

## DIVISION 5. TREE PRESERVATION

### Sec. 117-324. Purpose; intent; design and maintenance principles; administration.

- (a) *Purpose.* The city council finds it is in the best interest of the city to protect, preserve, and enhance the natural environment by encouraging a resourceful and prudent approach to development and alteration of wooded areas. The city council also recognizes that some amount of tree loss is an inevitable consequence of the development process. The tree preservation regulations herein attempt to maintain a balance between one's rights to develop property with the needs and desires of the community to protect the natural environment. ~~The purpose of this division is to enhance the community and its citizenry, and not to be punitive or to cause hardship to any individual, private or public company.~~
- (b) *Intent and Objectives.* The intent of this division is to ~~provide~~ support the preservation and protection of significant trees, or stands of trees, to promote the orderly development of such areas and minimize public and private losses. The following regulations address ~~relating to~~ the removal of trees associated with new development. The city council finds that the following objectives are important to achieve the purpose and intent of this division ~~in achieving these goals:~~
- (1) To continue to seek recognition as a Tree City U.S.A. and to take all reasonable steps to promote planting and conservation of trees throughout the city;
  - ~~(2) To promote good design in new areas and provide sensitive and compatible infill development in existing commercial areas;~~
  - ~~(3) To control epidemic tree diseases and insect infestations which threaten the health of trees in the community;~~
  - ~~(4) To provide regulations that ensure the placement of trees along the street right of way for the purpose of protecting against excessive noise, heat, and glare, and to enhance the attractiveness and value of property;~~
  - ~~(5) To ensure that landscaping is an integral part of development, not an afterthought;~~
  - ~~(6) To foster and support community forest programs and encourage good tree management; and~~
- (2) To maintain and preserve the many benefits that trees provide including, but not limited to, the following:
- a. *Character and aesthetics.*
    1. Trees help buffer different or conflicting land uses ~~for the~~ by establishing visual screening and buffering noise, glare and heat abatement ~~in transitional zones;~~
    2. Trees conserve and enhance the city's quality of life and ecological and aesthetic environment, especially its valuable and rural atmosphere; and
    3. Trees provide important psychological benefits to the ~~persons~~ people within the city and neighborhoods.
  - b. *Wildlife habitat.* Trees are essential to maintain wildlife habitat within the city.
  - c. *Energy conservation.* Trees assist in the moderation of climate by providing shade, windbreaks, and the cooling of air; thereby reducing the requirements for air conditioning and heating and the subsequent utilization of energy resources.

d. *Improved Air and water quality.*

1. Trees aid in the filtering of stormwater as it passes through the soil to the groundwater;
2. Trees maintain permeable land areas essential to surface water management and aquifer recharge; and
3. Trees aid in the purification of the air through the removal of carbon dioxide, the generation of oxygen, and the precipitation of dust and other airborne pollutants.

e. *Socioeconomic.*

1. Trees enhance property values; and
2. Trees protect and preserve the unique identity and environment of the city and aid in the development of the economic base attracted to the city by such factors.

f. *Erosion and flood control.*

1. Trees aid in the stabilization of soil by the prevention of erosion and sedimentation; and
2. Trees reduce stormwater runoff and the costs associated therewith and aid in the replenishment of groundwater supplies.

g. *Privacy and buffering.*

1. Preservation of existing trees helps maintain privacy and establishes a buffer between conflicting uses or varying residential densities.

~~(c) Creation of the Ramsey Tree Book. The intent is to provide a set of landscape design and maintenance principles that promote the use of appropriate plant materials, which do not require special attention and which require little supplemental water to grow properly.~~

~~(1) The Ramsey Tree Book will be available for reference and guidelines regarding principles for tree preservation in the city. The book is to be offered, upon request, to the citizens of the city as well as the development community and other interested parties. Copies will be available at city hall.~~

~~(2) The Ramsey Tree Book will also include lists of desirable and undesirable trees, shrubs, and natural vegetation for the city. The Ramsey Tree Book shall maintain an extensive list of recommended vegetation for planting. The intent is to maintain diversity in the total tree population within the city. The list of recommended species shall be updated periodically to reflect new developments or species that will affect the population of the community forest.~~

~~(c) Administration.~~

~~(1) The city shall administer and enforce the provisions of this division. The city is authorized to cause inspections on a scheduled basis when reason exists to believe that a violation of this division has been or is being committed.~~

