

City Code Chapter 11, Section 11.60, Subdivision 9:

Sec. 11.60 PERFORMANCE STANDARDS.

**Subd. 9. Tree Management Regulations.** The following requirements and standards shall apply to any Development on any parcel of land containing a Tree and for which a preliminary plat, minor subdivision, building permit, or grading permit, conditional use permit, variance, fence permit, or grading permit is required. (Amended, Ord. 656, March 27, 2003; Ord. 791, April 17, 2008)

**A. Definitions.**

“**Applicant**” means any person proposing a Development.

“**Caliper Inch**” means the measurement of a tree trunk measured at six (6) inches above the root ball or according to the method of caliper measurement of a tree trunk as stated by the most recent *American Standard for Nursery Stock* by the American Nursery & Landscape Association. (Added, Ord. 791, April 17, 2008)

“**Development**” means any activity for which a preliminary plat, minor subdivision, building permit, conditional use permit, variance, fence permit or grading permit is required on land containing a Tree. (Amended, Ord. 791, April 17, 2008)

“**Diameter at Breast Height**”, or “**DBH**”, means the length of a straight line through the trunk of a tree (in inches) measured at fifty-four (54) inches above the ground from the uphill side of the Tree. (Amended, Ord. 791, April 17, 2008)

“**Dormant Season**” means the time between leaf drop in the fall and early spring before budbreak. (Added, Ord. 791, April 17, 2008)

“**Dripline**” means an imaginary vertical line that extends from the outermost branches of a Tree’s canopy to the ground. (Added, Ord. 791, April 17, 2008)

“**Forestry Specialist**” means a Tree inspector or forester certified by the State of Minnesota. (Added, Ord. 791, April 17, 2008)

“**Growing Season**” means the time between budbreak in the spring and leaf drop in the fall. (Added, Ord. 791, April 17, 2008)

“**Hazard Tree**” means a Tree posing a threat to property or people that has visible hazardous defects such as dead wood, cracks, weak branch unions, decay, cankers, root problems, or poor tree architecture as defined by the United States Department of Agriculture – Forest Service – Northeastern Area’s publication *How to Recognize Hazardous Defects in Trees* (NA-FR-01-96). (Added, Ord. 791, April 17, 2008)

“**Heritage Tree**” means a Tree that has all of the following characteristics: (Added, Ord. 791, April 17, 2008)

1. Is a deciduous tree;
2. Has a DBH equal to or greater than twenty-four (24) inches (a lesser size Tree may be considered to be a Heritage Tree if it is a rare species or can be utilized as a focal point in the project):
3. Has a life expectancy of greater than ten (10) years; and

4. Has structural integrity and shows no visible defects that would cause it to be classified as a Hazard Tree;

**“Natural Resources Corridor Map”** means the City’s most recently adopted Natural Resources Corridor map. This map is incorporated into the City’s Comprehensive Plan through the Natural Resource Plan Component. (Added, Ord. 791, April 17, 2008)

**“Natural Resource Corridor Priority Ranking”** means the areas identified as Good, Better, Best, or Buffer on the Natural Resources Corridor Map. (Added, Ord. 791, April 17, 2008)

**“Replacement Tree”** means a two (2) Caliper Inch balled and burlapped Tree planted consistent with Section 7.05 and 7.18 of the City Code. (Added, Ord. 791, April 17, 2008)

**“Residential Building Permit”** means any building permit or fence permit required by Section 4.03 of the City Code for property used as a single family dwelling unit. Examples include, but are not limited to, sheds, decks, porches, garages, swimming pools, fences or building additions. (Added, Ord. 791, April 17, 2008)

**“Tree”** means a living specimen of a woody plant species that is either a deciduous Tree whose diameter is six (6) inches or greater at DBH, or a coniferous Tree whose height is twelve (12) feet or greater.

