

On motion of Mr. Walker, seconded by Mr. Templet, the following ordinance was offered as amended:

**SUMMARY NO. 25938 ORDINANCE NO. 26480**

An ordinance to amend Chapter 33 Unified Development Code and Chapter 40 Zoning; to amend standards and procedures pertaining to tree preservation, including tree replacement, violations, enforcement, and penalties; and provide for related matters; as authorized by Council Resolution No. 136707 adopted December 9, 2020 and extended via Council Resolution No. 138642 adopted December 8, 2021. (Parishwide)

**WHEREAS**, the Jefferson Parish Council, through Resolution No.136707 adopted December 9, 2020, authorized the Planning Department and the Planning Advisory Board to conduct a text study with the intent of evaluating or amending standards and procedures pertaining to tree preservation, including tree replacement, violations, enforcement, and penalties; establishing interim development standards during the study, and providing for related matters; and

**WHEREAS**, Council Resolution No. 138642 adopted December 8, 2021, extended the interim development standard that allowed uncontested tree removal within the buildable area in the Old Metairie Neighborhood Conservation District (OMNCD) to June 9, 2022; and

**WHEREAS**, the tree preservation standards provided in the Code of Ordinances aim to protect and preserve the existing tree canopy in Jefferson Parish, promote the maintenance and planting of trees and related urban forestry activities, enhance the appeal of the built environment, increase comfort and property values, and generally improve the quality of the environment in Jefferson Parish; and

**WHEREAS**, in certain base (R-1B Suburban Residential District, R-1C Rural Residential District, and R-1D Rural Residential District) and overlay zoning districts(Metairie Ridge Tree Preservation District (MRTPD) and Old Metairie Neighborhood Conservation District(OMNCD)) protected trees shall be preserved, protected, or if approved for cutting or clearing, shall be replaced; and

**WHEREAS**, protected trees include, but are not limited to Oaks, Elms, Bald Cypress, Pecans, Sycamores, and Magnolias; and

**WHEREAS**, in lieu of replacement, the property owner may provide the monetary value of the required replacement tree(s); and

**WHEREAS**, regardless of the market value of the protected tree(s), a maximum monetary fine of five hundred dollars (\$500.00) per tree can be imposed on a property owner who causes significant damage or death to protected trees or removes a protected tree unlawfully; and

**WHEREAS**, tree preservation provisions in the R-1B, R-1C, R-1D zoning districts are vague and conflict with the general tree preservation requirements applied to the MRTPD and OMNCD and should be removed; and

**WHEREAS**, allowing uncontested tree removal within the buildable area in the OMNCD and within the buildable area and side yards in the MRTPD with required replacement, provides flexibility for development and helps preserve and enhance the tree canopy; and

**WHEREAS**, establishing a replacement ratio based on diameter breast height (DBH) and caliper is a way to ensure the value and size of a significant tree is factored into the replacement requirement; and

**WHEREAS**, adding maintenance and additional inspection requirements after one (1) year of planting will help ensure replacement trees are adequately cared for and healthy; and

**WHEREAS**, standardizing violations on per diem basis is consistent with the general violations section of the Code of Ordinances; and

**WHEREAS**, adding more detailed violation procedures in the Code will help simplify the path to compliance for those that are subject to fines; and

**WHEREAS**, additional fines associated with illegal tree removal tend to be less than the monetary value of significant trees that are removed and increasing

the replacement requirement can act as both a form of discouragement for unlawful removal and a tangible way to increase the tree canopy; and

**WHEREAS**, consolidating and updating the species list of significant trees and adding a list of prohibited trees will simplify standards as well as encourage the planting and maintenance of resilient and native tree species; and

**WHEREAS**, additional requirements are necessary for emergency removal of significant trees; and

**WHEREAS**, clarifying how fines can be used to include repair and upkeep, in addition to maintenance and planting will contribute to the continued beautification along corridors throughout the Parish; and

**WHEREAS**, proposed amendments support the Comprehensive Plan's objective to preserve and enhance the Parish's tree canopy and other landscaping; and

**WHEREAS**, the proposed tree preservation regulations shall only apply to certain base or overlay zoning districts that specifically require tree preservation or in situations where a property owner elects to protect existing significant tree(s) to fulfill required landscaping requirements; and

**WHEREAS**, the Planning Director of this Parish has caused to be duly advertised, as prescribed by law, a public hearing in connection with the text amendment under Docket No. TXT-1-22; and

**WHEREAS**, a public hearing was held by the Old Metairie Commission, in accordance with law; and

**WHEREAS**, a public hearing was held by the Planning Advisory Board, in accordance with law.

**NOW, THEREFORE, THE JEFFERSON PARISH COUNCIL HEREBY ORDAINS:**

**SECTION 1.** That Chapter 33 Unified Development Code, Sec. 33-1.10. Appendix, is hereby amended to clarify that the MRTPD applications shall be included in the Appendix of the UDC, to read as follows:

**Sec. 33-1.10. Appendix.**

The Appendix of this UDC shall include, but not be limited to, the application forms with submittal requirements; the application fee schedules; the application and information required for Metairie Ridge Tree Preservation District (MRTPD) permits, the information required on the drawings—plans, elevations, details—for site plan review; the landscape and buffer planting and maintenance specifications, the Subdivision Public Improvements Standards Manual; and street improvements plans. These documents are not set out herein, but are available for download from the Parish's website address or for inspection by hard copy in the following offices: the Department Inspection and Code Enforcement for the MRTPD application forms, the Planning Department for all other application forms, fee schedules, site plan submittal requirements, landscaping specifications, and street improvements plans; or the Department of Engineering for the Subdivision Public Improvements Standards Manual.

**SECTION 2.** That Chapter 33 Unified Development Code, Sec. 33-2.31.2. Applicability, is hereby amended to incorporate MRTPD subdivision provisions and reorganize existing provisions, to read as follows:

**Sec. 33-2.31.2. Applicability.**

Any subdivision meeting the criteria established in this section may be submitted to the Planning Director for ministerial review subject to the requirements of this section. Plats shall be prepared in accordance with the requirements listed in the Appendix of this UDC.