~~(2) When the city determines a violation has occurred, the city's written evaluation of the deficiencies shall be considered prima facie evidence in any subsequent litigation~~

~~(Code 1978, § 9.24.01; Ord. No. 03-33, 9-15-2003; Ord. No. 06-25, § 2, 8-8-2006; Ord. No. 13-10, § 2, 5-28-2013)~~

**Sec. 117-325. Landmark trees.**

A landmark tree shall be any tree, public or private, that has been designated as such by the city council, after public hearing and due notice to the owner of the tree. The criteria of such designation shall include, but not necessarily be limited to, notable historical interest and value to the city because of its location or historical association with the community.

(Code 1978, § 9.24.02; Ord. No. 03-33, 9-15-2003)

**Sec. 117-326. Public trees.**

- (a) *Authority.* The city shall have the right, but does not have the obligation, to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, ~~avenues, lanes,~~ squares, parks, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such ~~public grounds areas.~~
- (b) *Removal of public trees.* No trees, brush, vines, shrubs and/or ground cover are to be removed by anyone, including adjacent landowners or agents of any landowner, from any city-owned land, greenways or access corridors from greenways without the ~~written~~ permission of the city.
- (c) *Storage upon public land.* No person shall deposit, place, store, or maintain upon any public ~~place~~ land of the ~~municipality city~~ any stone, brick, sand, concrete, vehicles, equipment, toxins, animals, tree carving, or other materials which may impede the free passage of water, air, or fertilizer to the roots of any tree growing therein, except by written ~~permit~~ permission of the city.

~~(d) Signage. It shall be unlawful for any person, firm, or public utility to attach any sign, advertisement, political endorsement or notice to any public tree.~~

*(d) Operation of equipment.*

- (1) All maintenance equipment, implements, machines and tools shall be used or operated in such a manner as not to damage or destroy any tree, shrub or plant in any public right-of-way or park.
- (2) During the erection, repair, alteration or removal of any building, house or structure, in the city, any person, firm, or corporation in charge of such work shall protect any tree in any public place within the city in the vicinity of such building or structure with sufficient guards or protectors to prevent injury to such tree.

- (e) *Notifying adjacent property owners of maintenance work.* An attempt ~~may~~ shall be made to inform adjacent property owners of maintenance work on trees and landscaping along boulevards, city property, and easements. This notification will be left with direct and adjacent property owners. Suitable precautions shall be taken to protect and warn the public that spraying is being done to public trees. Spraying will be done only if following an integrated pest management plan as exemplified under such topic within the state department of agriculture ~~and be completed by a Minnesota Department of Agriculture licensed pesticide applicator.~~

~~(g) Adjacent landowners' limited responsibility. Trees planted along city property lines will be watered by those property owners adjacent to said trees. No one other than city employees or their designee may trim, prune, or remove public trees.~~

(Code 1978, § 9.24.03; Ord. No. 03-33, 9-15-2003; Ord. No. 13-10, § 2, 5-28-2013)

**Sec. 117-327. Private trees in new development areas.**

- (a) *Requirements for a tree preservation plan.* Prior to any development, ~~land clearing, filling, or any other land alteration,~~ as described in subsection (b) of this section, a tree preservation plan shall be submitted to and approved by the city. ~~The developer shall be required to erect suitable protective barriers around all trees to be preserved and these protective structures, where required, shall remain until such time as they are authorized to be removed by the city or issuance of a final certificate of occupancy.~~
- (b) *Tree preservation plan.* A tree preservation plan shall be submitted with preliminary plats and/or site plans, drawn to the same scale as the other preliminary plat or site plan submittals. ~~The submitted tree preservation plan must include a buffer, if required, and landscape plan for the project.~~
- (1) Residential and commercial development plans shall be designed to preserve ~~native~~ natural vegetation areas as much as possible. Streets, parcels, structures and parking areas shall be laid out to minimize the destruction of wooded areas or outstanding tree specimens. ~~Developers of land are encouraged to designate wooded areas as park reserves.~~
  - (2) The city may require either the clustering of dwellings or alternate locations of dwellings to preserve significant trees during the plat approval process.
  - (3) There shall be no movement, clearing, or storage of equipment within a designated tree protection zone ~~nor shall any construction materials, debris, or soil/fill be stored or deposited within a designated tree protection zone. The owner, developer, or agent shall not permit the placement of construction materials, debris, soil deposits, or fill; nor cause or permit disposal of waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other harmful material within the dripline of any protected tree area.~~
- (c) *Plan specifications content.* The content of all tree preservation plans submitted shall be prepared and signed by a licensed surveyor or forester not more than two (2) years prior to submission to the city and shall, ~~for purposes of city staff review,~~ include the following:
- (1) The name(s), contact information (telephone number and email), and address(es) of applicant(s), property owner(s), developer(s), and/or builder(s);
  - (2) Delineation of all buildings, structures, and impervious surfaces situated thereon or proposed to be built thereon;
  - (3) Delineation of all areas located within a 100-year floodplain;
  - (4) Location, diameter, species, and condition of all significant trees on site in both graphic and tabular form. For the purposes of this division, significant trees shall include:
    - a. All species of oak that have a DBH of four inches or greater;
    - b. All coniferous species that have a DBH of four inches or greater; and
    - c. All other trees that have a DBH of eight inches or more;
  - (5) Identification of which significant trees are to be (1) preserved, (2) removed; and (3) exempt from the removal calculation per subsection (f) (3) of this section. This shall be in both graphic and tabular form;

