

- (i) alterations of topography will be allowed only if they are accessory to permitted or conditional uses and do not adversely affect the adjacent or nearby properties; and
- (j) placement of natural rock rip-rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed 3 feet horizontal to one foot vertical, the landward extent of the rip-rap is within 10 feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed 3 feet.

Permits for excavations where the intended purpose is connection to a public water, such as boat slips canals, lagoons, and harbors, may be issued only after the commissioner has approved the proposed connection to public waters.

900.19 Tree Removal and Vegetation Maintenance and Alterations.

Subd. 1. Purpose. The City finds that it has been established that trees and other vegetation stabilize the soil and control water pollution by preventing soil erosion and flooding, reduce air pollution, temper noise, and provide a natural habitat for wildlife. Indiscriminate removal of trees and clearing of vegetation cause deprivation of these benefits and that it is in the interests of the City and its residents to prevent the indiscriminate removal of trees and clearing of vegetation.

Subd. 2. Activities Requiring a Permit. No person shall engage in any of the following activities without first obtaining a Vegetation Alteration permit:

- (a) intensive vegetation clearing
- (b) the removal of any tree having a diameter of more than six inches.
- (c) tree and vegetation removal necessary for the construction of structures and public utilities and the construction of roads and parking areas otherwise complying with the applicable provisions of the Code; provided that any trees removed as a result of such construction shall be replaced as provided in Subd. 6 of this Section.

Subd. 3. Permit. Prior to engaging in any activity that requires a permit under Subd. 2 of this Section, an application shall be submitted to the Zoning Administrator for a Vegetation Alteration permit, which shall remain valid for eight (8) months from the date of issuance, for such activity. The application shall include a landscape plan prepared by a landscape architect or nursery designer and shall include the following information, unless waived by the Zoning Administrator:

- (a) A scale drawing based upon a survey of property lines showing location, species and size of all Significant and Landmark trees on the property.
- (b) Identify the Significant and Landmark trees proposed to be removed.
- (c) Identify the protection measures that will be used to protect the preserved trees during grading and construction.
- (d) Location, species and size of the required replacement trees.

Subd. 4. Fertilizers and Pesticides. Fertilizers and pesticides must be used in such a manner as to minimize run off into shore impact zones and public waters by use of earth, vegetation or both.

Subd. 5. Tree Preservation and Replacement.

- (a) the following trees are protected, and shall be preserved and maintained according to the standards of this Section:
 - (1) Significant trees, which are any tree (except Boxelder, Buckthorn, Willow, Cottonwood, Green Ash, Siberian Elm, and Prickly Ash) with a diameter at breast height (DBH) of six (6) inches or more.
 - (2) Landmark trees, which are any tree (except Boxelder, Buckthorn, Willow, Cottonwood, Green Ash, Siberian Elm, and Prickly Ash) with a diameter at breast height (DBH) of 30 inches or more.
- (b) no significant or landmark tree shall be removed unless a Vegetation Alteration permit is issued by the Zoning Administrator pursuant to Subd. 3 of this Section and replaced according to the standards below:
 - (1) Significant trees shall be replaced at a ratio of one (1) tree for every significant tree removed.
 - (2) Landmark trees shall be replaced at a ratio of two (2) trees for every landmark tree removed.
 - (3) Replacement trees shall be of a species similar to the trees to be replaced and shall be no less than the following sizes:
 - (i) Deciduous trees – no less than four (4) caliper inches
 - (ii) Coniferous trees – no less than 10 feet high

- (4) Replacement trees for Significant and Landmark trees removed within 75 feet of Lake Minnetonka shall be planted within 75 feet of Lake Minnetonka.
 - (5) Replacement trees shall be planted no later than the first fall or spring following the removal of the tree to be replaced or by such later date agreed to by the Zoning Administrator if planting during such period would not be in conformance with accepted tree management practices.
 - (6) Any replacement tree that is not alive or healthy one year after the date of planting shall be removed and a new healthy tree of the same size and species planted in its place. Planting shall occur no later than the first fall or spring following the expiration of such year.
- (c) Removal of trees that are dead, diseased or pose an immediate threat to life or property are exempt from the replacement requirements of this Section.

