



REQUEST FOR CITY COUNCIL ACTION

Agenda Date: 08/24/2015

Agenda Item: 15.a

Department Approval

City Manager Approval

Item Description: Consultant Check-Back Regarding Draft Tree Preservation Ordinance Amendments

BACKGROUND

1 On July 6, 2015, Ben Gozola and Mark Rehder, the consultants for the proposed amendments to
2 Section 1011.04, Tree Preservation and Restoration in all Districts, were present to listen and
3 discuss with the Planning Commission and City Council tree preservation, replacement, and
4 other associated items (see attachment A). At the conclusion of the meeting the City Council
5 requested a check-back prior to the proposed amendments being forwarded to the Planning
6 Commission for public hearing and a recommendation.

7 This evening Ben Gozola is present to review and discuss the draft amendments as proposed in
8 the attached document. Please see Attachment B from Mr. Gozola, which provides an overview
9 of the work completed since the July 6 City Council Meeting. The draft proposal can be found
10 as Attachment C.

11 SUGGESTED CITY COUNCIL ACTIONS

12 Provide the consultant with further direction regarding proposed text amendments to Section
13 1011.04, Tree Preservation and Restoration in all Districts.

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Attachments: A: 070615 Minutes

C: Draft tree preservation amendments

B: Overview memorandum

**EXTRACT FROM THE JOINT MEETING OF CITY COUNCIL AND PLANNING COMMISSION
RELATED TO TREE PRESERVATION**

Ben Gozola, Sambatek and Mark Reeder, S & S Tree Service

Mr. Gozola introduced Mark Reeder from S & S Tree Service, with each consultant providing a brief personal biography and a history of their company and services they provided. Mr. Gozola advised that he would be involved in the process and ordinance writing for each objective; with Mr. Reeder providing detailed expertise on tree preservation and replacement.

Taking the lead in the presentation, Mr. Gozola advised that the intent was two-fold: to exactly understand what the community wished to accomplish, and general approaches based on feedback from the City Council tonight to reach an understanding. Mr. Gozola noted each community was different and provided examples of other communities and their variable foci. Mr. Gozola advised that he had researched meeting minutes from the City as part of his background information provided during this presentation and his findings of areas for discussion to glean a better understanding of the community.

At the request of Chair Boguszewski, Mr. Gozola confirmed that woodland preservation areas included both private and public properties; frequently identified through GIS mapping; and ecologically rated by species.

Councilmember McGehee noted the need to consider Roseville as a flyway area for migratory song birds over Minneapolis to Langton Lake and surrounding areas where quality vegetation is needed.

Mr. Gozola reviewed tree ordinances for the cities of Minnetonka, Savage, and Farmington among others and their specific approaches.

Chair Boguszewski expressed interest in the tree bank program as a concept he'd be interested in pursuing if moving in that direction in addressing replacement rates and incentives for woodland protection and tree "banking" credits.

Commissioner Daire opined it seemed presumptive to have to replace or take the base line as it is now and anything coming later was referred back to that baseline, making it implicit that there was no consideration of or underlying idea that the current status is enough. Commissioner Daire suggested consideration also should be given to air quality, amount of shade, sunlight penetration you can use to define where or if you need additional foliage, and other issues as well.

Mr. Gozola noted that this was getting to the heart of discussion, and sought to hear goals or what the City Council and Commission wished to accomplish; at which point he would work with staff to draft an ordinance to achieve those specific goals.

Commissioner Murphy asked if any cities had a concept to put trees somewhere beyond a development like park; and opined that would have been nice alternative to have available with the recent Pizza Lucé development and nearby Oasis Park that could have benefitted.

In his role serving as a Planner for the City of Victoria during a transitional period, Mr. Gozola advised that they allowed that concept in other areas of the community if no place was available on the existing project site, even though their ordinance was very strict.

Councilmember McGehee suggested the use of trees along freeways as sound barriers, which had been considered in past discussions.

Chair Boguszewski noted the issues brought up so far involved symmetric as mentioned by Commissioner Daire and a rationale for establishing goals.

Mr. Reeder noted other ideas in communities, and software applications to establish a baseline, such as by addressing canopy coverage vacillating, to consider where to go in the future.

Commissioner Daire spoke in support of that approach.

Chair Boguszewski opined that underpinning the whole concept, the key seemed to allow part of the comprehensive plan to involve a quantitative plan by holding a broader public discourse around the entire concept and not just the city deciding they have authority of trees in a private yard, but agreeing to a good, long-term goal for the entire community. Chair Boguszewski opined that it certainly made things more palatable rather than his initial concerns that a tree ordinance was within the realm of government overreach.

Mr. Gozola continued with examples from other communities, including addressing either mechanism during development and/or construction (Maple Grove), limiting tree preservation to a subdivision versus zoning ordinance (Plymouth), or cash in lieu of tree removal or restoration (Minnetrista).

As outlined in Attachment A of Sambatek's memorandum dated July 6, 2015, Mr. Gozola reviewed his current project understanding and observations of the community's current status.

Chair Boguszewski noted the points discussing flexibility on the part of the community and the overarching goal of why to keep or increase trees as part of the educational piece as well.

Mayor Roe noted the need to justify any city ordinance with some kind of policy.

