

Section 530 - Tree Preservation

530.01. Findings and Purposes.

Subd. 1. The City Council recognizes that preservation and replanting of trees is important on new development sites in order to maintain a healthy and desirable community. The City Council also recognizes that a certain amount of tree loss is an inevitable consequence of the urban development process. The City Council finds that these tree preservation regulations help to establish a balance between an individual's rights to develop his or her property, and the needs of the community to protect all aspects of the natural environment and to provide housing, services, and employment opportunities within the City.

Subd. 2. The purposes of these tree preservation regulations include, but are not limited to, 1) prevention of soil erosion and sedimentation, 2) improved air quality, 3) reduced noise pollution, 4) energy conservation through natural insulation and shading, 5) control of the urban heat island effect, 6) increased property values, 7) protection of privacy by maintaining and establishing buffers between conflicting land uses, and 8) providing habitat for wildlife.

530.03. Scope. The regulations contained in this section shall apply to all properties involving 1) a preliminary plat application received after August 15, 1995, or 2) a lot division application resulting in the creation of one or more new development parcels, received after August 15, 1995. The City does, however, strongly encourage preservation of healthy trees on all properties within the City. (*Ord. 2009-08, 5/12/2009*)

530.05. Removal Threshold.

Subd. 1. Developments in residential districts may remove or disturb up to 50% of the total inches of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.

Subd. 2. Developments in non-residential districts may remove or disturb up to 75% of the total inches of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.

530.07. Reforestation/Restitution Requirement. If a development exceeds the allowable removal or disturbance threshold specified in Section 530.05 above, the subdivider shall either reforest appropriate areas within the site (or outside the site if appropriate locations within the site are not available) or pay restitution, or provide a combination thereof. For each one (1.0) tree inch that is removed or disturbed beyond

the threshold, the subdivider shall replant 1.25 inches of new trees or provide the City with \$125 in restitution. (*Ord. 2006-05, 2/07/2006*)

530.09. Tree Inches Not Counted. The tree inches of significant trees to be removed for water quality treatment ponds, public trails or sidewalks, and rights-of-way for arterial and major collector roadways shall be exempt from the calculation of total significant tree inches on a development site.

530.11. Tree Survey/Preservation Plan. A tree survey and tree preservation plan shall be submitted with all preliminary plat applications, and with all lot division applications involving the creation of one or more new development parcels. The tree survey and tree preservation plan shall be prepared and signed by a registered surveyor or forester not less than two years prior to submission of a complete application for preliminary plat approval, and shall provide the following information:

- (a) Location, diameter, and species of all significant trees on the site.
- (b) Identification of which significant trees are 1) to be protected, preserved, or undisturbed, 2) to be removed or disturbed, and 3) exempt from the calculation (under Section 530.09). (*Ord. 2006-05, 2/07/2006*)
- (c) Areas proposed to be designated as natural preserves where all natural vegetation, including significant trees, will be protected and preserved (refer to Section 811 of the City Code-- Natural Preserves—for information requirements).
- (d) Proposed disturbance zones, as identified by cross-hatching or gray-colored shading on the plan.
- (e) Location and dimensions of building pads, construction zone for each lot, and proposed street layout and grading contours of the site.
- (f) Proposed locations and details of tree protection fencing to be installed for all trees to be preserved.
- (g) Calculation of removed or disturbed significant tree inches on the site (excluding exempt tree inches) divided by the total significant tree inches on the site (excluding exempt tree inches).

530.13. Reforestation/Restitution Plan.

Subd. 1. If the amount of significant tree inches to be removed or disturbed exceeds the specified threshold, the subdivider shall provide a reforestation plan, or a calculation of restitution, or a combination thereof.

Subd. 2. A reforestation plan shall be prepared and signed by a registered landscape architect or forester and shall comply with the following criteria:

- (a) The plan shall indicate the location and diameter or height of all trees to be planted.
- (b) No more than 1/4 of the trees to be planted may be from any one species, unless recommended by the City Forester.
- (c) Plantings shall be of similar vegetation as found on the site, with a preference for plantings designated as native to the site.
- (d) The minimum planting size for deciduous trees shall be 2.5 inches in diameter, and the minimum planting size for coniferous trees shall be six feet in height, except that up to 15% of the required tree inches may be of ornamental species of a lesser size, provided the required number of replacement inches is maintained.
- (e) Installation of trees shall follow the City's standard tree planting details as provided in the City's Engineering Guidelines. (*Ord. 2010-02, 2/23/2010*)
- (f) Trees to be planted shall be from certified nursery stock as defined and controlled by Minnesota Statutes Sections 18.44 through 18.61, the Plant Pest Act.