Subd. 6. Tree Preservation on Steep Slopes

- (a) Clear cutting is prohibited, except for invasive species.
- (b) Limited trimming and pruning of vegetation for the creation and maintenance of views is allowed in accordance with the pruning standards of the American National Standards Institute's (ANSI) A300 standards
- (c) prior to removing a significant or landmark tree, a report shall be submitted by a professional engineer or certified arborist (or landscape architect) that demonstrates the removal of the significant or landmark tree will not destabilize the steep slope based on the soil, slope stability and hydrologic conditions.
- (d) replacement ratio of significant or landmark trees shall be .5 replacement inches for each 1 inch removed. Replacement trees shall be between 0.5 and 1.5 inch caliper and shall be planted in the steep slope area where the significant or landmark tree(s) were removed.

Subd. 7. Tree Protection Specifications.

The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.

- (a) No clearing shall be allowed on a site until approval of a Vegetation Alteration permit;
- (b) An area of prohibited disturbance, generally corresponding to the dripline of the protected tree shall be protected during construction with a temporary five-foot-

high chain link or plastic net fence. The fencing shall be installed prior to issuance of development permits for the site;

Subd 8. Landscaping Within Public Right-of-Way. All landscaping that is located within public right-of-way shall be maintained by the abutting property owner. The abutting property owner shall be responsible for removal of any tree or limb that is deemed hazardous to the public.

Subd. 9. Shade Tree Disease Program. It is the intention of the City to conduct a program of shade tree disease control pursuant to authority granted by Minnesota Statutes, Section 18.023. This program is directed specifically at the control and elimination within the City of Dutch elm disease fungus, elm bark beetles, emerald ash borer, and of oak wilt fungus.

- (a) The City shall have the right to order or cause the removal of any trees that are dead or diseased on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city.
- (b) Unless such trees pose immediate hazard to public safety, the owner of such trees will be ordered, in writing, to remove said trees, stating the reason for removal and the location of said tree or trees to be removed. Removal shall be done by said owners at the owner's expense within (30) days after the date of the order to remove or a time parameter placed by the Zoning Administrator in consideration of the time of year or protection against spread of disease. In the event the owner fails to comply with such order to remove, or if public safety considerations require immediate removal, the City shall then proceed to remove said tree or trees, and to charge removal costs to the owner of the property as provided by law in the case of special assessments.

Subd. 10. Fines. Any builder, contractor or agent who may have intentionally assisted in the commission of any such violation, shall be guilty of a separate offense. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance, and each tree removed shall constitute a separate offense. Any person violating any provision of this Section, upon conviction, will be guilty of a misdemeanor.

Subd. 11. Enforcement. The Zoning Administrator is hereby charged with the responsibility for the enforcement of this Section and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

Subd. 12. Appeals. A person aggrieved by the administration of this Section may have thirty (30) days to appeal by petitioning the Zoning Administrator in writing. The Zoning Administrator will consult the City Council at its next scheduled meeting.

900.20. Roads, Driveways, Parking Areas.

- (a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve screening of view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion into public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- (b) Roads, driveways, and parking areas must meet the required lake setback for structures and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no such alternatives exist, they may be placed within these areas with the issuance of a variance, but must be designed to minimize adverse impacts.
- (c) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Code are met. For private facilities, the grading and filling provisions of this Code must also be met.

900.21 Storm Water Management.

- (a) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge into public waters. When development density or site conditions are such that natural features are inadequate, various types of constructed facilities such as skimming devices, dikes, waterways and ponds may be used if they comply with the field office technical guide of the local soil and water conservation district. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- (b) All development must be planned and conducted in a manner that will minimize erosion.