While hearing a lot about tree preservation from Planning Commission discussions, Councilmember Willmus stated his observation of their deliberations was based on how they were interpreting the letter of the law with the zoning code and comprehensive plan. However, Councilmember Willmus noted that the Tree Board, as a role of the Parks & Recreation Commission, had not yet been heard from, and expressed his desire to make sure they weighed in on this discussion as a vital part of the equation.

During his eight year tenure with the City, City Manager Trudgeon advised that he was not aware of the Tree Board being involved much or being aware of their actual role. However, going forward, Mr. Trudgeon advised that he would incorporate them into these discussions.

Councilmember McGehee opined that Public Works was also part of the equation, as this involved the entire city, whether private trees, right-of-way or boulevard trees, or those located in parks or general common spaces. Councilmember McGehee opined that some of the issues of importance to her included grouping trees or massing them to identify certain areas; recognizing the flyway migratory areas; retaining vegetation in natural areas; diversity with boulevard tree planning, as well as its spacing for maintenance and to ensure tree survival, and how to address use of underground stormwater storage in irrigating trees. Councilmember McGehee also noted her concerns heard from residents in their lack of confidence with tree inspections requiring the expensive removal of apparently diseased trees, and subsequent discovery when analyzed by the U of MN that they were not actually diseased at all. Councilmember McGehee expressed her lack of support for planting elsewhere in lieu of the immediate development area, opining that provided nothing but wasteland in some areas and overcrowding in other areas. Councilmember McGehee further noted a recent newspaper article about one old growth tree species (the state's largest Butternut tree) in the community that needed to be preserved.

Councilmember Willmus agreed with Councilmember McGehee in the need to call attention to old growth trees, with much of the tree planning occurring as the community grew from farmland to residential during the 1950's through 1970's; and impressive growth achieved without any actual tree preservation plan in place. During the Pulte Housing Development project, Councilmember Willmus admitted it had served as a real eye opener for the City Council in clear-cutting that area for

development and replacing those trees that may be found lacking from some perspectives. Councilmember Willmus clarified that he was not interested in an ordinance governing or requiring a private resident to cut down an old tree or having to approach City Hall to get a replacement tree permit, but was more concerned with an ordinance addressing subdivisions or redevelopment and consistent and fair questions to ask as part of that process.

While recognizing that the Planning Commission as a body didn't have authority over what the City Council ultimately adopted as an ordinance, Chair Boguszewski noted the individual comments of commissioners, and their willingness to serve on a task force or advisory board to assist the City Council in their efforts.

Mayor Roe noted that got back to the balance question and what triggered enforcement; and his tendency to agree with Councilmember Willmus' interest in a reasonable approach to promote adding trees, but recognizing while there may not be much old growth from a technical sense, the community still had some significant trees.

Councilmember Etten agreed that it was necessary to decide the City's purpose in having such an ordinance, with an excellent list available in the annual Arbor Day Resolution addressing the City's regulatory function and benefits for the community and its overall health and public good. Councilmember Etten noted the involvement of the Tree Board as part of the Emerald Ash Borer (EAB) infestation; and encouraged Mr. Gozola and Reeder to review the staff RCA prepared for the November 17, 2014 and past discussions. While perhaps not being a desirable species, Councilmember Etten noted there was value in a 70' tall Cottonwood tree as a significant tree, even though not considered a specimen tree, a common sight in Roseville. Councilmember Etten expressed his interest in incentives to preserve such trees; and noted his frustrations in not tying together a tree preservation plan drawing with the grading plan drawing during review of land use cases during the Planning Commission and City Council review, opining that they needed to go together to understand the overall impact of building in a readable format. Under current code, Councilmember Etten noted the negative potential to clear all trees in the right-of-way, such as evidenced near Lady Slipper Park on West Owasso Boulevard, but recognizing the positive impact with the replacement berm embankment and appreciation of it as a justification to clear the area, and not just because it happened to be on the right-of-way. Councilmember Etten noted the big impacts to neighborhoods, and solar considerations to address and how to balance those interests as part of the process.

In referencing the previously-noted Pulte Development, Councilmember McGehee noted the need to address tree protection during the construction process, and her concern in the impacts of the Oaks with compaction of their root mass during that construction process, without any guidelines in place to address that.

Councilmember Etten also addressed the Pizza Lucé development as an example and the lack of staff resources to continually monitor every development without professional assistance to maintain quality trees.

Councilmember Laliberte expressed her appreciation of this presentation and examples from other communities. Councilmember Laliberte stated her biggest concern was with the Pulte Project serving as a wake-up call for her in the potential for clear-cutting trees and starting from scratch. Councilmember Laliberte agreed that she was not interested in the city assessing or approving a private property owner's need to remove a tree for insurance and/or structure issues, nor in their being required to jump through hoops to accomplish that work, given the expensive nature of such a venture to remove a tree already. Councilmember Laliberte spoke in support of coordinating with various departments and commissions as an integrated part of the decision-making process for the City Council

and addressing where responsibilities lie and where final decisions were made; and whether current staffing or a different staffing model was indicated as part of the process moving forward.

City Manager Trudgeon thanked Councilmember Willmus for bringing the Tree Board to his attention; noting they did not currently have a direct role in reviewing tree preservation, which was often tied to development. However, Mr. Trudgeon noted the need to include their perspective related to shade trees, pests, and boulevard issues; and noted the need to reconcile their role with this discussion.