(1) The realignment or shifting of lot boundary lines including removal, addition, alignment, or shifting of interior lot boundary lines, or the designation or re-designation of lot numbers provided the application does not trigger a major subdivision per subsection (3) below, meets all the requirements of the subdivision and zoning ordinances, and the following criteria for certain subdivision applications:

a. Notification to abutting property owners is required for any subdivision application:

1. Located within the MRTPD or OMNCD; or
  2. Located within or abutting a residential zoning district, where the application results in a change in lot orientation, resulting in either the rear lot line of the new lot adjoining the side lot line of another lot; or the side lot line of the new lot adjoining the rear lot line of another lot.
- b. When required, the applicant shall provide the Planning Department with a notarized list of the names and addresses of the abutting property owners as part of the application for minor subdivision, and the costs of certified mail shall be borne by the applicant.
  - c. Notification is not required for any adjacent lot(s) under the same ownership as the subject lot(s).
  - d. The application shall be reviewed as a major subdivision if the Planning Director receives a letter of objection that meets the criteria provided in subsection (3) below.
- (2) Parcels of land where a portion has been expropriated or has been dedicated, sold, or otherwise transferred to the Parish, thereby leaving a severed portion of the original property that requires a re-designation of lot numbers and establishment of new lot boundary lines.
- (3) If any of the following conditions are met, then the application shall be reviewed as a Major Subdivision:
- a. Involves the creation of any new street, right-of-way in full ownership, or other public improvement but may provide for the dedication, acceptance, relocation, or deletion of public utility servitudes granted to Jefferson Parish, other than streets.
  - b. Involves more than two (2) acres of land or ten (10) lots of record.
  - c. Results in the creation of a lot that is below the minimum width, depth, and area requirements of this code, except when the new width, depth, or area increases conformance with the minimum width, depth, or area requirements of this code, without creating greater deficiency in any of these requirements. Subdivision proposals that meet the criteria of the above referenced exception may be submitted to the Planning Director for ministerial review.
  - d. Involves the creation of a subdivision with private street(s) as described in *Sec. 33-7.5 Transportation* of this UDC or the creation of a private or common driveway as described in *Sec. 33-6.4 Block and Lot Standards (c) Single-family residential lots* of this UDC.
  - e. Results in a lot of record that is designated with two (2) or more zoning districts, excluding overlay districts.
  - f. Results in the creation of a through lot if the abutting lots are lots with single frontage when the property to be subdivided is within or abutting a residential zoning district.
  - g. If valid objection is received from an abutting property owner(s) for an application that is located in the MRTPD or OMNCD or includes a change in lot orientation as specified in (1) above, provided the following criteria are met:
    1. Objection must be made in writing by the abutting property owner(s) objecting to the minor subdivision;
    2. Objection must be received in the Planning Department office within ten (10) days of the date of postage on the letter notifying the abutting property owner(s) of the application for minor subdivision; and
    3. Objection to application shall be considered valid only if related to possible negative impact on neighboring properties if the minor subdivision is approved. A letter to the Planning Director objecting to the minor subdivision must detail the abutting

property owner's concerns regarding the specific impacts that the proposed minor subdivision may have on the abutting property. For applications located in the OMNCD or MRTPD, impacts shall include loss of tree canopy; loss of tree(s) abutting property; or other potential demonstratable damage to abutting property.

- h. The Planning Director determines that the proposed subdivision creates the need for off-site public infrastructure improvements that have not been funded by the Parish or on the Parish capital improvements program; and
- i. The Planning Director determines that the proposed subdivision differs substantially from the neighborhood norm (as defined in this UDC).

**SECTION 3.** That Chapter 33 Unified Development Code, Sec. 33-3.3.2. Overlay zoning districts, is hereby amended to update the section reference for the MRTPD overlay zoning district, to read as follows:

**Sec. 33-3.3.2. Overlay zoning districts.**

The following overlay zoning districts are established for unincorporated Jefferson Parish. These districts impose additional requirements on certain properties within one or more underlying base zoning districts.

\* \* \*

- (4) MRTPD Metairie Ridge Tree Preservation District is an overlay zoning district with boundaries defined in Sec. 33-3.66 Metairie Ridge Tree Preservation District of this Code.

\* \* \*

**SECTION 4.** That Chapter 33 Unified Development Code, Sec. 33-3.53.6.3. Landscaping (Fat City), is hereby amended to clarify language related to how funds related to payments in lieu are allocated can be utilized on public property, to read as follows:

**Sec. 33-3.53.6.3. Landscaping.**

\* \* \*

- (e) If a ministerial exception for required Streetscape trees is requested and is not approved, the property owner may provide the monetary value of the required Streetscape tree(s), as determined by the Parish Arborist. Payments in lieu of required Streetscape trees shall be paid to the Parish Department of Parkways and shall be placed in a special parish fund or account, and dedicated to the planting, repair, maintenance, or upkeep of trees on public property within the Fat City zoning districts.

\* \* \*

**SECTION 5.** That Chapter 33 Unified Development Code, Sec. 33-3.65.5.3. Greenspace (OMNCD), is hereby amended to clarify that Sec. 33-6.27 applies and transfer procedures related provisions to Sec. 33-65.7 Development review, to read as follows:

**Sec. 33-3.65.5.3. Greenspace.**

- (a) Purpose.

\* \* \*

- (b) Sec. 33-6.27 *Tree preservation* of this UDC shall apply.

\* \* \*

**SECTION 6.** That Chapter 33 Unified Development Code, Sec. 3-3.65.7. Development review, is hereby amended to add a section reference to OMNCD subdivision procedures and add a new subsection for tree preservation and removal procedures, to read as follows:

**Sec. 33-3.65.7. Development review.**

\* \* \*

**Sec. 33-3.65.7.4. Subdivision procedures.**

- (a) Development sites with multiple lots shall subdivide into one (1) lot or lots of record that meet the underlying zoning district lot area standards prior to the issuance of any permit involving exterior development by the Parish, including, but not limited to, building or demolition permits. This provision shall not apply to permits for routine exterior maintenance, interior renovations, or plumbing.
- (b) Chapter 33, Article 2, Division 3. *Subdivision* shall apply to minor and major subdivisions.

**Sec. 33-3.65.7.5. Tree preservation and removal procedures.**

- (a) All development shall comply with the development approval provisions provided in Sec. 33-3.66.7 of this UDC, except for tree preservation or tree removal included as part of a development activity under the purview of the OMC or the Planning Director:
  - (1) Tree preservation or tree removal associated with applications subject to OMC review for construction or new development, alteration, or addition within the district shall be submitted with an OMNCD application to the Planning Department, which shall be the repository for these application materials, rather than the Department of Inspection and Code Enforcement;
  - (2) The review and approval process for tree preservation or tree removal shall follow standard OMNCD procedures, except that tree removal only in the OMNCD shall follow the procedures outlined in Sec. 33-3.66.7.

