

City of Wayzata Planning Commission Agenda Report

MEETING DATE: August 15, 2022	AGENDA ITEM: 5.b
TITLE: Consider Zoning Text Amendments to Chapter 936 - Tree Preservation Ordinance	
PREPARED BY: Nick Kieser, Parks Planner	
REVIEWED BY: Emily Goellner, Community Development Director	
60 DAY DEADLINE: N/A	

BACKGROUND:

Based on community input and Council direction, staff has proposed text amendments to the Tree Preservation Ordinance (TPO) as part of a multi-year Zoning Study. The goals of the amendments are to ensure protection, preservation, and enhancement of the natural environment of the community.

The proposed changes to Chapter 936 require a public hearing and review by the Planning Commission. Additional documents have been included for reference, but do not require a public hearing or formal recommendation by the Planning Commission. Additional documents include amendments to Chapter 710 and 519 of the Wayzata Code of Ordinances, a tree removal permit application, Tree Fee-in-Lieu Fund Policy, and a tree removal application checklist. These documents, in addition to Chapter 936, require approval by the City Council.

ACTION REQUESTED:

Consider Zoning Text Amendments to Chapter 936 - Tree Preservation Ordinance

ATTACHMENTS:

1. Staff Report and Attachments - Tree Preservation Ordinance Amendment



**Staff Report
Wayzata Planning Commission
August 15, 2022**

Project Name: Tree Preservation Ordinance
Request: Zoning Text Amendment
Applicant: City of Wayzata
Location of Request: City of Wayzata
Prepared by: Nick Kieser, Parks Planner

Development Application Introduction

Based on community input and Council direction, staff proposes text amendments to the Tree Preservation Ordinance (TPO) as part of a multi-year Zoning Study. The goal of these amendments to the TPO is to ensure protection, preservation, and enhancement of the natural environment of the community.

The main proposed changes are incorporated into the language of the TPO, but the changes also require the creation of a tree removal permit application, Tree Fee-in-Lieu Fund Policy, and a tree removal application checklist.

Project Location

The Tree Preservation Ordinance (TPO) is applicable to all properties within the City of Wayzata and not specific to any particular Zoning District. Applicability of the requirements outlined in the TPO are dependent on the proposed plans or activities for a property.

Application Requests

As part of the submitted development application, the applicant is requesting approval of the following items:

- A. Zoning Text Amendment (§ 936): Staff proposes amendments to Chapter 936 Tree Preservation Ordinance (TPO).

Proposed changes to Chapters 710 and 519 are also attached, but these Chapters are not in the Zoning Code so they do not require a public hearing and formal recommendation at the Planning Commission meeting.

Public Hearing Notice

Notice of the public hearing on the Application was published in the *Sun Sailor* on August 5, 2022.

Community Input

Community Meetings/Survey

Staff held community meetings on July 12, 2021 and October 28, 2021. A survey was also open to the public from August 26, 2021 to October 5, 2021, which garnered 69 responses. The following items were primary themes that came up in the community meetings and survey:

- The majority of survey participants noted there should be more restrictions on tree removal and that the environmental and aesthetics of trees are the main benefits
- The main goal of the review of the TPO should be to reduce tree removal
- Lake Street, Wayzata Blvd, and the central core neighborhood were listed as areas with a lack of a tree canopy
- Diversity of trees should be required to be planted
- Larger fines should be adopted when plans are not implemented as approved by the City
- Additional education efforts on the importance of trees should be pursued

Zoning Task Force (ZTF)

The ZTF discussed this item at the following meetings:

- May 10, 2021
- October 25, 2021
- November 22, 2021
- February 28, 2022
- March 28, 2022
- May 23, 2022
- July 25, 2022 (recommended approval)

On July 25, the Zoning Task Force recommended approval unanimously of the proposed amendments. Through many thorough discussions, the Task Force acknowledged that the proposed ordinance amendments are a compromise between strong community desires to protect the tree canopy, individual property rights, and the capacity of local government to manage enforcement.