Mayor Roe opined that the City's first attempt at a tree preservation ordinance was good, but now it was time to refine it. As noted by Councilmember Etten and the discussion held in November of 2014, Mayor Roe opined that fairly reflected the thoughts of the City Council, and while there may be a difference of opinion among individual Councilmembers about ultimate triggers, the policy decision needed to be made. Mayor Roe indicated that to begin that process, a draft ordinance would provide something for the City Council to respond to, while hoping tonight's input had provided some parameter within which to start that work.

Mr. Gozola thanked the City Council for their overall direction, noting he was not hearing anything to indicate the points already pointed out were not out-of-line or off-base, but still grounded in what the City hoped to accomplish. Mr. Gozola thanked Planning Commissioners for their input as well; and expressed his interest in bringing all boards and departments into the consultation process. Since this is the first introductory meeting held, Mr. Gozola noted next steps would be to review this discussion with staff, define a cost to develop an ordinance, with nothing signed to-date; and bringing that proposal back to the City Council with a plan about how to get the city where they thought they wanted to go.

Mayor Roe opined that the preservation areas provided an interesting concept (e.g. Acorn Road) that may indicate different replacement rates, as well as credits for off-site replacement and/or tree "banking," all of which he found worthy to look at. Mayor Roe opined that the "cash in lieu of" for trees could fund those wanting to put up a tree and the ability to do so at a reduced cost, offering his interest in looking at that concept.

Based on earlier comments and what additional information was needed, Councilmember Laliberte noted the need to have all departments aligned and working together. Recognizing the position for a Forester posted earlier this year, Councilmember Laliberte noted the need to hear more options: whether a staff position was preferable, or an outside consultant or business; or whether the City's role was to get involved in the business or identifying good or bad trees beyond disease issues (e.g. EAB) to avoid being seen as "tree snobs."

Along those lines of good or bad trees, Councilmember McGehee noted the need to avoid encouraging planting of noxious invasive trees, but also providing a general list of trees that differentiated between native or non-native plantings rather than trying to define all tree species; but only those not serving to encroach further.

Memorandum

DATE: 8/24/15

TO: Roseville City Council

FROM: Ben Gozola, AICP

SUBJECT: Tree Preservation Ordinance Update

Overview

As requested by the City Council at our last meeting on July 6th, Sambatek and S&S Tree Specialists have penned a draft Tree Preservation Ordinance for the City's consideration. As directed, we have brought our initial draft directly to Council to ensure we are on the right track before scheduling a public hearing. General goals we were asked to achieve included:

- *Needing to identify a solid purpose for the regulations.*
- *Categorize by tree type in some manner (i.e. High Quality Trees, Common Trees, Less Desirable Trees, Remove/Prohibited), but be more generalized in what we're protecting (recognizing the public wants a 24" Cottonwood protected just as much as a 24" Oak).*
- *Provide incentives to preserving trees.*
- *Require an easy-to-read and understand "tree loss" plan with development applications (i.e. the tree inventory + grading plan impacts = tree preservation plan).*
- *Consider limiting allowed removals (i.e. don't allow all trees in planned ROW to be removed outright).*
- *Require tree protection fencing during development*
- *Don't make individual property owners jump through permitting hoops to remove trees*
- *Ensure proper City review both before and after development.*
- *Consider implementing a cash-in-lieu of trees program that could fund trees for public grounds, open space, boulevards, or even a subsidized program for private plantings.*

First Draft

The initial draft is organized as follows

- (A) Intent and Purpose** – The intent and purpose section draws from both the existing ordinance and the City’s past Arbor Day resolutions to explain why these regulations are necessary.
- (B) Applicability** – Rather than tie these new regulations to a term like “land alteration,” we’ve elected to identify already existing permit applications that would trigger tree preservation requirements:
 - a. Platting, re-platting, or any lot division;
 - b. Any building permit for a new principal structure, or any building permit that would expand the footprint of an existing principal structure by more than 50%;
 - c. Demolition permits that would remove 50% or more of a principal structure;
 - d. A grading permit that would disturb (an as-of-yet determined) amount of ground cover or relocate an (an as-of-yet determined) amount of dirt.

Each of the above application types would need to provide a tree preservation plan set prior to the application being deemed “complete” City staff.

- (C) Exemptions** – to ensure clarity on things that are not covered by this ordinance, we list upfront that tree removal for city public improvement projects or repairs AND emergency removal of trees to protect public health are outright allowed and are not subject to tree preservation or replacement standards.
- (D) Trees Required to be Inventoried** – In recognition that the general public values green vegetation and isn’t necessarily fixated on the quality of trees, we have deviated from inventorying only specific tree types in favor of inventorying ALL trees that meet a minimum size regardless of their health or quality.
- (E) Tree Classifications** – Whereas subsection “D” identifies everything that must be inventoried, this section recognizes that not all inventoried trees will carry the same level of importance. Getting back to the fact that “a tree is a tree” in the eyes of the public, large trees (regardless of species) are given higher classifications than smaller trees. Note that small trees that are either rare or of exceptional quality can be assigned a higher classification if deemed exceptional by a forester, or if approved by the City Forester to be a focal point of a development.

Per the proposed language, the following trees would be exempt from the inventory:

- a. Invasive Species that must be removed anyway;
- b. A tree suffering from a major insect infestation or pathological problem that cannot be resolved;
- c. A tree experiencing extensive decay or hollow;
- d. A tree that has suffered damage or is in poor condition such that its life expectancy is less than ten (10) years.