Subd. 3. Replacement trees shown on a reforestation plan may count toward the trees required by the City's landscaping regulations.

Subd. 4. Restitution shall be paid to the City in cash prior to the City's release of the signed final plat mylars for recording, or prior to approval of a minor subdivision. Any restitution paid shall be placed in the Community Planting Fund and shall be used for reforestation projects in the City.

530.15. Staff Review. The tree preservation plan and any related reforestation plan or calculation of restitution shall be reviewed and evaluated by the City Forester. The City Forester may make recommendations for adjustment of locations of structures, roadways, utilities, and for replanting and other elements that may be necessary to enhance tree preservation and reforestation efforts.

530.17. City Action. A tree preservation plan and reforestation plan, including the designation of any natural preserves, shall be considered for approval or denial by the City Council as part of the review of a preliminary plat. (Ord. 2011-06, 2/22/2011)

530.19. Amendments. A tree preservation plan and reforestation plan may be amended after it has been approved. The Zoning Administrator shall have authority to approve amendments, except that a change resulting in removal of more than ten percent of the significant tree inches that were shown as preserved on a City Council approved tree preservation plan shall require further review by the City Council. As part of any amendment to a tree preservation plan, the required reforestation and/or restitution shall be increased or reduced as appropriate. Requests for amendments shall be submitted prior to removal of any trees shown as preserved on an approved plan. Amendment of a Natural Preserve shall be governed by Section 811 of the City Code.

530.21. Financial Guarantee. Following approval of the tree preservation plan, but prior to issuance of a grading permit or building permit if no grading permit is required, the subdivider shall provide a financial guarantee, as follows:

Subd. 1. A cash escrow or letter of credit to guarantee the tree preservation plan, and the reforestation plan if applicable. The guarantee shall be part of the development contract for projects including public improvements, or shall be part of a site improvement performance agreement (SIPA) if no public improvements are proposed.

Subd. 2. The amount of the financial guarantee shall be calculated as follows: 25% of the total significant tree inches shown as preserved that are located within 15 feet of a disturbance zone multiplied by \$125 per inch, plus 100% of the total tree inches required by the reforestation plan, if applicable, multiplied by \$125 per inch. The minimum financial guarantee shall be \$1,000. The amount of the financial guarantee shall be maintained at the calculated level until such time as 1) all trees on the site (preserved trees and new reforestation trees) have survived a winter season, which is defined as the period 31 October through 30 April for the purpose of this section, and 2) the City has inspected the site and authorized a reduction or release.

530.23. Inspection and Enforcement of Tree Preservation Plan.

Subd. 1. Prior to removal of any trees and prior to issuance of a grading permit, or prior to commencement of any grading operations if no grading permit is required, or prior to issuance of a building permit if no grading operations are required, all sites shall be staked and fenced for tree preservation pursuant to the approved tree preservation plan. A copy of the approved tree preservation plan shall be submitted with an application for a grading permit, or with an application for a building permit if no grading permit is required. Such tree preservation plan shall also indicate any reforestation trees to be planted on the site. Upon staking of the site and installation of the tree protection

fencing, but prior to issuance of any permits or commencement of any grading operations, the subdivider shall contact the City Forester to schedule an inspection of the staking and fence installation on the site. No permits shall be issued, nor shall any grading operations commence, without first receiving authorization by the City Forester. Tree protection fencing shall remain in place until after the certificate of occupancy is issued for the building on the site.

Subd. 2. Upon completion of the preliminary site grading operations, but prior to any further issuance of permits upon the site, the subdivider shall contact the City Forester to schedule a second inspection of the site to verify the preservation of trees, as shown on the approved tree preservation plan. No additional permits shall be issued within the plat until a fine of \$150 per inch is paid for the disturbance of all significant tree inches that have not been protected, but were shown as protected on the approved tree preservation plan. Any such fines collected shall be placed in the Community Planting Fund and shall be used for reforestation projects in the City.

Subd. 3. Prior to issuance of a certificate of occupancy, the subdivider (or builder if different from the subdivider) shall contact the City Forester to schedule a final tree preservation inspection to verify the preservation of trees and the planting of any reforestation trees, as shown on the approved tree preservation plan. This required inspection shall be made at least five working days before the certificate of occupancy is requested. Prior to issuance of a certificate of occupancy, a fine of \$150 per inch shall be paid for the disturbance of all significant tree inches that have not been protected, but were shown as protected on the approved tree preservation plan. Any such fines collected shall be placed in the Community Planting Fund and shall be used for reforestation projects in the City.

(Ord. 2003-15, 6/10/2003)