**Commented [CA1]:** Do we want to consider modifying these definitions? Either breaking out deciduous hardwoods (e.g. basswood, birch, black cherry, catalpa, hackberry, honey locust, ironwood, maple (hard), oak, and walnut) and softwoods (softwoods generally less desirable, they typically are faster growing but with weaker wood) with different sizes, increasing the size that constitutes a significant tree, and/or changing the coniferous standard to a height rather than DBH.

City of Dayton defines significant tree as any healthy deciduous hardwood tree 6" or larger, any common tree (generally the 'soft' hardwoods) including cottonwood, poplar/aspens, box elder, willow, silver maple, red maple, elm, or any other tree species not defined as hardwood deciduous tree or a coniferous tree or considered non-native to Minnesota) 12" or larger, or any coniferous tree 12' in height or larger (they specify that every 3 feet in height equates to 1 inch of diameter).

- (6) Tabulation of total significant tree inches on site;
- (7) Calculation of total inches being removed on site excluding exempt significant tree inches;
- (8) Calculation of total exempt significant tree inches and indication of why each significant tree is exempt;
- (9) Calculation of removed significant tree inches (excluding exempt tree inches) divided by the total significant tree inches on site (excluding exempt tree inches);
- (10) Proposed locations and details of tree protection fencing to be installed around trees being preserved;

~~(2) A tree survey overlay on the grading plan, which locates all significant trees within the developable areas of the site, identifying both diameter and species. Dead or diseased trees shall be included in the survey. All tree surveys for subdivisions involving the construction of roads or drainage conveyances shall be performed by an International Society of Arboriculture Certified Arborist or a Society of American Foresters Certified Forester. For the purposes of this division, significant trees shall include:~~

- ~~a. All species of oak that have a DBH of four inches or greater;~~
- ~~b. All evergreen species that have a DBH of four inches or greater; and~~
- ~~c. All other trees that have a DBH of eight inches or more;~~

~~(3) Existing soil conditions throughout the parcel; and~~

~~(4) Existing contour data for the entire property with vertical contour data consistent with city standards for all areas to be disturbed by proposed tree removal operations, extending for a distance of at least 50 feet beyond the limits of such areas. Indicated elevations may be based on United States Geological Survey data.~~

(d) *Tree preservation barriers protection measures.*

~~(1) All tree protection areas are recommended to be designated as such with "Tree Save Area" signs posted in addition to the required protective fencing. Signs requesting sub-contractor cooperation and compliance with tree protection standards are recommended for site entrances. \_\_\_\_\_~~

~~(2) Before any construction or grading takes place, snow fencing (polyethylene laminate safety netting) or erosion control fencing shall be placed at the dripline of significant trees around the borders of woodlots at the dripline of large trees to be preserved. Signs shall be placed along this fence line prohibiting grading beyond the fence line.~~

~~(3) These fences will be orange polyethylene laminar safety fencing or of woven polyethylene fabric (silt fencing).~~

~~(4) Passive forms of tree protection may be utilized to delineate tree save areas outside of the MUSA line with approval of the city. These areas must be completely surrounded with continuous rope or flagging (heavy mil — minimum four inches wide). "Keep Out" or "Tree Save" signage must accompany all passive tree protection methods.~~

~~(5) No construction shall begin until this work has been completed, inspected, and accepted by the city. The tree protection measures shall not be removed until the land disturbance and construction activities are complete.~~

(63) Silt barriers or similarly effective erosion control barriers shall be required in any area where erosion or siltation may cause damage to protected trees.