(F) Incentive Multipliers – “Incentive Multipliers” are essentially replacement rates for each classification type, but we are also using them to provide bonuses when trees are preserved over and above what is required. We demonstrate how they function within subsection (G).

(G) Tree Preservation Plan Set Required – This section details what plans sets must be provided with the triggering application. Things to note about this section include:

- a. We are suggesting the City no longer allow a surveyor to prepare the plans as such inventories often times include misidentified trees, and expertise is needed to identify “exempt” trees.
- b. Two years would be the validity period for a tree inventory.
- c. The four components of the required plan will bring clarity to the tree preservation process. At its core, this process will identify what exists *before* activities occur, what areas will be impacted by the proposed activity, and what the site will look like following activity. A required matrix (example below) will provide staff with an easy-to-reference summary of what is required on any given site.

	Number of Trees	Number of Caliper Inches	Allowed Removal %	Allowed Removal in Inches	Actual Removal in Inches	Net Removal or Net Preservation	Incentive Multiplier	Final
<i>Heritage</i>	3	120	15%	18	0	18	2	36
<i>Specimen</i>	5	60	35%	21	-30	-9	1	-9
<i>Common</i>	8	48	35%	17	-48	-31	0.5	-16
<i>Exempt</i>	12	64	100%	64	-64	0	0	0
Total:	28	292		120	-142	-22		11

(H) Tree Preservation Simplified Plan Set – Mimicking current code, a simplified plan set will still be permissible in certain circumstances. For this section, we have elected to get more specific on what information must be provided, and have created a graphic to illustrate the City’s intent and make understanding this subsection simple and straightforward. We have also included language that will allow these plan sets when minimal tree loss will clearly be within the allowed removal thresholds to save residents money when issues are very straightforward.

(I) Allowable Tree Removal – The major concerns we heard about the current tree preservation ordinance focused more on process than on results, so we’ve elected in this section to keep existing replacement rates. Note that while 35% of both “significant” and “common” trees may be removed, the incentive multipliers (1.0 and 0.5 respectively) will encourage developers to preserve larger trees over smaller trees.

We are currently running various numbers against two recent developments to see how this system would have worked in the field, and may suggest changes at a later time.

(J) Replacement Tree Specifications – Replacement tree requirements largely mimic existing standards. Suggested improvements to this section include putting the City in charge of determining replacement trees when heritage trees are removed (thereby providing another disincentive to heritage tree removals), and allowing the applicant to suggest all other replacement types subject to review and approval by the City.

Other things accomplished in this section include:

- a. As requested, replacement trees will now count towards required landscaping.
- b. Subsection (7) spells out *where* replacement trees must be planted. Importantly, we are currently requiring all plants to be placed on-site unless a certain condition exists (impractical, inappropriate, or counterproductive). In those cases, trees may be planted on boulevards or other public lands as directed by the City, or the applicant may provide cash-in-lieu of replacement inches.

By policy, we would recommend all such funds be placed in a special City Tree Fund used specifically to fund the planting of trees where needed throughout the community (public lands, boulevards, etc). A second idea floated that we would encourage is to set up a “City Beautiful” grant program that would subsidize a portion of tree costs for private residents. Such a policy should require trees to be planted in front yards or areas highly visible to the public on a given property.

(K) Tree Protection Required – Tree protection fencing requirements established in this section are largely similar to existing requirements with the following exceptions:

- a. We are proposing new pruning standards for oak and elm trees which include flexibility should pruning need to be done during prohibited time frames.
- b. We dis-incentivize after-the-fact/unplanned loss of trees by upping replacement rates by ½ inch for every inch removed for each category of tree.
- c. If an unplanned tree is lost due to development, we are requiring the applicant to provide a planting plan showing how they will conform to the replacement penalty.

(L) Certification of Compliance with Approved Landscape Plan – this is unchanged existing language.

(M) Warranty Requirement – this is unchanged existing language.

(N) Entry on Private Property and Interference with Inspection – this is unchanged existing language.

Next Steps

Sambatek and S&S Tree Specialists will utilize the additional feedback we receive on the 24th to draft a final ordinance to be considered at a public hearing before the Planning Commission. Because the proposed language represents a substantial reorganization of the existing rules, the ordinance will be drafted to simply repeal all of existing Section 1011.04, and replace it with the new language.

We look forward to seeing you on the 24th!

City of Roseville
DRAFT Tree Preservation Ordinance
City Council Review
8-24-15

1 **Definitions Needed (work in progress):**

2 **Caliper Inch Measurement** – *The standard of tree trunk measurement for replacement trees. The*
3 *caliper inch measurement of the trunk shall be taken at six (6) inches above the ground for trees*
4 *up to and including four (4) inch caliper size, and twelve (12) inches above the ground for trees*
5 *larger than four (4) inch caliper.*

6 **Coniferous/Evergreen Tree** – *A woody plant having foliage on the outermost portions of the*
7 *branches year-round which at maturity is at least twelve (12) feet or more in height. Tamaracks*
8 *and Larch are included as coniferous tree species.*

9 **Deciduous Tree** – *A woody plant, which sheds leaves annually, having a defined crown and at*
10 *maturity is at least fifteen (15) feet or more in height.*

