

ORDINANCE NO. 7440

RESOLUTION NO. 01-_____

JOINT ORDINANCE/RESOLUTION OF THE CITY OF LAWRENCE, KANSAS, AND THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, AMENDING THE JOINT SUBDIVISION REGULATIONS, CHAPTER 21 OF THE "CODE OF THE CITY OF LAWRENCE, KANSAS, 2001," AND AMENDMENTS THERETO, SPECIFICALLY TO AMEND ARTICLE 7, SECTION 21-708a, REVISING REQUIREMENTS FOR STREET TREES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS, AND,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS:

SECTION I. Chapter 21, Article 7, Section 21-708a of the Joint Subdivision Regulations of the City of Lawrence, Kansas, and Douglas County, Kansas, is hereby amended to read as follows:

21-708a. STREET TREE REGULATIONS FOR CITY SUBDIVISIONS.

All city subdivisions final platted, hereinafter shall be required to provide a Master Street Tree Plan which meets the following criteria:

21-708a.1 MINIMUM TREE REQUIREMENTS.

Street trees shall consist of canopy shade and/or ornamental trees, as defined below and meeting the following minimum requirements:

(a) Size. Medium or large trees, as defined by Section 18-103(E) of the Code of the City of Lawrence, Kansas, and amendments thereto, which can reach a mature height of 45 feet or greater are required except that ornamental trees planted pursuant to Section 21-708a.2 are not subject to the 45 foot height requirement. The minimum trunk caliper of street trees, at the time of planting, measured six inches above the ground in accordance with the *American Nurseryman Standards* shall be as follows:

<i>Street Tree Type</i>	<i>Minimum Trunk Caliper At Time of Planting:</i>	<i>Mature Height Restrictions</i>
<i>Canopy Shade Tree</i>	2.0" trunk caliper balled and burlapped or equivalent	45' or greater
<i>Ornamental Tree</i>	1.5" trunk caliper balled and burlapped or equivalent	20' or less

(b) Number. One tree shall be provided for every 40 feet of street frontage. The City may approve a Master Street Tree Plan that varies from this requirement to allow for driveways, utilities, and intersection visibility requirements.

(c) Minimum Species Diversity. The following minimum requirements shall apply to all master street tree plans. To prevent uniform insect or disease susceptibility, a mix of species shall be provided. The Parks and Recreation Department shall, upon request, provide a list of trees that shall be acceptable to satisfy the requirements for master street tree plans. To promote diversity in the urban forest, the number of trees required to be planted shall be in accordance with the following requirements:

<i>Number of Trees Per Plat</i>	<i>Minimum number of species</i>
1-10	1
11-20	2
21-30	3
31-40	4
41 +	6

21-708a.2 PLANTING LOCATION AND CLUSTERING.

- (a) Location in RS and RM-D Zoning Districts. Street trees shall be located in the front-yard, building setback and/or adjacent to the right-of-way at a distance not greater than ten (10) feet from the boundary line of the right-of-way. Street trees shall not be planted until after planned utilities have been installed. Trees shall be planted no closer than eight (8) feet from existing underground utility lines. On corner lots, no tree shall be planted nearer than fifty (50) feet from the intersecting curb lines of the two streets. No tree shall be planted between the curb and the sidewalk if the clear space is less than 3 feet wide.
- (b) Location in all other zoning districts. Street trees shall be located either within the street right-of-way or within the required front yard building setback, PROVIDED, no tree is located farther than 30 feet from the back of the curb, with the exception of lots on the radius of a cul-de-sac which shall be located not greater than 45 feet from the back of the curb. Street trees shall not be planted until planned utilities have been installed. Trees shall be planted no closer than 8 feet from existing utility lines. On corner lots, no tree shall be planted nearer than 50 feet from the intersecting curb lines of the two streets. No tree shall be planted between the curb and the sidewalk if the clear space is less than 3 feet wide. [RE: Chapter XVIII of the City Code]
- (c) Clustering. Street trees shall be evenly spaced along the street frontage unless one or more of the following conditions exist: a) the lot is on a corner; b) the presence of existing trees, which qualify for credit under section 21-708a.4, interrupt the even spacing of trees; c) topographic conditions (i.e. steep gradient, rock outcroppings), based on staff evaluation, dictate building location and driveway placement which interrupts the even spacing of street trees.
- (d) Overhead Lines and Fixtures. If the planting site will prevent the growth of canopy shade trees due to overhead utility lines, ornamental trees shall be permitted as a substitution for the canopy shade trees in accordance with the Location and Clustering requirements of this Section and shall be subject to the following requirements: a) the canopy of the ornamental tree(s) shall be no closer than 10 feet from the overhead lines and its mature height shall not exceed 20 feet; and; b) the ornamental tree(s) shall be planted at least 15 feet away from any streetlight.

21-708a.3 MASTER STREET TREE PLAN.

- (a) A proposed written Master Street Tree Plan shall be submitted at the time a final plat is submitted to the Planning Department for review.
- (b) Prior to recording the final plat with the Register of Deeds, the applicant shall provide a Master Street Tree Plan that is signed and properly acknowledged by the property owner(s). The Master Street Tree Plan shall be written to be binding on present and future property owners. A reference line shall be provided on the final plat indicating the

book and page where the Master Street Tree Plan is filed which shall be completed by staff at the time the final plat is filed at the Register of Deeds.

- (c) The Master Street Tree Plan shall be prepared in a format established by the Planning Department and shall include the following information: (a) a list of acceptable street tree types; (b) the number, location and size of existing trees proposed to be saved and applied to the fulfillment of this requirement; (c) the provisions to be taken pursuant to Section 18-107 of the Code of the City of Lawrence, Kansas during construction for the protection of existing trees to be saved (if any); (d) if trees are proposed in street medians, provisions for maintenance (including how water line extensions will be paid); and (e) the identification of power line locations.

