

Sec. 126-349. - Woodland and significant tree protection.

(a) *Findings and purpose.* The city recognizes that preservation and replanting of trees is important on new development sites in order to maintain a healthy and desirable community. The purposes of tree preservation regulations are:

- (1) Prevention of soil erosion;
- (2) Improvement of air quality;
- (3) Energy conservation through natural insulation and shading;
- (4) Increased property values;
- (5) Protection of privacy by maintaining and establishing buffers between conflicting uses; and
- (6) Providing habitat for wildlife.

(b) *Scope.* The regulations contained in this section shall apply to all properties involving a site plan application or preliminary plat/lot division application resulting in the creation of one or more new development parcels and to property during construction after subdivision or when not connected with subdivision.

(c) *Heritage trees.*

- (1) Upon nomination by any person and with the written consent of the property owner, the city council, after public hearing, may designate a tree as a heritage tree. A tree may be designated as a heritage tree upon a finding that it is unique and of importance to the community due to any of the following factors:
 - a. It is an outstanding specimen of a desirable species;
 - b. It is one of the largest or oldest trees in the city; or
 - c. It possesses distinctive form, size, age, location, and/or historical significance.
- (2) After city council approval of a heritage tree designation, the property owner shall execute and record with the county recorder or, if appropriate, the county registrar of titles, a conservation easement of unlimited duration pursuant to Minn. Stats. ch. 84C over said tree. A listing of trees so designated, including the specific locations thereof, shall be kept by the community development department. Once designated, a heritage tree shall be subject to the provisions of this section unless removed from the list of heritage trees by action of the city council. The city council may remove a tree from the list upon its own motion or upon written request by the property owner.

(d) *Intent.*

- (1) Developments, structures, utilities, and all other site activities must be designed, installed and constructed so that the maximum number of trees are preserved on all lots or parcels with special emphasis on the following:

- a. Specimen trees (trees larger than 24 inches DBH);
 - b. Heritage trees; and
 - c. Trees and/or woodlands that serve as a buffer between existing and proposed subdivisions.
- (2) Flexibility of city standards shall be considered when possible to ensure the preservation of the maximum number of trees.
- (e) *Tree preservation plan required.* To minimize tree loss and to mitigate tree removal on wooded lots or parcels containing trees, a tree preservation plan shall be submitted with all site plan, preliminary plat and lot division applications. The plan shall be approved by the city.
- (f) *Tree preservation plan content.* The content of all tree preservation plans submitted shall, for purposes of city staff review, include the following:
- (1) A tree inventory indicating size, species, location, and condition of all significant trees (six-inch DBH or greater) and clumps of nonsignificant trees within the site limits;
 - (2) Identification of trees to be protected, preserved, or undisturbed and to be removed;
 - (3) Areas proposed to be designated as natural preserves where all natural vegetation will be protected and preserved;
 - (4) Proposed disturbance zones;
 - (5) Location and dimensions of building pads, construction zone for each lot and grading contours of the site;
 - (6) Locations and details of tree protection fencing to be installed for all trees to be preserved; and
 - (7) Calculation of significant tree inches removed on the site.
- (g) *Tree preservation barriers.*
- (1) There shall be no movement, clearing, or storage of equipment within a designated tree protection area. No person shall permit the placement of construction materials, debris, soil deposits, or fill within the canopy of any protected tree areas.
 - (2) Before any construction or grading takes place, snow fencing or erosion control fencing shall be installed around the borders of wooded areas at the drip-line of outer trees. If less protection is necessary due to the proximity of building structures or infrastructure, such reduced protection shall require approval by the city prior to any construction activity taking place.
 - (3) No construction work shall begin until the protective fencing is installed and inspected by the city.
 - (4) Silt barriers or similar effective erosion control barriers shall be required in any area where erosion or siltation may cause damage to protected trees.

- (5) All protective fencing and erosion control barriers must be maintained throughout the land disturbance and construction process.
 - (6) The mowing, clearing, and grubbing of brush or debris located within or under the drip-line of existing 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 is not allowed.
- (h) *Standards of preservation during subdivision.*
- (1) Developments in residential districts may remove or disturb up to 50 percent of the total inches of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
 - (2) Developments in nonresidential districts may remove or disturb up to 60 percent of the total inches of significant trees. Any removal or disturbance beyond this threshold shall require reforestation or restitution.
 - (3) Tree inches of significant trees to be removed for water quality treatment ponds 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.
- (i) *Standards of preservation during construction after subdivision or when not connected with subdivision.*
- (1) In residential subdivisions, the builder shall be responsible for working with the community development department for the protection of the trees to be preserved on a particular lot.
 - (2) Prior to the issuance of a building permit by the city, the applicant for such building permit shall provide a certified survey identifying the location, size and species of trees six inches DBH or larger in size. Such survey shall indicate trees to be removed and those to be saved.
 - (3) The builder shall be required to replace significant trees removed from within the building pad on a basis of one-half-inch tree replacement for each one inch of tree removed.
- (j) *Reforestation/restitution requirement.* If a development tree preservation plan exceeds the allowable removal or disturbance threshold, the subdivider shall either reforest within the site or pay restitution, or provide a combination thereof, as determined by the city. For each one inch of significant tree that is removed beyond the threshold, the subdivider shall replant one inch of new tree or provide the city with \$100.00 in restitution.
- (k) *Reforestation/restitution plan.*
- (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, as determined by the city.
 - (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 of all trees to be planted;
 - b. Plantings shall be of similar vegetation found on the site, with a preference for plantings designated as native to the site;
 - c. The minimum planting size for deciduous trees shall be 2.5 inches DBH and the minimum planting size for coniferous trees shall be six feet in height;
 - d. Replacement trees on a reforestation plan may count toward the trees required by the city's landscaping regulations;
 - e. Reforestation plantings shall be guaranteed for one full growing season; and
 - f. Restitution shall be paid to the city prior to the city's release of the signed final plat mylars, or prior to the approval of a minor subdivision. Any restitution shall be placed in a fund to be used for reforestation projects in the city.
- (l) *Restrictions for properties not undergoing development.* The number of trees removed from privately owned land shall be limited to two significant trees per year, unless an approved tree replacement plan has been obtained. The following trees are exempt from this provision:
- (1) Trees removed because they are dead or diseased;
 - (2) Trees that are an obstruction to traffic or power lines;
 - (3) Trees that pose a hazard to structures; and
 - (4) If the removal of the tree is consistent with good forestry practices.
- (m) *Penalties.* Any person who shall violate any of the provisions of this section or any tree preservation plan approved thereunder shall be guilty of an offense punishable as a misdemeanor. In addition, any and all permits and approvals extended by the city in connection with the property on which the violation occurs may be suspended or revoked after notice and an opportunity to be heard, and the city may also deny a certificate of occupancy or pursue injunctive relief and/or damages.

(Code 1977, § 13-114.5; Ord. No. 592, 4-26-2004)