~~(7) All protective tree fencing, staking or continuous ribbon and all erosion control barriers must be installed prior to and maintained throughout the land disturbance and construction process, and should not be removed until acceptable vegetation is established.~~

~~(e) Critical root zone. The root system within the dripline is generally considered to be the critical root zone. To protect these critical root zones, a tree protection area shall be established around each tree or group of trees to be retained.~~

~~(1) The tree protection area shall include no less than the total area beneath the tree canopy as defined by the dripline of the tree or group of trees collectively.~~

(24) Wherein authorized excavations it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such root under advice from the city.

(35) All open trenching is prohibited. Utility installation within the dripline of protected trees, during construction or thereafter, can only occur using trenchless methods.

(46) The mowing, clearing, and grubbing of brush located within or under the dripline of protected trees may be allowed, provided such mowing, clearing, or grubbing is accomplished by hand or by mowers. The use of heavy equipment for this purpose shall not be allowed.

(fe) *Removal threshold.*

(1) Within residential developments, ~~at least no more than 460~~ percent of the inches of existing significant tree DBH shall be ~~retained on site removed~~.

(2) Within business and employment developments, ~~at least no more than 370~~ percent of the inches of existing significant tree DBH shall be ~~retained on site removed~~.

(3) Significant trees removed for water quality treatment ponds, public trails and sidewalks, and arterial and collector streets, or that are considered invasive species, are considered exempt from the removal threshold calculation.

(gf) Reforestation/restitution requirement. If a development exceeds the removal threshold specified in (fe) above, the developer shall either reforest areas within the site, pay restitution, or some combination thereof.

(1) For every one significant tree inch that is removed in excess of the removal threshold, the developer shall replant 1.25 inches (~~diameter caliper~~) of new trees or provide the city with \$125.00 in restitution.

~~(2) Significant trees removed for water quality treatment ponds, public trails and sidewalks, and arterial and collector streets, or that are considered invasive species, are exempt from the removal threshold calculation.~~

(g) Reforestation/restitution plan.

~~a~~(1) If the total number of significant tree inches to be removed exceeds the removal threshold, the developer shall provide a reforestation plan (~~can be included as part of landscaping plan, but must clearly identify those trees that are intended to satisfy the reforestation requirement~~), or a calculation of restitution, or a combination thereof.

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

- ~~b.a.~~ The plan shall indicate the location and diameter (or height if coniferous; for each three (3) feet in height is equivalent to one (1) caliper inch) of all reforestation trees to be planted. This can be included on the landscape plan, but the reforestation calculation, trees, and inches, must be specified.
- b. Size at the time of planting shall comply with the planting standards outlined in ~~the~~ **respective zoning section 117-364 (Landscaping) district.**
- c. No more than 25 percent of the reforestation trees ~~to be planted~~ shall be from any one species.
- d. ~~Reforestation Replacement trees included~~ in the reforestation plan may count toward the ~~trees required by the city's landscaping regulations. base landscaping requirements trees required for landscaping purposes within the applicable zoning district.~~
- e. Restitution, if applicable, shall be paid in cash to the city prior to the release of the final plat mylars for recording, ~~or prior to approval of a minor subdivision, or, if a plat was not required,~~ prior to the issuance of a building permit subject to site plan review. Any restitution paid shall be deposited in the community reforestation fund and be used for reforestation efforts within the city.

(h) *Protection from disease and pestilence.* All clearing in oak stands shall be performed prior to April 15 or after July 15 of each season. Any development involving oak trees on or adjacent to the development area must submit a plan in conjunction with the preliminary plat that identifies what precautionary steps will be taken to protect the trees from oak wilt.

(i) *Encroachment.* If encroachment into a tree preservation area occurs that causes irreparable damage to a tree(s), the tree preservation plan shall be revised to compensate for the loss. Under no circumstance shall the developer be relieved of responsibility for compliance with the provisions of this division, nor shall planned revision activities prevent the city from instituting action for violation of this division.