Council Workshops

The City Council discussed the TPO on the November 16, 2021 and May 17, 2022 workshops. From the Council discussions, the following items were the top priorities:

- Protect Heritage trees
- Tree health after construction
- Ash tree/diseased tree plan
- Larger fines
- Detailed policy for fee-in-lieu funds

- Incorporate a tree removal permit
- Stay practical on staff resources to implement TPO with existing City budget
- Utilize existing staff members through further education and training to become a certified arborist
- Add diversity of tree requirement

Proposed Changes

Based on the feedback received from the City Council, Zoning Task Force, community, and consultants, staff proposes the following updates to the TPO (§ 936) and staff work plans:

1. Create plan/schedule to review tree health 2-3 years after completion
2. Prioritize collecting escrow consistently as currently outlined in the Ordinance
3. Create a plan to review and enforce tree protection measurements
4. Require and enforce a Tree Removal Permit for any significant or heritage tree removal
5. Require and enforce tree tagging to show what trees are to be removed/saved
6. Update the City's list of recommended tree species to match Hennepin County's list
7. Add a formula for how many tree inches a coniferous tree accounts for
8. Allow developers to plant trees on adjacent sites when on-site options are exhausted
9. Allow for the possibility to plant smaller trees based on Arborist recommendation
10. Requirement that no more than 20% of one genus of trees can be planted on site
11. Research appropriate fine amounts for ordinance violations
12. Create clear-cutting regulations

Proposed Changes to § 710 and § 519:

The proposed changes to these Chapters are minimal. Chapter 710 has the most proposed changes that are mainly clarifying language changes that are focused on what the role of City Forester is. Additional language was added to 710 to incorporate Emerald Ash Borer and how to dispose of the infested trees.

The proposed changes in Chapters 710 and 519 do not require a public hearing. The Tree Removal Permit Application, Fee-in-Lieu Policy, and Tree Removal Permit Application Checklist were also attached to the packet for review, but do not require a public hearing or recommendation from the Planning Commission. The City Council will review and vote on these additional attached documents.

Staff Recommendation

Staff recommends approval of the Zoning Text Amendment for the proposed changes to Chapter 936 (Tree Preservation Ordinance). Staff believes that the proposed changes will help to protect, preserve, and enhance the natural environment of the community, specifically the tree canopy. The proposed changes will also improve the current enforcement of the TPO with better knowledge of staff resources and more efficient staff systems.

Standards of Planning Commission Review of Application Requests Primary Questions to Consider

- Does this text amendment fit with the City's 2040 Comprehensive Plan?
- Do the proposed changes conform to the present and future land uses of the area?
- Do the proposed changes help protect, preserve, and enhance the natural environment of the community?

Action Steps

After considering the items outlined in this report, holding the public hearing on the application, and discussing the requests of the Application, the Planning Commission can should direct staff to prepare a draft *Planning Commission Report and Recommendation for review and adoption at the next Planning Commission meeting.*

Attachments

- Proposed Language for Chapter 936 – Tree Preservation Ordinance
- Proposed Language for Chapter 710 – Maintenance and Removal of Trees (Authority and Duties of City Forester)
- Proposed Language for Chapter 519 – Tree Removal and Treatment
- Proposed Tree Fee-in-Lieu Policy
- Proposed Tree Removal Permit Application
- Proposed Tree Removal Permit Application Checklist

Applicable Code Provisions for Review

Staff has analyzed the facts provided by the applicant in comparison with the criteria for approval. While several criteria appear to be met, **staff has highlighted in bold** the criteria that may require additional discussion with the Planning Commission.

2040 Comprehensive Plan

Guiding Principles of the Comprehensive Plan

Charming

- **Fostering charm in a community known for its small-town character requires intentionality and purpose.** A stronger focus on design – sending developers back to the proverbial drawing table to bring a more tasteful proposal – is a check that would go a long way. City residents want to connect to the City’s shared spaces. City spaces can be plain, or they can be charming – it is just a question of thoughtfulness. **Visitors and residents connect to places that evoke a sense of belonging, and a sense of nostalgia.** Wayzata – by nature, as it is located on the shore of Lake Minnetonka – evokes these feelings. **The challenge for the City is to make charm an utmost priority not only in new developments but in every aspect of the City’s lifecycle.** Placing emphasis on the arts, for example, is something that allows passers-by and visitors to slow down and enjoy the City. Development should be small and intimate, creating room for “randomness.”