**Sec. 33-3.65.7.6. Exceptions and variances.**

\* \* \*

**SECTION 7.** That Chapter 33 Unified Development Code, Sec. 33-3.66. Metairie Ridge Tree Preservation District (MRTPD), is hereby amended to transfer certain regulations from Article X.5 in Chapter 40, to read as follows:

**Sec. 33-3.66. Metairie Ridge Tree Preservation District (MRTPD).**

**Sec. 33-3.66.1. Purpose.**

The intent and purpose of the Metairie Ridge Tree Preservation District is to create and apply an overlay zone intended to protect the existing tree canopy in the preservation district and facilitate the maintenance and planting of trees in Jefferson Parish. The Metairie Ridge Tree Preservation District shall also facilitate related urban forestry activities in this district, maintain and add aesthetic appeal, increase comfort and property values in this district, and generally improve the quality of the environment in the Metairie Ridge Tree Preservation District.

**Sec. 33-3.66.2. Generally.**

- (a) Development and structures within the district must conform to the regulations of both the underlying zoning district and the MRTPD, or to the more restrictive requirement of the two (2) districts regarding tree preservation or replacement.
- (b) Where this district is silent on a standard, the standard of the underlying district or other applicable section of the Code shall apply.
- (c) Nothing in this section shall prevent any ordinary maintenance or repairs, construction, reconstruction, alteration, or demolition necessary to remedy an unsafe or dangerous condition or threat to public safety.
- (d) The MRTPD shall be defined by the following boundaries:
  - (1) Beginning at Bonnabel Boulevard, to its intersections with Interstate 10 south to Metairie Road;
  - (2) Metairie Road south to North Labarre Road to the Norfolk Southern Railroad Tracks; the Norfolk Southern Railroad Tracks east back to Metairie Road;
  - (3) Metairie Road to the 17<sup>th</sup> Street Canal; north along the 17<sup>th</sup> Street Canal to Interstate 10; and
  - (4) West back towards Bonnabel Boulevard and reflected as an overlay zone in the electronic records which constitute the Official Zoning Map of Jefferson Parish.

**Sec. 33-3.66.3. Authorized uses.**

See underlying zoning district. Authorized accessory buildings, structures, and uses shall comply with Division 1. *Specific Use Standards* of Article 5. *Supplemental Conditions* of this UDC.

**Sec. 33-3.66.4. Dimensional standards.**

The standards of the underlying zoning district shall apply.

**Sec. 33-3.66.5. Development standards.**

**Sec. 33-3.66.5.1. Tree preservation.**

Sec. 33-6.27. *Tree preservation* of this UDC shall apply.

**Sec. 33-3.66.5.2. Parking, loading, and clear vision area.**

The standards of the underlying zoning district shall apply.

**Sec. 33-3.66.5.3. Signs.**

The standards of the underlying zoning district shall apply.

**Sec. 33-3.66.6. Adequate public facilities.**

The standards of the underlying zoning district shall apply.

**Sec. 33-3.66.7. Development approval.**

**Sec. 33-3.66.7.1. Applicability.**

Procedures for processing tree removal applications and building permits vary by type of construction activity. For the purposes of this section:

- (a) *Certification* shall mean a written statement signed by the licensed professional making the statement and, as applicable, attesting to the accuracy of information ascertained by the licensed professional or provided by another person.
- (b) *Construction activities* shall mean any type of activity that could have a detrimental effect on any trees existing on the site or abutting the site, including but not limited to, construction of accessory buildings, addition to any structure, any fence permit, removal of a tree, clearing or filling of lot, demolition of any structure, new structure, paving of a driveway or any portion of a lot, swimming pools or spas, or trenching for utilities. Routine maintenance of trees shall not be considered a construction activity. Construction activities are further broken into two types of activity:
  - (1) *Minor construction activity* shall include fences; trenching for utilities; alterations to existing swimming pools or spas; driveway paving; additions, alterations, demolition, and renovation less than twenty-five percent (25%) of the total square footage of the main structure; and interior renovations. Any activity that otherwise may be considered minor construction activity as defined in this article, but that necessitates the removal of a protected tree or negatively impacts the Root Protection Zone of a protected tree outside the uncontested removal area, shall be considered major construction activity for the purposes of this article.
  - (2) *Major construction activity* shall include clearing or filling a lot; tree removal; new or additions to existing swimming pools or spas; paving other than driveways; total demolition or new construction; new accessory structures; additions, alterations, demolition, and renovation over twenty-five percent (25%) of the total structures.

**Sec. 33-3.66.7.2. Code Enforcement permit requirements and review procedures.**

**(a) Application requirements.**

**(1) General.**

- a. The three (3) types of Metairie Ridge Tree Preservation District (MRTPD) applications are tree removal only, minor construction activities, and major construction activities, as defined in this section with specific requirements for each provided in the Appendix. Applications vary by type.

- b. The MRTPD application, with the required information as listed in the Appendix of this UDC, shall be filed with the Department of Inspection and Code Enforcement Director.
- c. The MRTPD application shall be submitted, notwithstanding, and in addition to, any other permitting requirements stated in Chapter 8 or any other chapter of the Jefferson Parish Code of Ordinances, prior to any construction activity or tree removal in the MRTPD.
- d. *Tree protection plan.*
  - 1. A tree protection plan is not required for minor construction activities.
  - 2. Tree removal only, while defined as major construction activity, does not require a tree protection plan; however, the Parish Arborist may require the submittal of a tree protection plan if, after the property owner applies for tree removal, it is determined that the tree removal may be detrimental to other protected trees and tree protection is necessary.
  - 3. For major construction activities, the applicant or property owner are required to submit a tree protection plan in accordance with Sec. 33-6.27.9. *Tree protection plan.*
  - 4. Violation of the tree protection plan and additional preservation and replacement requirements shall be a violation of this UDC subject to the penalties outlined in Sec. 33-6.27. *Tree preservation.*

(2) *Exceptions.* Exceptions to the application and fee requirements are as follows:

- a. When a property owner has no trees on his property or within ten (10) feet of the subject property line on abutting property, the property owner may submit an affidavit to that effect with his building permit. This affidavit releases the property owner from the requirements of this section.
- b. When a property owner has no protected trees as defined in this article on his property or within ten (10) feet of the subject property line on abutting property, the property owner may submit an affidavit with his building permit signed by the property owner and certified by a landscape architect, a landscape contractor or an arborist licensed as such by the State of Louisiana stating that no existing trees meet the “protected tree” qualification. This affidavit releases the property owner from the requirements of this section.

(b) *Review procedures.*

(1) *Parish Arborist review.*

- a. There will be no review of the application or site by the Parish Arborist for minor construction activities.
- b. The Parish Arborist shall review applications for tree removal and the tree protection plan component for major construction activity applications.

