

## *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.
- (b) *Intent and Objectives.* The intent of this division is to 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 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:
- (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 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 by establishing visual screening and buffering noise, glare and heat abatement;
      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 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) *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, squares, parks, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such 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 land of the 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 permission of the city.
- (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 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.

(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, as described in subsection (b) of this section, a tree preservation plan shall be submitted to and approved by the city.

(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.

(1) Residential and commercial development plans shall be designed to preserve native 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.

(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.

(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 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;
- (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;

(d) *Tree protection measures.*

- (1) 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 to be preserved.
- (2) 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.
- (3) Silt barriers or similarly effective erosion control barriers shall be required in any area where erosion or siltation may cause damage to protected trees.
- (4) 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.
- (5) All open trenching is prohibited. Utility installation within the dripline of protected trees, during construction or thereafter, can only occur using trenchless methods.
- (6) 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.

(e) *Removal threshold.*

- (1) Within residential developments, no more than 60 percent of the inches of existing significant tree DBH shall be removed.
- (2) Within business and employment developments, no more than 70 percent of the inches of existing significant tree DBH shall be removed.
- (3) Significant trees removed for water quality treatment ponds, public trails and sidewalks, and arterial and collector streets as defined herein, or that are considered invasive species, are considered exempt from the removal threshold calculation.

- (f) Reforestation/restitution requirement. If a development exceeds the removal threshold specified in (e) 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 (**caliper**) of new trees or provide the city with \$125.00 in restitution.
- (g) Reforestation/restitution plan.
- (1) If the total number of **significant** tree inches **to be removed** exceeds the removal threshold, the developer shall provide a reforestation plan, 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:**
    - 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 [section 117-364 \(Landscaping\)](#).**
    - c. **No more than 25 percent of the **reforestation** trees shall be from any one species.**
    - d. **Replacement trees in the reforestation plan may count toward the **trees required by the city's landscaping regulations**.**
    - e. **Restitution, if applicable, shall be paid in cash to the city prior to the release of the final plat mylars for recording 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.

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