**“Tree Management Plan”** is the Tree inventory, removal, preservation, and replacement plan for a site where an Applicant proposes to remove a Tree. (Added, Ord. 791, April 17, 2008)

**“Tree Protection Fencing”** means orange snow fencing or polyethylene laminate safety netting placed at the Dripline of Trees to be preserved. (Added, Ord. 791, April 17, 2008)

**B. Tree Management Plan Requirements.** (Amended, Ord. 791, April 17, 2008)

1. Any Applicant who desires to remove any Tree on any parcel of land must submit a Tree Management Plan to the City and must demonstrate that there are no feasible or prudent alternatives to removing any Tree. (Amended, Ord. 791, April 17, 2008)
2. The Tree Management Plan for a Development requiring a preliminary plat, minor subdivision, commercial building permit, conditional use permit, variance or grading permit must be completed by a Forestry Specialist and consist of the following information: (Amended, Ord. 791, April 17, 2008)
  - a) **Tree Inventory Sheet** – A survey depicting the location of all existing Trees on the property and the Natural Resource Corridor Priority Ranking for each Tree. Each Tree shall be labeled with a unique identification number. (Added, Ord. 791, April 17, 2008)
  - b) **Tree Removal/Preservation Sheet** – A scaled drawing depicting the locations of the Trees to be preserved and Tree Protection Fencing. Trees intended for removal shall be clearly distinguishable from those intended for preservation. Proposed lot lines, building pads, driveways, streets, easements, and any areas in which Tree removal is expected shall be shown. (Added, Ord. 791, April 17, 2008)
  - c) **Tree Inventory Legend Sheet** – A page providing a matrix or table listing the unique identification number for the Tree(s), the species or common name of the Tree(s), the size in Caliper Inches at DBH, and an indicator as

to whether the Tree is intended for removal or preservation. (Added, Ord. 791, April 17, 2008)

**d) Tree Replacement Sheet** - A scaled drawing depicting the Replacement Tree locations with a legend identifying each Replacement Tree's species and size and the quantity of Replacement Trees to be planted. (Added, Ord. 791, April 17, 2008)

3. Applicants for a Residential Building Permit must complete the City's "Tree Management Evaluation and Compliance Form" as their Tree Management Plan. The City must also be provided with a certificate of survey that contains the following information:

a) The location of all existing Trees on the property;

b) The location of all Trees to be removed;

c) The location of all Trees to be preserved; and

d) The location and species of all Replacement Trees. (Amended, Ord. 791, April 17, 2008)

4. No grading or building permits shall be issued by the City until the applicant has installed any required Tree Protection Fencing and the Tree Protection Fencing has been inspected and approved by the City. (Added, Ord. 791, April 17, 2008)

5. Any changes to the Tree Management Plan shall be submitted in writing to the City by the Applicant for approval. If the change includes any additional Tree removal, an additional inspection and approval by the City of the Tree Protection Fencing will be required. (Added, Ord. 791, April 17, 2008)

6. All information contained in the Tree Management Plan must not be more than one (1) year old at the time of submittal. (Added, Ord. 791, April 17, 2008)

7. Trees required to be removed pursuant to Section 10.70 of the City Code shall be identified as removed on the Tree Management Plan and must be removed. Trees removed consistent with Section 10.70 of the City Code are exempt from the Replacement Tree Requirements of this Section. (Added, Ord. 791, April 17, 2008)

**C. Tree Preservation Requirements.** (Added, Ord. 791, April 17, 2008)

1. All Heritage Trees must be preserved. Heritage Trees evaluated and concluded to be a Hazard Tree or not suitable as a focal point for the project by a Forestry Specialist are exempt from this requirement. (Added, Ord. 791, April 17, 2008)

2. The Applicant must preserve all of the Trees identified as Trees to be preserved on the Tree Management Plan. (Added, Ord. 791, April 17, 2008)

**D. Replacement Tree Requirements.**

1. The amount of Replacement Trees required will be based on the removed Tree's Natural Resource Corridor Priority Ranking. The Applicant shall replace removed trees according to the following schedule:

Tree's Natural Resources Corridor

Priority Ranking:

Replacement Tree Ratio:

Best	1:1 (Remove:Replace)
Better	2:1 (Remove:Replace)
Good	3:1 (Remove:Replace)
Buffer	4:1 (Remove:Replace)

(Amended, Ord. 791, April 17, 2008)