Vibrant Parks and City Spaces

- **Vibrant City parks and City spaces are essential to Wayzata’s future. Parks provide mental health benefits to residents, opportunities for physical activity, and bring the important nature connection to daily routines.** City spaces allow residents and visitors to come together, create a sense of belonging, and encourage walkability. Wayzata, through the upcoming robust Parks and Trails System Master Plan, can revive its park spaces and transform them into inter-generational centers with opportunities and spaces from young families to older generations. Connecting the parks and city spaces are also crucial for Wayzata’s vitality. While Wayzata has plenty of park land, some spaces feel forgotten. The Nature Center is the key example of a place that could be reinvented to further connect residents and visitors with nature, and provide opportunities for physical activity.
- Recreation opportunities can be further enhanced by improved Wayzata parks and recreation. The work currently being carried out through partnerships fostered by the Lake Effect Conservancy (with the YMCA, Wayzata Sailing School, Wayzata School District, Interfaith Outreach, and Science Museum of Minnesota) is a fantastic step in that direction, so the focus should be on enhancing those partnerships and centralizing them at the City level so as to enhance access and grow the number of programs offered.

Environmental Sustainability

- As a prosperous and renowned destination suburb, Wayzata has an opportunity to take the lead on sustainability goals and objectives. In the Vision Survey, 68 percent of respondents believe that Wayzata should 'Aggressively pursue new sustainability actions and focus.' The health of Lake Minnetonka's ecosystem, a City free of visual and noise pollution, and **a City that cares about fostering a healthy, vibrant, and sustainable environment should be Wayzata's priorities.** A process to streamline the permitting application of green energy sources such as residential solar systems and the encouragement of the use of green sources of energy in large developments was highlighted by stakeholders as a key step in achieving a more sustainable Wayzata. Wayzata could also reduce the number of City landscapes that have high consumption of water and instead opt for more sustainable options. The establishment and operation of a City of Wayzata commission on energy and environment creates an opportunity for Wayzata to determine its sustainability goals and take steps to achieve them. Stakeholders agreed on a balanced but progressive agenda in Wayzata's sustainability efforts

Zoning Text Amendment (§936)

The Planning Commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:

- 1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.**
- 2. The proposed use's conformity with present and future land uses of the area.**
3. The proposed use's conformity with all performance standards contained herein (i.e., parking, loading, noise, etc.).
4. The proposed use's effect on the area in which it is proposed.
5. The proposed use's impact upon property value in the area in which it is proposed.
6. Traffic generation by the proposed use in relation to capabilities of streets serving the property.
- 7. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.**

CHAPTER 936 TREE PRESERVATION

936.01 Purpose and Intent.

The Wayzata City Council finds it is in the best interest of the City to protect, preserve, and enhance the natural environment of the ~~community~~ City, and to encourage a ~~resourceful and prudent~~ balanced approach to the development and alteration of wooded areas. In the interest of achieving these objectives, the City has established the comprehensive tree preservation regulations ~~herein of this Chapter~~ to promote ~~the furtherance of~~ the following:

- A. Protection and preservation of the environment and natural beauty of the City;
- B. Assurance of orderly development within wooded areas to minimize tree and habitat loss;
- C. Evaluation of the impacts to trees and wooded areas resulting from development;
- D. Establishment of minimal standards for tree preservation and the mitigation of environmental impacts resulting from tree removal;
- E. Provision of incentives for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clear cutting during development; and
- F. Enforcement of tree preservation standards to promote and protect the public health, safety and welfare of the community.

936.02 Definitions.

For purposes of this section, the following definitions shall apply:

- A. **"City Forester"** means that person appointed as City Forester in Section 710.02~~(b)~~.
- B. ~~"Clear-Cutting"~~ means the removal of 60% or more of the Tree Inches on a property over one (1) year.
- C. **"Coniferous Tree"** means a woody plant bearing seeds and cones oftentimes, but not always, retaining foliage throughout the year.
- ~~DC.~~ **"Construction Area"** means any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.
- ~~ED.~~ **"Critical Root Zone"** means the area around a tree measured from the trunk of the tree with a radius that is equal to 1.5 feet for each one inch of DBH of the tree. For example, if a tree's DBH is ten inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).
- ~~FE.~~ **"Deciduous Tree"** means a woody plant which has a defined crown, and which loses leaves annually.
- ~~GF.~~ **"Diameter of Tree at Breast Height"** or **"DBH"** means the diameter of a tree as measured 4½ feet 54 inches above the ground. Trees that branch near or below 4½ feet from the ground will be measured at the narrowest point below 4½ feet. Trunks that originate from the ground shall be considered separate trees. ~~The City Forester shall have the final determination in the DBH calculation, if there is a question of how it is to be measured.~~
- ~~G.~~ ~~**"Hardwood Deciduous Tree"** means a Deciduous Tree recognized as hardwoods by the City Forester, including ironwood, catalpa, oak, maple (hard), walnut, ash, hickory, birch, black cherry, hackberry, locust and basswood.~~