11 **Diameter Breast Height (DBH).** *The diameter of trees at breast height, measured 4 ½ feet (54*
12 *inches) above the ground.*

13 **Ground Cover** – **(TBD)**

14 **Invasive.** *Any tree species that is not native to Minnesota or its regional ecosystem that can*
15 *spread or be spread into any non-cultivated soil site and establish itself, expanding the plant*
16 *species' population by its own volition and generally harm, destroy or prevent native plants.*
17 *Invasive tree species include Norway Maple, Black Locust, Amur Maple, Siberian Elm, and*
18 *Buckthorn.*

19 **Typical Root Protection Zone** – *A circle radius around a tree in feet equal to 1.25 times the tree's*
20 *diameter breast height for both deciduous and coniferous trees.*

1 **1011.04 Tree Preservation and Restoration in All Districts**

2 **A. Intent and Purpose**

3 The City of Roseville recognizes that trees are a significant element of the community given
4 their beauty (adding color and interest to the urban landscape, and being a source of joy and
5 spiritual renewal for many), their importance to the environment (purifying air and water,
6 helping to conserve soil and energy, reduction of noise and energy consumption, and
7 providing valuable habitat for all kinds of wildlife), and their positive impact on property
8 values (by providing buffering, protection of privacy, and a unique sense of place within
9 neighborhoods).

10 The purpose of this section is to protect and promote this important resource by:

- 11 1. Ensuring trees are protected when they are most vulnerable: during times of development;
- 12 2. Establishing reasonable requirements for replacement of significant trees lost due to
13 development;
- 14 3. Incentivizing the protection and planting of trees at all times for the benefits they provide;
- 15 4. Instituting plan requirements to ensure tree losses can be identified prior to development,
16 and that adequate replacement plantings will occur following land disturbances;
- 17 5. Providing for fair, effective, and consistent enforcement of the regulations contained
18 herein.

19 **B. Applicability**

20 The regulations in this section shall apply to any individual, business or entity that applies for
21 one of the following permits or approvals:

- 22 1. An application for platting, re-platting, or any lot division application that will result in
23 the creation of one or more new parcels; and
- 24 2. A building permit application to construct a new principal structure or seeking to expand
25 the footprint of an existing principal structure by more than 50%;
- 26 3. A demolition permit seeking to remove more than 50% of a principal structure in
27 anticipation of immediate or future redevelopment.
- 28 4. A grading permit seeking to add, remove, or relocate more than **__ cubic yards** of dirt, or
29 disturb more than **_____ square feet** of ground cover.

30 **C. Exemptions**

31 The following activities are exempt from the requirements of this Section:

- 32 1. Tree removal related to city public improvement projects or repairs;
- 33 2. Emergency removal of a tree or trees to protect public health.

1 **D. Trees Required to be Inventoried**

2 All deciduous trees measuring a minimum of six (6) inches at Diameter Breast Height (DBH),
3 and all coniferous trees that are twelve (12) feet or more in height, shall be identified on the
4 tree preservation plan sets required by this section.

5 **E. Tree Classifications**

6 All trees required to be inventoried shall be assigned a classification as follows:

7 **1. Heritage Trees:**

- 8 a. All deciduous trees measuring equal to or greater than twenty-seven (27) inches at
9 DBH, and all coniferous trees measuring equal to or greater than fifty (50) feet in
10 height.
- 11 b. A smaller tree can be considered a heritage tree if:
- 12 i. A registered forester or certified arborist determines it is a rare or unusual species
13 or of exceptional quality, or
- 14 ii. If it is specifically used by a developer as a focal point in a development project,
15 and the Community Development Department concurs with the designation given
16 the tree’s location, species, and/or likelihood to become a prominent feature of the
17 development.

18 **2. Significant Trees:**

- 19 a. All deciduous trees with DBH measurements of twelve (12) inches or greater, but less
20 than twenty-seven (27) inches.
- 21 b. All coniferous trees that are twenty-five (25) feet tall or greater, but less than fifty (50)
22 feet in height.

23 **3. Common Trees:**

- 24 a. All deciduous trees with DBH measurements of six (6) inches or greater, but less than
25 twelve (12) inches.
- 26 b. All coniferous trees that are twelve (12) feet tall or greater, but less than twenty-five
27 (25) feet in height.

28 **4. Exempt:**

29 In lieu of one of the above classifications, an inventoried tree may be classified as
30 “Exempt” if a registered forester or certified arborist certifies that one or more of the
31 following conditions are met:

- 32 a. The tree is identified as an Invasive Species and must be removed.
- 33 b. The tree suffers from a major insect or pathological problem that cannot be resolved;
- 34 c. The tree is experiencing extensive decay or hollow; or

- 1 d. The tree has suffered damage or is in poor condition such that it has a life expectancy
2 of less than ten (10) years.