~~(j) Planting requirements. All trees chosen shall be from the acceptable/preferred list (or have approval of the city) and native and/or adaptable to this region and climate as described in the Ramsey Tree Book. The quantity of the required plantings shall be in accordance with the performance standards established for the respective zoning district.~~

~~(1) Size of trees at planting. For all required plantings, deciduous trees shall be a minimum of one inch caliper at time of planting and all evergreen trees shall be a minimum of five feet in height at time of planting. Specifications shall be determined by the American Nurseryman's Standards.~~

~~(2) Type of tree stock. For all required plantings, trees shall be free of insects, diseases, or mechanical injuries and have straight trunk and a form characteristic of the species.~~

~~(3) Spacing at time of planting. The spacing of new trees must be compatible with spatial site limitations and with the responsible consideration toward species size when mature as outlined in the Ramsey Tree Book.~~

~~(4) Planting standards. As outlined in the Ramsey Tree Book.~~

~~(5) Planting standard: Soil amendment. As outlined in the Ramsey Tree Book.~~

- ~~(6) Planting standards: Mulch. As outlined in the Ramsey Tree Book.~~
- ~~(7) Planting distance along rural section streets. Shall be at the right of way unless approved by the city.~~
- ~~(8) Planting distance from hydrants. Trees shall be planted a minimum of ten feet from hydrants.~~
- ~~(9) Vision clearance (sight triangle). Tree plantings should not be within the vision clearance triangle as defined in section 117-348~~
- ~~(10) Planting distance from utilities. Trees shall be planted a minimum of two feet from any joint utility trench whenever practicable.~~

**Sec. 117-328. Hazardous and/or nuisance trees.**

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life or property, or harbor insects or disease which constitute a potential threat to other trees within the city. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the property owner.

- ~~(1) Notice to take action. An order for a "Notice to Take Action" will be issued upon determination by the city, or its designee, that maintenance work requiring the pruning, preservation, or removal of trees or plants upon private property when such action is necessary to ensure public safety and/or to prevent the spread of disease or insects to public trees and places.
  - ~~a. Such notice shall describe the kind of tree, shrub, or other plant or plant part which has been declared to be a public nuisance; its location on the property; and the reason for declaring it a nuisance.~~
  - ~~b. Proper disposal procedures of wood, bark and debris from said nuisance shall be detailed in said notice. These disposal procedures shall be followed within the time provided in the notice.~~
  - ~~c. The notice of violation shall state the specific violation and indicate whether immediate enforcement will be sought or if 30 days will be allowed to correct and remove the violation.~~
  - ~~d. If the owner of the property to whom an order has been issued fails or refuses to take remedial action in accordance with and within the time specified in an order, the city or its designate shall cause the remedial action so ordered to be performed at the expense of the owner. Appeals shall be in accordance with section 117-55.~~~~
- ~~(2) Disease or pest infested trees. Any tree located within the city, which is determined by a certified arborist to be afflicted with any dangerous or infectious insect infestation or plant disease, may be declared a public nuisance. This shall include trees and shrubs harboring injurious insects or pathogens that may cause significant potential danger to the community forest.
  - ~~a. The city or its designate may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with Oak Wilt or Dutch Elm Disease.~~
  - ~~b. An evaluation of "imminent danger" means that the hazard to the public is immediate. If the property owner cannot be contacted or refuses to remove the hazard, the city will initiate action immediately.~~~~

~~e.—An evaluation of "potentially dangerous" means that a hazard to the public will exist in the near future. The property owner will be notified and should remove the future hazard as soon as possible.~~

(Code 1978, § 9.24.05; Ord. No. 03-33, 9-15-2003; Ord. No. 06-25, § 2, 8-8-2006)

**~~Sec. 117-329. Exemptions.~~**

~~Requirements of this division may be waived by the city for a project in which at least 75 percent of the land has already received a permit initiating clearing or grading activities prior to the effective date of the ordinance from which this division is derived.~~

~~(1) The provisions of this division are not intended to prohibit agriculture, silviculture, horticulture, or nursery operations within the city.~~

~~(2) The provisions of this division are intended to prevent the spread of disease or infestation of trees within the city. Authorization may be obtained to remove certain trees to prevent the transmission of disease or infestation and to alleviate potentially hazardous trees that may cause injury to persons or property.~~

(Code 1978, § 9.24.06; Ord. No. 03-33, 9-15-2003)