(2) *Minor construction activity permits.* A complete MRTPD application shall be attached to the applicant’s building permit.

(3) *Tree removal only permits and major construction activity permits:*

- a. A complete MRTPD application shall be submitted to the Department of Inspection and Code Enforcement. For major construction activities, the MRTPD application shall be submitted as a separate permit, in addition to the building permit.
- b. The Parish Arborist shall provide a recommendation in writing, after inspecting the site, to the Department of Inspection and Code Enforcement within ten (10) business days of receipt of application.
- c. The property owner or his agent may, in writing to the Department of Inspection and Code Enforcement, request a specific number of additional business days for the review in order to resolve any outstanding issues regarding his application including the

submission of a tree protection plan if one was not submitted with the application.

- d. Upon receipt of the recommendation of the Parish Arborist, the Director of Inspection and Code Enforcement shall make a decision regarding the issuance of the requested permit.

(c) *Additional requirements.* When necessary to protect the tree canopy in the MRTPD, the Director of Inspection and Code Enforcement is authorized to add, as requirements for the issuance of a building permit on private property in the MRTPD, the recommendations of the Parish Arborist regarding tree preservation, tree removal and replacement of trees on private property and public property abutting the permit site. A building permit is required for all construction activity, as defined in the MRTPD, notwithstanding the provisions of the Building Code of Jefferson Parish.

(d) *Approval.* For permits, if approval is granted a copy of the tree protection plan and application with a statement of additional tree preservation or replacement requirements for the permit, if any, will be attached to any permit issued by the Department of Inspection and Code Enforcement.

**Sec. 33-3.66.7.3. Planning Department subdivision and SPU requirements and procedures.**

All subdivision and special permitted use applications shall be reviewed and processed according to the standard procedures of the Planning Department as established in Chapters 33 and 40:

(a) Chapter 33, Article 2, Division 3. *Subdivision* shall apply to major and minor subdivisions.

(b) In addition to the requirements for special permitted uses provided in Article XL, the following standards shall apply:

- (1) If the Special Permitted Use application requires a site plan, the additional requirements specified for the survey regarding location of trees may be shown on this site plan.
- (2) The submitted site plan shall meet the requirements for site plans for major construction activity and include the tree protection plan requirements.
- (3) The site plan and tree protection plan submittals for special permitted uses in the MRTPD district, once approved by the Parish Council, may fulfill the required site plan and tree protection plan of major construction activity permit applications unless substantial changes occur at the construction activity permit stage altering the tree protection plan significantly, in which case an amended site plan shall be required.

**Sec. 33-3.66.7.4. Appeals.**

Decisions of the Director of Inspection and Code Enforcement, including those based on the recommendations of the Parish Arborist, may be appealed to the Board of Zoning Adjustments within thirty (30) days following the decision of the Director in accordance with the procedures established by Chapter 40, Article XLII. Board of Zoning Adjustments.

\* \* \*

**SECTION 8.** That Chapter 33 Unified Development Code, Sec. 33-6.27.3. Generally., is hereby amended to add additional standards for trees that require emergency removal, to read as follows:

**Sec. 33-6.27.3. Generally.**

\* \* \*

(4) *Emergency removal.*

- a. When a protected tree has suffered irreparable damage due to a weather phenomenon such as a hurricane, tornado, or severe rainstorm or due to an emergency created by situations including, but not limited to, fire, tree disease, or insect infestation, and poses imminent danger to public health and safety, the owner of the property may immediately remove said damaged tree without



penalty, provided the property owner submits a tree removal permit within thirty (30) days of the emergency removal and the damaged tree is replaced on a one tree to one tree (1:1) ratio in accordance with Sec. 33-6.27.10.

- b. Protected trees removed in an emergency are subject to the following requirements:
  - 1. A landscape architect, landscape contractor, or an arborist licensed as such by the State of Louisiana shall certify in an affidavit that there are emergency reasons for the removal of such tree(s) from the site including a brief statement of those reasons for the removal.
  - 2. Supporting documentation, including photos, shall be submitted as to why the tree was or should be removed as part of tree removal permit application. This documentation may include, but is not limited to, reports by a Louisiana state licensed structural engineer regarding existing or certain future damage caused by the tree to a structure, or other Louisiana state licensed professional documenting why the tree should be removed. Any documentation provided by a Louisiana state licensed professional shall include his or her official seal or license number, as applicable.
  - 3. The Parish may request the certification and supporting documentation as verification that a protected tree proposed to be removed or removed in an emergency was irreparably damaged.
- c. If the property owner fails to apply for a tree removal permit within thirty (30) days of the emergency removal, or if the Parish Arborist determines that a protected tree removed in an emergency was not irreparably damaged, the property owner shall be in violation of this section and subject to penalties.
- d. Complaints regarding alleged violations of this section shall not be accepted more than sixty (60) days after the date the emergency removal occurred.

\* \* \*

**SECTION 9.** That Chapter 33 Unified Development Code, Sec. 33-6.27.4. Protected trees and preservation areas, is hereby amended to update the significant trees list, increase requirements for tree replacement, add a reduced requirement for replacement of trees in the buildable area, and to clarify that hazardous and diseased trees may be replaced on a tree for a tree basis, to read as follows:

**Sec. 33-6.27.4. Protected and prohibited trees.**

- (a) Protected trees shall include all significant trees and other canopy trees where at least fifty (50) percent of the base of the tree is located in a preservation area, and all replacement trees, as further described below.
- (b) Significant trees shall include the following species that have a DBH of eight (8) inches or greater:
  - 1. All Oaks, except Water Oaks.
  - 2. All Elms.
  - 3. All Bald Cypress, except those located within fifteen (15) feet of a building foundation.
  - 4. All Magnolias.
  - 5. Sycamore.
  - 6. Any tree that contributes to the canopy and has a DBH of at least twenty-four (24) inches, except prohibited trees listed in subsection (e) below.
  - 7. Replacement trees required in Sec. 33-6.27.10.
- (c) Other canopy trees shall include trees specified as a protected or significant tree in a base or overlay district that requires tree preservation.