3 **F. Incentive Multipliers**

4 To incentivize the protection and preservation of the most important trees within the
5 community, the following incentive multipliers are to be used against the net preservation or
6 loss shown on a tree preservation plan as required in Section 1011.04(G):

- 7 1. Heritage Trees: 2.0
8 2. Significant Trees: 1.0
9 3. Common Trees: 0.5

10 **G. Tree Preservation Plan Set Required**

11 At the time of application for preliminary plat, grading permit, demolition permit or building
12 permit which includes the demolition of a principal structure; a tree preservation plan meeting
13 the following requirements, or a simplified plan set as outlined in 1011.04(H), shall be
14 submitted by the applicant (failure to provide a complete tree preservation plan set shall be
15 grounds to deem an application incomplete):

- 16 1. The tree preservation plans shall be prepared and signed by a registered forester or
17 certified arborist.
- 18 2. The preparation date of all tree preservation plan components shall not precede the date of
19 application by more than two (2) years.
- 20 3. The tree preservation plan set shall consist of four (4) components.
- 21 a. An **overall tree inventory** including the following information:
- 22 i. Location, diameter, unique identifier, and species of all trees on the site;
- 23 ii. Location, diameter, unique identifier, and species of all adjacent significant trees
24 on adjacent property whose typical root protection zone extends on to the subject
25 property.
- 26 iii. Trees on the subject property shall be tagged and numbered with the unique
27 identifier assigned to the tree as part of the overall tree inventory.
- 28

- 1 b. A **disturbance plan** showing the overall tree inventory in relation to the following
2 and including:
- 3 i. Identification of which significant trees are:
- 4 1. Protected, preserved, or undisturbed;
- 5 2. Removed or disturbed (the typical root protection zone will be impacted); and
- 6 3. Exempt [per Section 1011.04(E)(4)].
- 7 ii. Proposed grading contours of the site.
- 8 iii. Proposed location of building pads and other impervious surfaces being installed.
- 9 iv. Proposed disturbance zones (due to construction, grading, utility installations and
10 other development activities) as identified by cross-hatching or gray-colored
11 shading on the plan.
- 12 v. Identification of the typical root protection zone for all trees proposed for
13 preservation, and for all inventoried off-site trees shown on the inventory.
- 14 vi. Proposed locations and details of tree protection fencing to be installed for all trees
15 to be preserved.
- 16 c. A **final planting plan** showing:
- 17 i. The final inventory of existing trees to remain on-site following completion of all
18 development activities.
- 19 ii. Location, diameter, and species of all proposed replacement trees in conformance
20 with Section 1011.04(J).
- 21 iii. Location, diameter, and species of all required landscaping as required by Section
22 1011.03.
- 23 d. A **matrix of inventoried trees** that meets the following specifications:
- 24 i. Data for each tree shall include:
- 25 1. A unique identification number assigned to each tree that identifies the tree on
26 the preservation plan sets;
- 27 2. The tree's classification as defined in Section 1011.04(E);
- 28 3. The tree's species or common name;
- 29 4. The actual size of deciduous trees at diameter breast height; and for coniferous
30 trees, the following diameter breast heights based on their classification:
- 31 a. Heritage Coniferous Tree: 24 inches
- 32 b. Significant Coniferous Tree: 16 inches
- 33 c. Common Coniferous Tree: 8 inches
-

- 1 5. An indication as to whether the tree is intended for removal, intended to be
- 2 preserved, or is exempt due to the condition of the tree or the location of the
- 3 tree in an allowed removal area.

- 4 ii. A summary table shall be provided which includes the following:
 - 5 1. The total number of inventoried trees on the site broken down by Heritage
 - 6 Trees, Significant Trees, Common Trees, and Exempt Trees;
 - 7 2. The total number of diameter breast height inches on the site broken down into
 - 8 Heritage Trees, Significant Trees, Common Trees, and Exempt Trees;
 - 9 3. The total number of allowed diameter breast height inches that can be removed
 - 10 without replacement per Section 1011.04(I);
 - 11 4. The total number of diameter breast height inches planned for removal broken
 - 12 down by Heritage Trees, Significant Trees, Common Trees, and Exempt Trees;
 - 13 5. The net diameter breast height inches being preserved or removed in relation to
 - 14 allowed removal for each tree type;
 - 15 6. A denotation of the incentive multiplier for each tree type: Heritage Trees (x2),
 - 16 Significant Trees (x1), Common Trees (x0.5), and Exempt Trees (x0).
 - 17 7. The final product of diameter breast height inches being preserved or removed
 - 18 multiplied by the incentive multiplier;
 - 19 8. The final sum of removals and credits following consideration of the incentive
 - 20 multiplier. Final numbers reflect caliper inches.

Example Summary Table:

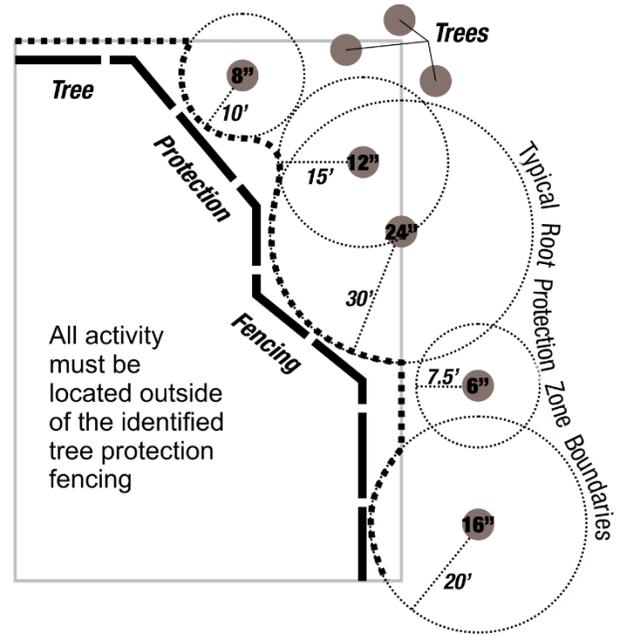
	Number of Trees	Number of Diameter Inches	Allowed Removal %	Allowed Removal in Inches	Actual Removal in Inches	Net Removal or Net Preservation	Incentive Multiplier	Final Caliper Inches
<i>Heritage</i>	3	120	15%	18	0	18	2	36
<i>Specimen</i>	5	60	35%	21	-30	-9	1	-9
<i>Common</i>	8	48	35%	17	-48	-31	0.5	-16
<i>Exempt</i>	12	64	100%	64	-64	0	0	0
Total:	28	292		120	-142	-22		11

