APPROVAL of the Staff Alternative Text by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 18-4(a) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

18-4(a) WALLS AND FENCES - Walls shall be constructed of natural stone, brick or other weatherproof materials arranged in a linear, serpentine, or other alignment; while fences shall be constructed of wood or other weatherproof, durable materials generally used in the exterior construction of buildings. Fence posts shall be structurally stable based on the material used, and shall have a maximum spacing of 8' on center (o.c.). If wood is used, the posts shall be 4" x 4" minimum. Posts shall be set in or anchored to crowned concrete footers at least six (6) inches larger in each direction than the post it supports. The base of the footer shall be at least twenty-four (24) inches below finished grade. If wood is used for any member, it shall be softwood treated with water-borne preservative to the American Wood Preservers Institute standard LP-2 for above ground use or LP-22 for ground contact use, or all heart redwood, or all heart cedar. All cut surfaces of pressure treated lumber shall be waterproofed. If another material is used, it shall be weatherproof. Slats are to be minimum one-half (½) inch in thickness and are to be placed on the outside of the fence unless the design is two-sided (shadow-box, etc.). All hardware is to be galvanized or otherwise rust-proofed. Wood horizontal members shall be installed bark-side up. Chain link fencing may not be used to meet the requirements of this Article. Chain link fencing may be installed in the required landscape area only if it is in addition to the required continuous planting, hedge, fence, wall or earth mound. All walls or fences shall have a minimum

opacity of eighty (80) percent. Walls and fences allowed to meet the requirements of this Article shall not be used for the erection or display of any sign or other advertising device. Height limitations for walls and fences are regulated by zone and land use in Article 15-4(b).

Section 2 – That Article 18-4(c)(2) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

18-4(c)(2) DECIDUOUS TREES (Trees which normally shed their leaves in the Fall) - Shall be species having an average mature crown spread of greater than fifteen (15) feet in Fayette County and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) crown spread. A minimum of ten (10) feet overall height or a minimum caliper (trunk diameter, measured 6 inches above ground for trees up to 4 inches caliper) of at least one and three-fourths (1¾) inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior container dimensions shall be five feet square and five feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete. Columnar variety trees of any species may only be permitted upon the express approval of the Division of Environmental Services in accordance with Section 18-6. Any columnar variety tree shall be considered as a small tree and be granted new canopy credit of 100 square feet according to Article 26-5(e).

Section 3 - That definition of “**GREENWAY**” in Article 26-2, **INTERPRETATION AND DEFINITIONS**, of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

GREENWAY – A lineal open space system, as described in shown on the Comprehensive Plan or depicted in the Greenway Master Plan, that is designed to conserve floodplains, abandoned railroads, and other linkage opportunities for use as stormwater management, natural resource protection, alternative transportation, recreation, and similar uses.

Section 4 - That Article 26-5(e) of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended as follows:

26-5(e) **CALCULATION OF TREE CANOPY COVER** - Tree canopy coverage may be determined by one of the following:

1. Existing Canopy Area:

a. By calculating the percent of cover in relation to developable area using aerial photography interpretation.

b. By field measurement of the square footage of the existing tree canopy using the following formula:

$$C = \pi R^2, \text{ where}$$

C = canopy area in square feet, and

R = the radius of the canopy measured in feet

2. New Canopy Credit: In areas where the predevelopment canopy is less than the canopy required by Article 26-5, a landscape credit shall be used to determine post development canopy for trees that are to be planted. Trees shall be planted in accordance with the landscaping requirements set forth in Article 18-4(c), Plants, of the Zoning Ordinance and the LFUCG Planting Manual for the following sizes of the trees.

Landscape credit is given for planted trees only. The following credits represent categories of trees only, not installation sizes:

- a. Each Small Tree = 100 square feet
- b. Each Medium Tree = 400 square feet
- c. Each Large Tree = 750 square feet

Mass or grouped plantings of trees are encouraged in all cases. In the case of single family detached residential or similar fee simple lot development, the total number of required tree credits shall be reduced ten (10) percent of the portion of new tree credits planted in a common or public area.

Any planting materials that are not on the Plant Material List in the Planning Manual shall be considered on an individual basis to determine the suitability of the specific tree in the proposed location. A plant not on the Plant Materials List shall be permitted only upon the expressed approval of the Division of Environmental Services. If any columnar tree variety, regardless of species, is permitted by the Division of Environmental Services, the tree shall be considered as a small tree and be granted new canopy credit of 100 square feet according to the table above.

Section 5 – That the Section I-B.2 of the Lexington-Fayette Urban County Government Planting Manual is amended as follows:

#### I. INTRODUCTION

#### B. ZONING ORDINANCE – ARTICLE 26

##### 2. New Canopy Credit

In areas where the predevelopment canopy is less than the canopy required by Article 26-5, a landscape credit shall be used to determine post development canopy for trees that are to be planted. Trees shall be planted in accordance with the landscaping requirements set forth in Article 18-4(c) PLANTS, of the Zoning Ordinance and the LFUCG Planting Manual for the following sizes of trees. Landscape credit is given for planted trees only. The following credits represent categories of trees only, not installation sizes:

- a. Each Small Tree – 100 square feet
- b. Each Medium Tree – 400 square feet
- c. Each Large Tree – 750 square feet

NOTE: Any planting materials that are not on the Plant Material List in the Planning Manual shall be considered on an individual basis to determine the suitability of the specific tree in the proposed location. A plant not on the Plant Materials List shall be permitted only upon the expressed approval of the Division of Environmental Services. If any columnar tree variety, regardless of species, is permitted by the Division of Environmental Services, the tree shall be considered as a small tree and be granted new canopy credit of 100 square feet according to the table above.

Section 6 – That Section IV-I.3 of the Lexington-Fayette Urban County Government Planting Manual is amended as follows:

#### IV. PLANTING SPECIFICATIONS

##### I. PLANTING METHODS

3. Planting for Article 26 Compliance

Developers are encouraged to plant the required trees in groupings to accentuate habitat. A 10% reduction in the number of trees required is given to do this. For example, a developer is required to plant 10,000 square feet of new tree canopy per the landscaping credit provided below. If the developer groups these trees, the required planting will only be 9,000 square feet. The proposed grouping must be annotated to its size and location in the Tree Preservation Plan and approved by the LFUCG Urban Forester.

This Planting Manual sets forth the species selection and planting requirements for Article 26. Developers shall consult this manual for ensuring the compliance to Article 26. Any departure from the procedures of this manual can only be done through an amendment of the Tree Preservation Plan and submitted to the Division of Planning for review. Planting installation requirements are set forth in Section B of this chapter for lawn areas and apply as the planting requirements for Article 26.

Planting designs in the tree preservation plan for single family detached developments will be approved and enforced by the LFUCG Urban Forester. Planting designs for commercial and multifamily residential developments will also be set forth in the tree preservation plan and reviewed by the LFUCG Urban Forester but shall be approved and enforced by Building Inspection the Division of Environmental Services.

Section 7 - All references the Division of Building Inspection within the Planting Manual shall be replaced with the Division of Environmental Services.

Section 8 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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Clerk of Urban County Council  
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