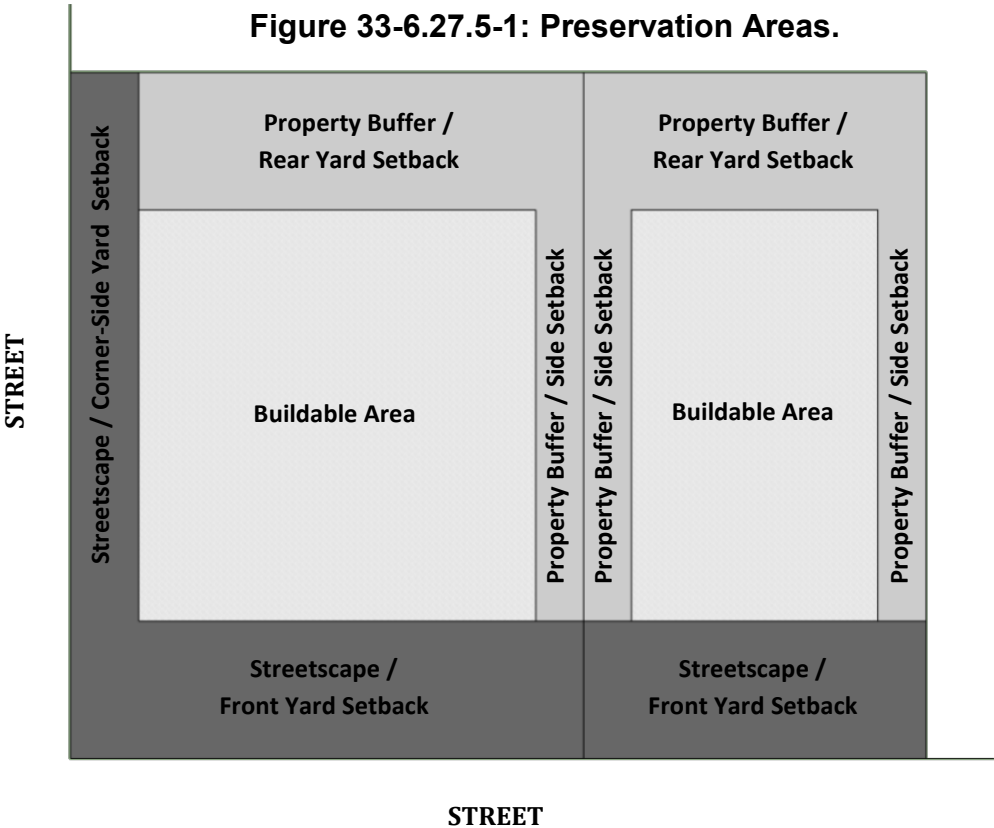
- (d) Replacement trees shall include a tree(s) planted as a replacement tree(s) for a protected tree, in accordance with Sec. 33-6.27.10. Replacement trees shall be any tree listed on the protected tree list. For the purposes of this section, a replacement tree shall be considered a protected tree after installation regardless of DBH.

\*       \*       \*

- (e) Prohibited Trees.
  - (1) Prohibited trees shall include any tree that is listed as a prohibited tree on the List of Approved Plant Materials (List) included in the Appendix of the Code.
  - (2) Prohibited trees do not require protection or replacement, and shall not be planted to fulfill the tree replacement requirements of this section.

**Sec. 33-3.67.5. Preservation and uncontested removal areas.**

- (a) *Preservation areas.* Preservation shall include certain areas of a lot or development site where tree preservation and protection are required, as specified in this UDC. Preservation areas are defined in relation to streetscape area, property buffer, setback, and buildable area (Figure 33-6.27.5-1).

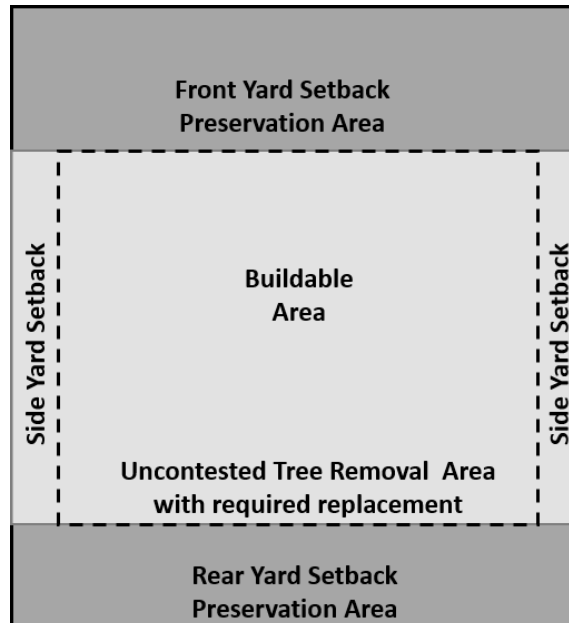


- (b) *Uncontested removal areas.* Uncontested tree removal shall be allowed in certain zoning districts in according to the following standards:
  - (1) MRTPD.
    - a. Uncontested tree removal shall be allowed for all trees which have at least fifty (50%) percent of the base of the tree within the boundaries of the buildable area on the site as defined by the front and rear yard setback requirements of the zoning district in which the property is located.
    - b. Uncontested tree removal shall also be allowed within the required side yard setbacks of the zoning district in which the property is located.
    - c. The property owner shall be allowed to remove any tree(s) within the uncontested removal area after submittal of a MRTPD application and approval of such removal as part of a construction activity or tree removal permit provided that each significant tree that is to be removed within the uncontested tree removal area shall be replaced

in accordance with Sec. 33-6.27.10., either on-site or with a payment of a fee-in-lieu (Figure 33-6.27.5-2).

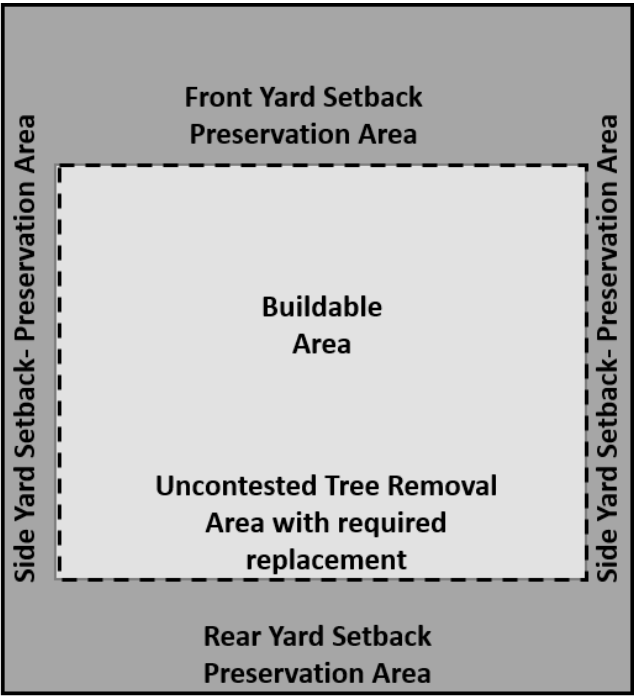
(2) OMNCD.