H. Tree Preservation Simplified Plan Set

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1. At the discretion of the Community Development Department, a simplified Tree Preservation Plan may be submitted when trees do not exist on the site or when no activity is planned within the typical root protection zone of existing trees. Simplified plans, when pre-approved for submittal, shall include the following information:

- a. Location of trees (both on and adjacent to the property) and their typical root protection zones which form the boundary of vegetation being protected during the proposed activity;
- b. Proposed grading contours of the site (if applicable);
- c. Proposed location of building pads and other impervious surfaces being installed;
- d. Proposed locations and details of tree protection fencing to be installed for all treed areas to be protected.



2. At the discretion of the Community Development Department, a simplified Tree Preservation Plan may also be submitted when a significant majority of trees will be preserved on a site, and the few trees to be impacted within the area of activity will clearly not exceed allowed removal thresholds.
3. An escrow as required by 1011.04(M) shall still be required for any activity which can be permitted with a simplified Tree Preservation plan set.

I. Allowable Tree Removal

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1. In conjunction with platting, re-platting, or any lot division application that will result in the creation of one or more new parcels, the tree preservation plan set approved as part of the development shall dictate tree preservation requirements on all new lots until such time as the lots have been developed for their intended purpose.
- a. Inventoried trees within right-of-way(s) or easement(s) that are being used for the installation of public streets, utilities, or storm water ponding areas may be removed without required replacement.

1 b. Of all remaining inventoried trees not exempt per Section 1011.04(I)(1)(a) above, up to
2 to 15% of the total DBH-inches of all Heritage trees, up to 35% of the total DBH-
3 inches of all Significant trees, and up to 35% of the total DBH-inches of all Common
4 trees may be removed without tree replacement or restitution subject to the incentive
5 multipliers listed in Section 1011.04(F);

6 c. The required final planting plan shall identify the final allowed tree removal for each
7 lot within the proposed development.

8 **2.** Properties that are subject to the Tree Preservation requirements of Section 1011.04 due to
9 a requested building, demolition, or grading permit shall determine allowable removal
10 based on the following:

11 a. If a tree preservation plan set was previously approved for the site within two (2) years
12 of the application date, then the approved plan set shall dictate allowed removals on
13 the lot.

14 b. If the subject lot is not party to a previously approved tree preservation plan set, then
15 up to 15% of the total DBH-inches of all Heritage trees, up to 35% of the total DBH-
16 inches of all Significant trees, and up to 35% of the total DBH-inches of all Common
17 trees may be removed without tree replacement or restitution subject to the incentive
18 multipliers listed in Section 1011.04(F).

19 **J. Replacement Tree Specifications**

20 **1.** Minimum sizes for replacement trees shall be:

21 a. Deciduous Trees: 3-inch caliper

22 b. Coniferous Trees: 6 feet in height

23 **2.** Replacement trees shall be from balled and burlapped, certified nursery stock as defined
24 and controlled by MN Stat. 18.44 through 18.61, the Plant Pest Act, as may be amended
25 from time to time. Replacement trees may also be from bare root stock, provided the trees
26 are planted no later than May 15th in any year, and the planting is inspected by the City
27 Forester or other local official as determined by the Community Development
28 Department.

29 **3.** Replacement trees shall be covered by a minimum 2-year guarantee.

30 **4.** When heritage trees are removed, replacement tree options shall be as determined by the
31 City Forester or other local official as determined by the Community Development
32 Department.

- 1 **5.** Replacement trees for significant and common trees may be selected by the applicant, but
2 all final planting plans shall be subject to review and approval by the City Forester or
3 other local official as determined by the Community Development Department, who will
4 determine whether the proposed trees are suitable to the site, are well placed, and
5 accomplish local diversity goals.
- 6 **6.** Replacement trees may be utilized to meet landscaping and screening requirements if
7 placement, species, and location are consistent with those requirements.
- 8 **7.** Replacement Tree Locations. Required replacement trees shall be planted on the site
9 being developed unless doing so is deemed to be impractical (i.e. due to lack of space),
10 inappropriate (available planting areas are not ideal for new plantings or would do little to
11 enhance the site), or counterproductive to a property's intent (i.e. would entail too much
12 screening for a retail business) as determined by the City Forester or other local official
13 assigned by the Community Development Department. When such a determination is
14 made, the applicant shall comply with replacement requirements in one of two ways:
- 15 a. As directed by the City, required replacement trees may be located on public
16 boulevards or other public lands throughout the City if such lands are deemed to be
17 available; or
- 18 b. The city may accept a payment of \$100.00 per required caliper inch of replacement
19 tree.

