



**SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONING ORDINANCE  
TEXT AMENDMENT**

**PLN-ZOTA-24-00005: LANDSCAPING AND TREE PROTECTION STANDARDS**

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: See attachment: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

**STAFF REVIEW:**

On Thursday, November 30<sup>th</sup>, 2023, the Planning Commission voted unanimously to adopt the *Imagine Lexington 2045* Comprehensive Plan. In Theme B: Protect the Environment, a dual-faceted strategy for implementation is specified: reduce greenhouse gas emissions through the development of compact, walkable development patterns while adapting to the unavoidable impacts of climate change by increasing resilient infrastructures and our city's policies.

The 2045 Comprehensive Plan seeks to fortify Lexington's resilience against the adverse impacts of climate change. The goal is to continue synergizing city efforts to foster development patterns that create communities and neighborhoods where every individual, irrespective of their background, can thrive in a safe, prosperous, and healthy environment amid the changing climate dynamics; setting a precedent for sustainable urban development in Lexington for generations to come. *Imagine Lexington 2045* calls for the Planning Commission to continue to examine and modernize the LFUCG Zoning Ordinance. In relation to Theme B, Goal #3 is to "apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources". In response, this proposed amendment consolidates enforcement and citation regulations (Article 5), updates landscaping regulations (Article 18), and provides clearer and modernized definitions for tree protection standards (Article 26); all incentivizing green infrastructure best management practices.

Lexington's built environment has a significant impact on environmental sustainability. New construction can result in habitat loss, disruption of natural waterways, and increased energy consumption. Poorly designed development can also contribute to the urban heat island effect, which can lead to increased energy demand for cooling and lower air quality. Incorporating sustainable design practices into the built environment can help mitigate these negative impacts. Proximity to trees, natural areas, and urban greenspace supports mental health and increases environmental resiliency within the built environment. However, our current landscaping and tree protection standards are outdated and fall short of supporting achieving these goals long-term.

Lexington's current landscaping and tree regulations were introduced in 1983 in the city's Zoning Ordinance and have not been updated significantly since that time. Since then, the Division of Environmental Services was established, providing a wide range of environmentally related services, including civic beautification programs, community-wide sustainability initiatives, urban and community forestry, greenway management, and mowing of the City's corridors and county



roads. The Division of Environmental Services also oversees the enforcement of environmental ordinances and should be listed as the appropriate enforcement agent in the Zoning Ordinance

There are several aspects of the current landscaping and tree regulations that Staff has identified as needing improvement under this Zoning Ordinance Text Amendment. Existing commercial landscaping regulations do not require the planting of non-invasive or native plant species, which also allows for the inclusion of plastic or artificial plantings. Landscape plans also currently do not require planting information, including plant species, statistics, elevation, and certification information to ensure natural landscapes are protected during development. The proposed language seeks to promote native plant species, which are better suited for the bluegrass environment and ensure that what is being planted clearly meets the requirements of the Ordinance.

Currently, the City's plant materials list provided for commercial development landscaping and tree planting is not consistent with modern recommendations, including identification of invasive species. This update proposes the incorporation of related master plans and manuals, such as the city's Planting Manual, similarly to how the latest edition of the Stormwater Manual is incorporated by reference in the Code of Ordinances. This will help to clarify requirements and update outdated landscape ordinance requirements. It will also help developers, engineers, and landscape architects access recommended planting information more easily, as well as assist in identifying local invasive species that should be discouraged from use in landscaping.