**Figure 33-6.27.5-2: MRTPD Uncontested Tree Removal Areas.**



- a. Uncontested tree removal shall be allowed for all trees which have at least fifty (50%) percent of the base of the tree within the boundaries of the buildable area on the site as defined by the front and rear yard setback requirements of the zoning district in which the property is located.
- b. Uncontested tree removal shall not be allowed within any of the required yards of the zoning district in which the property is located.
- c. The property owner shall be allowed to remove any tree(s) within the uncontested removal area after submittal of a MRTPD application and approval of such removal as part of a construction activity or tree removal permit provided that each significant tree that is to be removed within the uncontested tree removal area shall be replaced in accordance with Sec. 33-6.27.10., either on-site or with a payment of a fee-in-lieu (Figure 33-6.27.5-3).

Figure 33-6.27.5-3: OMNCD Uncontested Tree Removal Area.



**SECTION 10.** That Chapter 33 Unified Development Code, Sec. 33-6.27.5. Responsibility for tree preservation, is hereby amended to renumber section and incorporate applicable MRTPD requirements, to read as follows:

**Sec. 33-6.27.6. Responsibility for tree preservation.**

\* \* \*

- (c) *Non-construction-related damage.* If any non-construction-related activity is determined to be the cause of later damage to, or death of, a protected tree, the property owner shall replace the protected tree in accordance with the replacement policy of this section and may be subject to the penalties for violation of this section.
- (d) *Trees on abutting private property.*
  - (1) *Authorization.* A property owner on whose property construction activity may in any way affect a tree located on property owned by another has the responsibility to get authorization from the owner of such other property and to otherwise comply with all state laws regarding the cutting or trimming of tree limbs and roots, including, but not limited to, La. Civil Code Articles 687 and 688 and La. R.S. 3:4278, before undertaking any action related to any such tree, including, but not limited to, limb or root trimming.
    - a. This authorization shall be in writing and attached to the permit application.
    - b. The issuance by the Parish to a property owner of a permit with conditions regarding trees on the property of a person other than the permittee does not relieve the permittee of this responsibility.
  - (2) In accordance with state law regarding the cutting or trimming of tree limbs or roots that extend from an adjacent property, a property owner who has authorization in writing from the owner of the abutting property regarding cutting or trimming of a protected tree shall comply with the requirements of this section as if the protected tree existed on his or her property.
- (e) *Trees on abutting public property.* For trees on abutting public property, the issuance of a permit with the approved tree protection plan is considered authorization by the Parish in regards to the aforementioned state laws. Chapter 37, Vegetation, of the Code of Ordinances regulates trees on public property, however, should there be any conflict between those regulations and the regulations within this article, the more restrictive shall apply.

**SECTION 11.** That Chapter 33 Unified Development Code, Sec. 33-6.27.6. Standards for the preservation of protected trees, is hereby amended to renumber section, require that significant trees removed within the buildable area follow standard replacement requirements as outlined in Sec. 33-6.27.10. Tree replacement, to read as follows:

**Sec. 33-6.27.7. Standards for the preservation of protected trees.**

\* \* \*

*(c) Preservation through site design standards.*

- (1) There shall be no soil fill greater than two (2) inches, other than wood chips or mulch, within the RPZ.
  - (2) Paving within the RPZ shall be permeable. In situations where the paving within the RPZ continuously extends outside the RPZ, the portions outside the RPZ may be constructed of the same permeable material used within the RPZ. Pouring concrete to replace an existing sidewalk or entrance walk within the RPZ is allowed only when a material such as a plastic vapor barrier is laid down first permeable material is used.
- (d) Cutting or clearing protected trees.* The Parish Landscape Architect or Parish Arborist may allow, through the applicable development approval procedures, the cutting or clearing of a protected tree under the following circumstances:
- (1) The protected tree is diseased or hazardous, as certified by a licensed arborist.
  - (2) Trees removed within the uncontested tree removal area, shall follow the replacement requirements outlined in Sec. 33-6.27.10. Tree replacement.

**SECTION 12.** That Chapter 33 Unified Development Code, Sec. 33-6.27.7. Tree survey, is hereby amended to renumber section, capitalize the abbreviation for Diameter at Breast Height (DBH), and add additional requirements for a tree survey, to read as follows:

**Sec. 33-6.27.8. Tree survey.**

Where a tree survey is required, the survey shall include all trees of eight (8) inches DBH or greater and all trees in the public right-of-way adjacent to the property. Stands of trees may be indicated by species groups with the average DBH. The tree survey shall be prepared by a licensed landscape architect, surveyor, engineer, or arborist retained by the applicant. The property owner or his agent shall also indicate on the required survey, plus additional requirements specified in the Appendix:

- (a) The location of base of tree, name, size, and drip line of all trees at least eight (8) inches DBH; and
- (b) All trees within ten (10) feet of the subject property line on abutting public property.
- (c) The following statement stamped on the survey:  
"All trees on the site shall be protected at this time and no construction activity shall occur on site without compliance with Sec. 33-3.66 and Sec. 33-6.27 of the Jefferson Parish Code of Ordinances."

**SECTION 13.** That Chapter 33 Unified Development Code, Sec. 33-6.27.8. Tree protection plan, is hereby amended to renumber section, to read as follows:

**Sec. 33-6.27.9. Tree protection plan.**

\* \* \*

**SECTION 14.** That Chapter 33 Unified Development Code, Sec. 33-6.27.9. Tree replacement, is hereby amended to renumber section, incorporate applicable MRTPD requirements, add replacement ratios based on DBH, add maintenance requirements, and clarify how funds are allocated for replacement, to read as follows:

**Sec. 33-6.27.10. Tree replacement.**

Where replacement of a protected or significant tree is required, the following shall apply:

- (1) *Minimum caliper.* Each protected or significant tree that is to be replaced shall be replaced on-site with a with a minimum caliper of two (2) inches.
- (2) *Replacement ratios.*
  - a. Significant trees that have a diameter breast height (DBH) of twelve

**Table 33-6.27.10-1: Replacement requirements for significant tree(s) 8 in. DBH or greater.**

	DBH Size of existing tree (inches)**	Replacement	Fee
Replacement	8	8 in. caliper*	\$0
	10	10 in. caliper*	\$0
	12	12 in. caliper*	\$0
Replacement plus fee	24	12 in. caliper*	\$1,200 (12 x \$100)
	36	12 in. caliper*	\$2,400 (24 x \$100)
	48	12 in. caliper*	\$3,600 (36 x \$100)
	60	12 in. caliper*	\$4,800 (48 x \$100)
*Multiple trees may be planted to meet replacement requirements ** If multiple trees are proposed for removal, the total size shall be calculated cumulatively Replacement may include any tree on the significant tree list with a. 2 in. caliper			