20 **K. Tree Protection Required**

21 All trees which are to be retained on a site shall be marked and physically protected from
22 harm or destruction caused by soil compaction, equipment and material storage within the
23 typical root protection zone, bark abrasions, changes in soil chemistry, out-of-season pruning,
24 and root damage during construction.

- 25 **1.** Before any construction or grading of any development project occurs, a "safety fence"
26 per the approved tree preservation plan shall be erected meeting the following
27 requirements:
- 28 a. Must be at least 4 feet in height and staked with posts no less than every 5 feet.
- 29 b. Shall be placed around the typical root protection zone borders of woodlots and/or the
30 typical root protection zone of trees to be preserved per the approved tree preservation
31 plan.
- 32 c. Signs shall be placed along the fence line identifying the area as a tree protection area,
33 and prohibiting development activities beyond the fence line.
- 34 **2.** The tree protection fencing shall remain in place until all grading and construction activity
35 is terminated.
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- 1 **3.** No equipment, construction materials, or soil may be stored within the typical root
2 protection zone of any inventoried tree to be preserved.
- 3 **4.** Care must be taken to prevent a change in soil chemistry due to concrete washout and
4 leakage or spillage of toxic materials such as fuels or paints.
- 5 **5.** Drainage patterns on the site shall not change considerably causing drastic environmental
6 changes in the soil moisture content where trees are intended to be preserved.
- 7 **6.** Pruning of oak trees and elm trees shall be subject to the following requirements:
- 8 a. Pruning of Oak trees shall not occur from March 15th through July 1st.
- 9 b. Pruning of Elm trees shall not occur from April 1st through August 31st.
- 10 c. On a year to year basis, the City Council may alleviate or extend the above seasonal
11 restrictions by resolution if, in its opinion, the same is necessary for the betterment of
12 city wide oak and elm tree populations.
- 13 d. If pruning of either tree type is absolutely necessary during prohibited timeframes, the
14 city shall be notified before work begins, and the landowner shall be required to seal
15 all wounds with a proper wound sealing paint authorized by the City Forester or other
16 local official assigned by the Community Development Department.
- 17 **7.** Unplanned Loss of Trees.
- 18 a. Any tree, not previously identified for removal, that is determined by the City Forester
19 or other local official assigned by the Community Development Department to be
20 destroyed or damaged as a result of development activity shall be replaced at the
21 following rates:

Catagory	Replacement Rate
Heritage Trees	2.5
Significant Trees	1.5
Common Trees	1.0

- 22 b. Unauthorized tree removal which results in mandatory replacement shall require the
23 applicant to prepare or update a final planting plan as required by Section
24 1011.04(G)(3)(c). Replacement plantings shall only occur once authorized by the City
25 Forester or other local official assigned by the Community Development Department.
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1 **L. Certification of Compliance with Approved Landscape Plan**

2 Upon completion of construction activity and/or required landscaping, the Developer shall
3 notify the City and request an inspection of the work. Following the inspection, the City shall
4 notify the Developer that additional work is still required, or issue a letter finding that all
5 plantings have been satisfactorily completed. The required warranty period for plantings shall
6 begin on the date of the issued satisfactory completion letter.

7 **M. Warranty Requirement**

- 8 **1. New Development Sites:** the Developer shall provide a financial guarantee, in a form
9 satisfactory to the City, prior to the approval or issuance of any permit for land alteration
- 10 a. The amount of the guarantee shall be 125% of the estimated cost to furnish and plant
11 replacement trees. The estimated cost shall be provided by the Developer subject to
12 approval by the City. The estimated cost shall be at least as much as the reasonable
13 amount charged by nurseries for the furnishing and planting of replacement trees. The
14 City reserves the right in its sole discretion to determine the estimated cost in the event
15 the Developer's estimated cost is not approved.
- 16 b. The security shall be maintained for at least 2 years after the date that the last
17 replacement tree has been planted. Upon a showing by the Developer and such
18 inspection as may be made by the City, that portion of the security may be released by
19 the City equal to 125% of the estimated cost of the replacement trees which are alive
20 and healthy at the end of such year. Any portion of the security not entitled to be
21 released at the end of the year shall be maintained and shall secure the Developer's
22 obligation to remove and replant replacement trees which are not alive or are
23 unhealthy at the end of such year and to replant missing trees. Upon completion of the
24 replanting of such trees the entire security may be released.
- 25 **2. Development or Redevelopment of Existing Lots:** The developer shall provide a cash
26 escrow in the amount of \$500.00 to guarantee compliance with the requirements of this
27 Ordinance. Said security shall be released upon certification of compliance by the
28 developer to the satisfaction of the City. Notwithstanding the foregoing, no portion of the
29 security shall be released while there are unsatisfied Developer's obligations to indemnify
30 the City for any expenses in enforcing this requirement.
- 31 **3. The City may retain from the security required above as reimbursement an amount**
32 **expended by the City to enforce the provisions of this Section.**
- 33

1 **N. Entry on Private Property and Interference with Inspection**

2 The Community Development Department may enter upon private premises at any reasonable
3 time for the purposes of enforcing the regulations set forth in this Section. No person shall
4 unreasonably hinder, prevent, delay, or interfere with the Community Development
5 Department while engaged in the enforcement of this Section.