21-708a.3.1 PROVISION OF RIGHT OF ENTRY.

- (a) Each final plat filed on and after January 1, 2002, for detached or attached single family residential structures to be built on individual platted lots in a City residential subdivision in RS and RM-D zoning districts shall contain the following note on the face of the final plat: "The City is hereby granted a temporary right of entry to plant the required street trees pursuant to Chapter 21, Article 7, Section 21-708a of the City Subdivision Regulations".
- (b) For final plats filed before January 1, 2002, for detached or attached single family residential structures to be built on individual platted lots in a City residential subdivision in RS and RM-D zoning districts, the property owner of undeveloped lots for which a city building permit has not been issued shall sign a consent form and submit it with the building permit application granting the City of Lawrence temporary right of entry to plant the required street trees pursuant to Chapter 21, Article 7, Section 21-708a of the City Subdivision Regulations.

21-708a.4 CREDITS FOR EXISTING TREES.

Existing trees may be applied toward the fulfillment of this street tree requirement when:

- (a) All of the following conditions exist:
 - (1) The tree is healthy and of a species the Director of the Parks and Recreation Department or his/her designee determines to be desirable as a street tree;
 - (2) The existing tree is within the street right-of-way or within 30 feet of the back of the curb or proposed curb line;
 - (3) The tree(s) caliper of a canopy shade tree is at least two inches measured six inches from the ground, or in the case of an ornamental tree, the tree caliper is at least 1.5 inches, measured six inches from the ground, in accordance with the *American Nurseryman Standards*;
 - (4) The applicant has submitted a tree protection plan that conforms with the requirements of Section 18-107 of the Code of the City of Lawrence, Kansas, and amendments thereto, and
- (b) The existing or proposed location of overhead utility lines along the street right(s)-of-way will not prevent the full growth of the street tree.

21-708a.5 TIMING OF LANDSCAPE PLACEMENT.

- (a) The timing of, and manner in which the street trees shall be planted for detached or attached single family residential structures to be built on individual platted lots in City residential Subdivisions Final Platted in RS and RM-D Zoning Districts filed on and after January 1, 2002 shall be in accordance with City Administrative Policy No. 83.
- (b) The timing of, and manner in which the street trees shall be installed on those undeveloped lots for which the City has not issued a building permit for detached or attached single-family residential structures on individual lots within existing platted subdivisions in the RS and RM-D zoning districts filed before January 1, 2002 shall be in accordance with City Administrative Policy No. 83.
- (c) For all other required street trees not covered by Sections 21-708a.5(a) and 21-708a.5(b) and/or developments requiring a site plan:
 - (1) Trees shall be installed, after other public improvements, if water is available for their care and maintenance. The property owner or his designee shall be required to guarantee planting of the tree at the time a building permit application is submitted.
 - (2) Street trees shall be planted prior to final building inspection or the issuance of an occupancy permit. Consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of tree planting PROVIDED, the guarantee for planting is extended to the date of completion of tree planting.
 - (3) Guarantee shall be provided in one of the following forms:
 - (a) A performance agreement be signed to guarantee planting of the street trees. The performance agreement would make issuance of an occupancy permit subject to completion of the installation of street trees. If season of the year becomes a problem, another form of guarantee can be substituted to permit the issuance of an occupancy permit; or,
 - (b) A cash escrow deposit in a federally insured commercial bank or savings and loan institution authorized to do business in Kansas in an amount set forth in the City of Lawrence Administrative Policy No. 83. This escrow deposit shall be invested and reinvested by such bank or savings and loan, the interest or discount from which shall be paid to the subdivider upon final release of such escrow deposit as determined by Section 21-702. Money will be withdrawn to pay the developer or a designated nursery after the installation of said trees and prior to the issuance of a final certificate of inspection; or
 - (c) The Governing Body may, at its discretion, accept an irrevocable letter of credit from a financial institution or a corporate surety performance bond in lieu of a cash escrow deposit to insure the planting of the required street trees.

21-708a.6 ON-GOING MAINTENANCE.

- (a) The on-going maintenance of trees planted by the City shall be in accordance with the maintenance provisions set forth in City of Lawrence Administrative Policy No. 83.
- (b) For all other required street trees not covered by section 21-708a.6(a) and/or developments requiring a site plan, the on-going maintenance of trees, once planted, shall be

the responsibility of the property owner adjacent to the public right-of-way or private street. If a street tree dies or fails to be planted within one calendar year of issuance of an occupancy permit, the City shall notify the property owner of the need to plant or replace the tree(s) as applicable. Should the property owner fail to plant or replace the tree within one-hundred and twenty (120) days of notification, the City shall reserve the right to cause the required trees to be installed and the cost of the tree(s), plus the cost of installation of the tree(s), shall be assessed to the property owner.

SECTION II. Sections 21-708a of the Joint Subdivision Regulations of the City of Lawrence, Kansas, and Douglas County, Kansas, is hereby repealed, it being the intent of this ordinance/resolution that its provisions be substituted in place thereof.

SECTION III. This joint ordinance/resolution shall take effect on January 1, 2002.

PASSED by the Governing Body of the City of Lawrence, Kansas, this _____ day of _____, 2001.

APPROVED:

MIKE RUNDLE, Mayor

ATTEST:

Frank Reeb, City Clerk

APPROVED AS TO FORM AND LEGALITY:

David L. Corliss
Assistant City Manager/Director of Legal Services
for City of Lawrence, Kansas

Date: _____

ADOPTED by the Board of County Commissioners of Douglas County, Kansas, this _____ day of _____, 2001.

APPROVED:

BOB JOHNSON, Chairman

ATTEST:

PATTY JAIMES, County Clerk