The City of Lexington has tree canopy requirements for each zoning category in Article 26 of the Zoning Ordinance. However, the current post-development canopy requirements fall short of achieving the citywide goals for increasing tree canopy. Furthermore, the current regulations can result in a net-loss of tree canopy coverage during development. The 2022 *Urban Tree Canopy Assessment* analyzed urban tree canopy change by the City's zoning categories, which offered insight as to how development patterns have changed Lexington's canopy over time. Higher canopy cover targets must be achieved to reach long-term goals, especially considering *Imagine Lexington 2045's* objective for the City to be carbon neutral by year 2050 (Theme B, Goal #2). This proposal would update Article 26's purpose to include language about the beneficial impacts of trees on both human and environmental health, as well as human physical and mental health. It would also update guidelines and definitions including significant tree designations, adding minimum DBH size of four (4) inches to specified significant tree species and, lowering the current diameter at breast height (DBH) for significant trees from thirty-six (36") to twelve (12") inches.

This proposal is the first phase of updating the Zoning Ordinance to address landscaping and tree regulations. A second phase ZOTA will recommend further development of standards and creation of programs to ensure that the City encourages environmentally friendly and sustainability-driven development for the long-term.

### **PLANNING STAFF REVIEW**

The updates proposed through this text amendment address the various issues listed above by providing focused yet flexible regulations to minimize the negative environmental impacts of development while also supporting greenspace and urban tree canopy goals consistently across Lexington. This is achieved through revised requirements for new developments to include low impact landscaping and establishing standards to ensure developer-provided spaces are protecting our valuable natural resources, including the preservation and growth of our urban tree canopy.



Article 5 of the Zoning Ordinance describes the appropriate divisions that oversee enforcement authority of the Zoning Ordinance. This section indicates that the Division of Environmental Services (DES) assists the Division of Planning in landscaping enforcement actions; specifically, it is the responsibility of the Landscape Examiner position within DES to evaluate how landscaping is installed and maintained. As such, DES should be listed as an appropriate enforcement agent of the Zoning Ordinance alongside the Divisions of Planning and Building Inspection.

Civil penalties administration is also described in Article 5 of the Zoning Ordinance. The current fine structure lessens the amounts of fines to those individuals who do not appeal their citations. Staff considers this current structure as outdated and counterintuitive to current landscaping enforcement actions and should be removed. The proposed language would bring the landscaping enforcement structure into alignment with other enforcement divisions and would allow for the appropriate discretion of the Landscape Examiner position regarding the current planting seasons of the Bluegrass Region.

The intent of Article 18, Landscape and Land Use Buffers is to require the buffering between incompatible land uses and to promote the improvement of vehicular use areas (VUAs); therefore, the proposed text amendment proposes an update to the Ordinance to allow for modern landscaping requirements that align with the intended goals and objectives of the 2045 Comprehensive Plan. To ensure that the community adapts to meet the City's sustainability goals, the proposed language states that any development that changes, expands, moves, removes, or reconstructs a building structure or vehicular use area (VUA) by thirty (30%) percent or more shall comply with the new regulations.

Article 18's landscaping requirements discuss minimum seasonal opacity standards, ensuring that screening is consistent and promotes public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare. Therefore, the proposed text updates property perimeter requirements, as well as streamlining zone-to-zone landscape perimeter requirements to match the current VUA requirements. The text also significantly updates the landscaping plan submission requirements, increasing the information available on a landscaping plan (plant species, statistics, elevation, certification information, planting schedule etc.), as well as any other conditions that are required from either the Planning Commission or the Board of Adjustment. This information allows for increased transparency across Divisions within the government, ensuring information is not lost during the development process. The text also proposes prohibiting the use of columnar trees to meet the requirements of Article 18 since they do not generally meet the intent of Article 18.

In Article 18-7, the text amendment proposes to dissolve the Landscape Review Committee. The intention to dissolve the Landscape Review Committee is primarily driven by Staff's aim to streamline and consolidate the variance process for enhanced efficiency. The Landscape Review Committee was originally formed to provide feedback and review from experts in the field before the Division of Environmental Services was established. Now that the City has dedicated staff and expertise in-house, the need for additional review is not necessarily needed. Should the Zoning Ordinance Text Amendment be approved, the Division of Planning, in consultation with the Division of Environmental Services, would oversee all variance procedures. Subsequently, all findings would be forwarded to the Board of Adjustment for final deliberation and approval. Staff has sent this proposal to the Landscape Review Committee and has received supporting feedback from the members thus far.