- (12) inches or less shall be replaced with a tree from the protected tree list on a one-inch DBH to one-inch caliper (1inch DBH:1-inch caliper) ratio.
  - b. Significant trees that have a DBH over twelve (12) inches shall be replaced with a tree from the protected tree list:
    - 1. On a one-inch DBH to one-inch caliper (1-inch DBH:1-inch caliper) ratio for the first twelve (12) inches DBH; and
    - 2. The property owner will be responsible for paying one hundred dollars (\$100.00) per each additional inch DBH thereafter (see Table 33-6.27.10-1).
  - c. *Hazardous or diseased trees.*
    - 1. Trees that are permitted for emergency removal in Sec. 33-6.27.3. or other trees determined by a licensed arborist to be hazardous or diseased may be replaced on a one tree to one tree (1:1) ratio, only if that determination is corroborated by the Parish Arborist.
    - 2. A hazardous or diseased tree shall be replaced with a significant tree listed in Sec. 33-6.27.4.
    - 3. In all cases, the Parish Arborist's determination of the health of a tree shall prevail.
- (3) *Nursery standards.* A replacement tree shall also be:
- a. A nursery-grown certified tree;
  - b. Marked with a durable label indicating genus, species, and variety; and
  - c. Satisfying the standards established for nursery stock and installation thereof, set forth by the American Association of Nurseryman.
  - d. Not listed as a prohibited tree in Sec. 33-6.27.4.

(4) Replacement of protected trees shall be in accordance with the following timelines:

\* \* \*

(5) *Other landscaping requirements.* Replacement trees shall be in addition to all other landscaping requirements for the site, unless the parish has approved credit toward minimum requirements for the replacement trees.

(6) *Maintenance and Inspection.*

- a. The owner, tenant, or their agent, if any, shall be jointly and severally responsible for the maintenance, repair, and replacement of all required protected trees over the entire life of the development.
- b. The Parish Arborist, or Landscape Architect shall conduct a site visit within approximately one (1) year following the date of planting to ensure that replacement trees remain planted and are healthy.
- c. Failure to provide replacement trees in accordance with this section are subject to violations.

(7) *Fee-in-lieu.* In lieu of replacement trees on the project site, the property owner may provide the monetary value of the required replacement tree(s) based on the monetary value needed to fulfill the replacement requirements outlined in this section, as determined by the Parish Landscape Architect or Parish Arborist. This value shall be established based upon the current market value for local nursery stock. The money shall be paid to the Department of Parkways, placed in a special parish fund or account, and dedicated to the planting, repair, maintenance or upkeep of trees on Jefferson Parish public property.

\* \* \*

**SECTION 15.** That Chapter 33 Unified Development Code, Sec. 33-6.27.10. Procedures in Certain Districts, is hereby amended to renumber section and add appropriate references to tree preservation and tree removal procedures in the MRTPD and OMNCD, to read as follows:

**Sec. 33-6.27.11. Procedures in Certain Districts.**

(a) Old Metairie Neighborhood Conservation District (OMNCD).

Sec. 33-3.65.7. *Development review* shall apply.

(b) Metairie Ridge Tree Preservation District (MRTPD).

Sec. 33-3.66.7. *Development approval* shall apply.

**SECTION 16.** That Chapter Unified Development Code, Sec. 33-6.27.11. Appeals, is hereby amended to renumber section and add Appeals regulations from the MRPTD section, to read as follows:

**Sec. 33-6.27.12. Appeals.**

Decisions of the Director of Inspection and Code Enforcement related to the requirements of this section, including those based on the recommendations of the Parish Arborist, may be appealed to the Board of Zoning Adjustments within thirty (30) days following the decision of the Director in accordance with the procedures established by Chapter 40, Article XLII. Board of Zoning Adjustments.

**SECTION 17.** That Chapter 33 Unified Development Code, Sec. 33-6.27.12. Violations of this section, is hereby amended to renumber section, indicate that violations may accrue for each day they are not resolved with the Parish, to clarify procedures related to after the fact permitting and processing monetary proceeds from fines, and require double replacement for unlawful tree removal, to read as follows:

**Sec. 33-6.27.13. Violations of this section.**

\* \* \*

(b) *Enforcement.* Upon report of a violation of any of the provisions of this section, and Parish Arborist or Parish Landscape Architect shall immediately investigate the alleged violation. Upon confirmation of sufficient

evidence that the violation occurred, the Parkways Director or Planning Director, as applicable, shall notify the property owner in writing, indicating the nature of the violation and ordering the discontinuance of the illegal activity and any action necessary to correct it, including action pursuant to *Chapter 2.5 Administrative adjudication of public health, housing, fire code, environmental and historic district violations* of this Code.

(c) *Penalties.*

- (1) All monetary proceeds from fines imposed under this section, including fee-in-lieu payments associated with a violation of this section, but excluding court costs, shall be paid to the Department of Parkways, placed in a special fund or account, and dedicated to the planting, repair, maintenance, or upkeep, of trees on public property.
- (2) The violation of any provision of this section, including those listed below, shall be punishable by a maximum monetary fine of five hundred dollars (\$500.00) per violation per day:
  - a. Any property owner who violates the provisions of this section by causing significant damage or death to protected trees because of non-construction related activities on site;
  - b. Any property owner who violates the provisions of this section by removing a protected tree unlawfully or without compliance with the requirements of this section;
  - c. Any property owner who violates the provisions of this section by failing to provide a tree protection plan when required under this section or who violates the tree protection requirement(s) of an issued permit;
  - d. Anyone, including, but not limited to, property owners or state licensed professionals, who knowingly submits false information required by this section.
  - e. State licensed professionals authorized to provide information or perform work by this section who also have parish licenses shall be subject to revocation of their parish license upon determination of their violation of the requirements of this section, including but not limited to submission of false information and performance of work at the request of a property owner who has not received the proper permits for the work.
- (3) Any property owner who violates any provision of this section must retroactively obtain a permit and provide the required replacement tree(s) or pay the fee-in-lieu if required, as stipulated in Sec. 33-6.27.10. (see Table 33-6.27.13-1).
- (4) In addition to fines, any property owner who violates the provisions of this section by removing a protected tree unlawfully or without compliance with the requirements of this section shall provide replacement or fee-in-lieu at double (2x) the base rate required in Sec. 33-6.27.10.