2. Replacement Trees shall not utilize any species presently under disease or insect epidemics without prior written approval from the City. (Amended, Ord. 791, April 17, 2008)
3. No more than one-third (1/3) of the Replacement Trees may be any one (1) species of trees. (Added, Ord. 791, April 17, 2008)
4. The species of Replacement Trees must be hardy under local conditions, must be compatible with the local landscape, must be appropriate for the soil conditions on the property, and must not be less than two (2) Caliper Inches. (Amended, Ord. 791, April 17, 2008)
5. Any Trees required by the landscaping requirements set forth in Section 11.60 of the City Code for trees will count towards the Tree Replacement Requirements of this Section. (Amended, Ord. 791, April 17, 2008)
6. If a Tree cannot be located on the Natural Resource Corridor Map, the Tree's Corridor Priority Ranking shall be classified as "good" for purposes of determining the replacement ratio. (Added, Ord. 791, April 17, 2008)
7. Replacement Tree quantities shall be rounded up to the nearest whole number. (Added, Ord. 791, April 17, 2008)
8. The City may accept other vegetative or environmental alternatives proposed by an Applicant if those alternatives are monetarily or ecologically equivalent to the value of the Replacement Trees required by this Section. (Amended, Ord. 791, April 17, 2008)
9. All Replacement Trees shall be planted during the ideal planting season for the particular species. The ideal planting season for most Tree species is during the Dormant Season. Any Replacement Tree planting not completed during the Dormant Seasons must be completed with caution during the summer months in warm and dry conditions. (Added, Ord. 791, April 17, 2008)

**E. Tree Mitigation Standards.** (Amended, Ord. 791, April 17, 2008)

1. All Development activities must take place in such a manner that no more than one-half (1/2) of the area within the Dripline of any Tree to be preserved is impacted. (Amended, Ord. 791, April 17, 2008).
2. No grade change, construction activity, or storage of materials shall occur within the Tree Protection Fencing. (Amended, Ord. 791, April 17, 2008)
3. Structures, driveways, and parking facilities shall be located in such a manner that the maximum number of Trees should be preserved. (Amended, Ord. 791, April 17, 2008)

4. To control the overland spread of Oak Wilt, the pruning of Oak trees or collateral damage to Oak trees from adjacent tree removal shall be avoided from April 1<sup>st</sup> thru July 31<sup>st</sup> which is the most susceptible period of infection. (Added, Ord. 791, April 17, 2008)

**F. Unauthorized Tree Removal.** Added, Ord. 791, April 17, 2008)

1. Any person, firm, or corporation who removes or causes the loss of Trees identified to be preserved on an approved Tree Management Plan shall be required to complete one (1) of the following as determined by the City. (Added, Ord. 791, April 17, 2008)
  - a) Installation of Replacement Trees according to the DBH of the Tree removed; or
    - i) The Replacement Tree ratio shall be two (2) Caliper inches for every one (1) DBH inch of Tree removed;
    - ii) All Replacement Trees required by this Section shall be planted within the same development.
  - b) Payment to the City of \$500.00 for every one (1) DBH inch of Trees removed that were unauthorized. This amount may be taken by the City from the financial security posted by the Applicant for Tree Replacement. (Added, Ord. 791, April 17, 2008)

**G. Financial Security.** (Added, Ord. 791, April 17, 2008)

1. In order to ensure that there is compliance with the submitted Tree Management Plan and to ensure replacement of any Replacement Trees that die during the warranty period and the removal of any diseased trees, the Applicant shall provide the City with a cash deposit, a letter of credit or escrow, in favor of the City, in an amount of 150% of the Tree Replacement Requirement estimate. (Added, Ord. 791, April 17, 2008)
2. All Replacement Trees planted must be warranted through two (2) complete Growing Seasons. If a Replacement Tree dies during the warranty period, it must be replaced with a Tree of the same size and species. Prior to the expiration of the warranty period, a Forestry Specialist shall inspect the Trees. As Trees are declared healthy by the Forestry Specialist upon inspection, the Applicant may request reductions to the financial security amount provided that adequate funds remain equal to 150% of the cost to complete the remaining work. (Added, Ord. 791, April 17, 2008)
3. Any Trees required to be removed by Section 10.70 of the City Code from a site shall be removed and disposed of according to Section 10.70 of the City Code prior to release of the financial security. (Added, Ord. 791, April 17, 2008)
4. Residential Building Permit Applicants and the City shall be exempt from the financial security requirement of this Section. (Added, Ord. 791, April 17, 2008)

**H. Miscellaneous.**

1. The removal of diseased Trees per Section 10.70 of the City Code or Hazard Trees is required. No Replacement Trees shall be required for the removal of these Trees. (Amended, Ord. 791, April 17, 2008)

2. Projects involving a Residential Building Permit that requires the removal of two (2) or fewer non-Heritage Trees are exempt from the requirements of this Section. (Added, Ord. 791, April 17, 2008)
3. If the Applicant disagrees with the City staff decision with respect to the interpretation or enforcement of this Section, the Applicant may appeal that decision by following the procedure established in Section 11.90, APPEALS, of this Code. (Amended, Ord. 791, April 17, 2008)