Protecting and preserving urban tree canopy is critical to maintaining the ecological, economic, and social health of urban areas. By incorporating tree protection policies and regulations into planning and development processes, cities can create more sustainable and livable communities that preserve natural resources for future generations. Article 26 provides the Division of Environmental Services and the City's Urban Forester the guidance and the authority to protect the tree canopy by working with developers to prevent unnecessary tree removals and to properly protect the existing canopy during development and construction. As such, Lexington recognizes the importance of trees in the urban environment and reflects those sentiments in the proposed amendments.

The proposed text amendment amends the definitions listed in Article 26-2, including: approved tree list, critical root zone (CRZ), diameter at breast height (DBH), drip line, greenway, healthy tree, ISA certified arborist, tree protection area (TPA), tree protection barrier (TPB) and tree protection plan (TPP). The current definition of significant tree is outdated; this proposal would update guidelines for significant tree designations; including adding tree species to the current list for protection and lowering the current diameter at breast height (DBH) from thirty-six (36") inches to twelve (12") inches. The environmental benefits of a tree exist well before a tree reaches thirty-six (36") inches DBH and should be considered for protection well before a tree reaches such size to preserve the existing urban tree canopy. The definition of tree stands, previously defined as a grouping of at least fifteen (15) trees, has been revised to three (3) trees, each with a minimum DBH of four (4") inches which has continuous canopy coverage. Recognizing this is a dramatic shift from the current Ordinance, Staff is proposing to incentivize the preservation of tree stands in the text amendment by adding an additional 25% canopy credit towards the calculation of a site's tree canopy cover in Section 26-5., Tree Canopy Standards.

A foundational goal of the proposed text is to encourage the best use of current natural resources within the Urban Service Area boundary by focusing on the preservation of ecosystems, wildlife habitats, and mitigation of the urban heat island effect. It also focuses on the resiliency and quality of landscaping in commercial development. This text amendment proposal works in tandem with recently recommended regulation changes, including open space requirements.

## CONCLUSION

Staff sought postponement earlier in the year in order to address community comments regarding the proposed definitions, potential conflicts with VUA areas, open space requirements, and the usage of columnar trees. Staff has since conducted additional community engagement and incorporated feedback from those discussions into the proposed text amendment. The proposed Zoning Ordinance updates will codify current enforcement structures and modernize landscaping and tree protection standards to contribute to the preservation of ecosystems as well as encourage low impact landscaping for resilient built environments. The regulations treat new landscaping and tree protection standards in a consistent manner to other such uses in the Zoning Ordinance.

**The Staff Recommends: Approval** of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2045 Comprehensive Plan, in the following ways:
  - a. The amendment supports collaboration with LFUCG Environmental Services by pursuing incentives and regulatory approaches that encourage creativity and sustainability in housing development (Theme A, Goal #1.a).



- b. The amendment provides well-designed neighborhoods and communities by ensuring all new development includes minimizing the disruption of natural features when building new communities and promotes, maintains, and expands the urban forest throughout Lexington (Theme A, Goal #3.c & #3.d).
- c. The amendment promotes the synchronization of intragovernmental planning, funding, programs, and activities across LFUCG departments and divisions; ensuring that all planning and operational activities that impact the protection, conservation and restoration of landscapes, natural resources, and our natural environment are aligned, helping to identify and protect natural resources and landscapes before development occurs (Theme B, Goal #3.b & #3.c).
- d. The amendment incentivizes green building and sustainable development (Theme B, Goal #3.c), and promotes, maintains, and expands the urban forest (Theme A, Goal #3.d) through innovative open space and greenspace designs.

EM/DC/AGTLW

6/25//2024, 7/2/2024 supplemental

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