**Table 33-6.27.13-1: Replacement requirements for unlawful removal of significant tree(s) 8 in. DBH or greater.**

DBH size of existing tree(s) (inches)**	DBH size of required replacement (2x) (inches)	Replacement	Fee
8	16	12 in. caliper*	\$400 (4 x \$100)
10	20		\$800 (8 x \$100)
12	24		\$1,200 (12 x \$100)
24	48		\$3,600 (36 x \$100)
36	72		\$6,000 (60 x \$100)



48	96		\$8,400 (84 x \$100)
60	120		\$10,800 (108 x \$100)
* Multiple trees may be planted to meet replacement requirements ** If multiple trees are proposed for removal, the total size shall be calculated cumulatively Replacement may include any tree on the significant tree list with a. 2 in. caliper			

\* \* \*

**SECTION 18.** That Chapter 33 Unified Development Code, Sec. 33-10.2. Definitions applicable to this entire UDC, is hereby amended to transfer the definition for *Parish Arborist*, to read as follows:

**Sec. 33-10.2. Definitions applicable to this entire UDC.**

\* \* \*

*Parish Arborist* shall mean an employee of the Jefferson Parish Department of Parkway or other third-party contractor employed by the Parish to fulfill the duties of the Department of Parkway who is a licensed arborist.

\* \* \*

**SECTION 19.** That Chapter 40 Zoning, Sec. 40-33. Overlay zoning districts, is hereby amended to update the section reference for the MRTPD overlay zoning district, to read as follows:

**Sec. 40-33. Overlay zoning districts.**

The following overlay zoning districts are established for unincorporated Jefferson Parish. These districts impose additional requirements on certain properties within one or more underlying base zoning districts.

\* \* \*

- (4) MRTPD Metairie Ridge Tree Preservation District is an overlay zoning district with boundaries defined in Sec. 33-3.66 Metairie Ridge Tree Preservation District of this Code.

\* \* \*

**SECTION 20.** That Chapter 40 Zoning, Sec. 40-112. Tree preservation. (R-1B), is hereby amended to delete current tree preservation regulations for larger lot residential zoning districts and update subsequent section numbers accordingly, to read as follows:

**Sec. 40-112. Exceptions.**

\* \* \*

**Sec. 40-113. Exterior wall materials.**

\* \* \*

**Sec. 40-114. Sign regulations.**

\* \* \*

**Sec. 40-115. Landscaping standards.**

\* \* \*

**Secs. 40-116--40-125. Reserved.**

**SECTION 21.** That Chapter 40 Zoning, Sec. 40-132. Tree preservation. (R-1C), is hereby amended to delete current tree preservation regulations for larger

lot residential zoning districts and update subsequent section numbers accordingly, to read as follows:

**Sec. 40-132. Exceptions.**

\* \* \*

**Sec. 40-133. Exterior wall materials.**

\* \* \*

**Sec. 40-134. Sign regulations.**

\* \* \*

**Sec. 40-135. Landscaping standards.**

\* \* \*

**Secs. 40-136--40-145. Reserved.**

**SECTION 22.** That Chapter 40 Zoning, Sec. 40-152. Tree preservation. (R-1D), is hereby amended to delete current tree preservation regulations for larger lot residential zoning districts and update subsequent section numbers accordingly, to read as follows:

**Sec. 40-152. Exceptions.**

\* \* \*

**Sec. 40-153. Exterior wall materials.**

\* \* \*

**Sec. 40-154. Sign regulations.**

\* \* \*

**Sec. 40-155. Landscaping standards.**

\* \* \*

**Secs. 40-156--40-165. Reserved.**

**SECTION 23.** That Chapter 40 Zoning, Article X.5 Metairie Ridge Tree Preservation District (MRTPD), is hereby amended to delete the content and reserve the article and sections, to read as follows:

**ARTICLE X.5 (RESERVED)**

Secs. 40-175--40-185. Reserved.

**SECTION 24.** That Chapter 40 Zoning, Sec. 40-665. Clear vision area regulations, is hereby amended to remove and amend the reference to the MRTPD, as applicable, to read as follows:

**Sec. 40-665. Clear vision area regulations.**

\* \* \*

(g) *Exemptions.*

(1) Objects exempt from clear vision area regulations include:

\* \* \*

c. Trees protected by Sec. 33-3.66. *Metairie Ridge Tree Preservation District (MRTPD)* or by Sec. 33-3.65. *Old Metairie Neighborhood Conservation District (OMNCD)*.

\* \* \*

**SECTION 25.** That Chapter 40 Zoning, Sec. 40-792. Powers of the Board, is hereby amended to update the reference to the MRTPD appeals, to read as follows:

**Sec. 40-792. Powers of the Board.**

The Board of Zoning Adjustments shall have all the powers and duties prescribed by this ordinance, which are more particularly specified as follows:

(1) *Appeals.*

- a. Except as otherwise provided, to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Director of Inspection and Code Enforcement or the Planning Director.
- b. To hear and decide appeals to the Metairie Ridge Tree Preservation District (MRTPD) or tree preservation requirements, as specified in Sec. 33-3.66.7.3. and Sec. 33-6.27.12.

\* \* \*


**SECTION 26.** That the Municipal Code Corporation is hereby authorized and directed to correct any cross-references within the code that are affected by the renumbering of sections or subparagraphs via this ordinance.

**SECTION 27.** That Chapter 33 Unified Development Code, Sec. 33-6.27.2 Applicability, is hereby amended to read as follows: Where a base or overlay zoning district in this UDC or in Chapter 40, Zoning, of this Code requires tree preservation and protection, the provisions of this section shall apply. Notwithstanding anything to the contrary in the UDC or any ordinance or government regulation applicable to tree preservation and/or tree protection, the undeveloped lands located in West Jefferson are exempt from any and all such tree preservation and/or protection requirements unless and until the owner makes the choice to use existing trees for landscaping requirements at the time of development in accordance with Sec. 33-6.25.6.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

**YEAS: 7      NAYS: None      ABSENT: None**

This ordinance was declared to be adopted on the **14<sup>th</sup> day of September, 2022**, and shall become effective as follows, if signed forthwith by the Parish President, ten (10) days after adoption, thereafter, upon signature by the Parish President or, if not signed by the Parish President, upon expiration of the time of ordinances to be considered finally adopted without the signature of the Parish President, as provided in Section 2.07 of the Charter. If vetoed by the Parish President and subsequently approved by the Council, this ordinance shall become effective on the day of such approval.

THE FOREGOING IS CERTIFIED  
TO BE A TRUE & CORRECT COPY  
  
EULA A. LOPEZ  
PARISH CLERK  
JEFFERSON PARISH COUNCIL