- HH.** "Healthy Tree" means ~~a tree that is in the~~ average or better condition and vitality for the area, as determined by the City Forester.
- I.** "Heritage Tree" means a ~~Healthy Softwood Deciduous~~**Rapid-Growth** Tree that is 30 inches or greater in DBH, a ~~Healthy Hardwood Deciduous~~**Standard-Growth** Tree that is 25 inches or greater in DBH, or a Healthy Coniferous Tree that is 25 inches or greater in DBH.
- J.** "Landscape Architect" means a person licensed by the State of Minnesota as a landscape architect.
- K.** "Nursery Stock Dealer" or "Nursery Stock Grower" means a person licensed by the State of Minnesota as a nursery stock dealer or a nursery stock grower.
- L.** "Public Infrastructure" means the construction or maintenance of:
1. Collector or arterial roads as defined by the City Transportation Plan;
 2. Public recreational trails;
 3. Stormwater infrastructure;
 4. Installation or maintenance of trunk utility infrastructure as described in the Comprehensive Sewer or Water Plans; or
 5. Any essential service or public improvement.
- M.** "**Rapid-Growth Tree Species**" means a species of tree recognized as rapid-growth tree by the City Forester, including cottonwood, poplar/aspens, box elder, willow, silver maple, elm, mulberry, and ash.
- N.** "Removal" or "Tree Removal" means:
1. Manual, mechanical, chemical, or abiotic or biotic (fire, water, insects or inoculation) methods which results in the physical removal of a tree;
 2. Grading impact, compaction, or other damage up to 40 percent of a tree's Critical Root Zone;
 3. Excessive pruning that severely impacts the long term survivability of the tree; or
 4. Any other impact to a tree that comprises the long term health or structural stability of a tree.
- O.** "Significant Tree" means a Healthy ~~Deciduous Hardwood~~**Standard-Growth** Tree that is six inches or greater in DBH, a Healthy **Rapid-Growth** ~~Softwood Deciduous~~ Tree that is 12 inches or greater in DBH, or a Healthy Coniferous Tree that is 12 feet or greater in height or 12 inches or greater in DBH.
- P.** "Site Plan" means the site plan established and described in this Chapter.
- ~~P.~~ "~~Softwood Deciduous Tree~~" means a ~~Deciduous Tree recognized as softwoods by the City Forester, including cottonwood, poplar/aspens, box elder, willow, silver maple and elm.~~ **G. "Standard-Growth Tree Species"** means a tree recognized as standard-growth trees by the City Forester.
- Q.** "Tree Inch(es)" means the DBH of a tree or trees on the site.
- QR.** "Tree Preservation Plan" means the tree preservation plan established and described in this Chapter.
- SR.** "Tree Preservation Zone" means the tree preservation zone established and described in this Chapter.
- T.** "Tree Removal Permit" means a permit that is required under this Chapter for tree removal.

936.03 Establishment of Tree Preservation Zone.

A Tree Preservation Zone is hereby established in order to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce stormwater runoff and the costs associated therewith and replenish ground water supplies; aid in the removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer

and screen against noise pollution; provide shade and the significant environmental benefit of counteracting the so-called "heat-island" effect; provide protection against severe weather; aid in the control of drainage and restoration of denuded soil subsequent to construction or grading; protect and increase property values; conserve and enhance the City's physical and aesthetic environment; provide a haven for ~~birds~~, animals and flora to thrive; and generally protect and enhance the quality of life and the general welfare of the City.

The Tree Preservation Zone shall be applied to and superimposed upon all property within the City of Wayzata. The regulations and requirements imposed within the Tree Preservation Zone shall be in addition to the zoning districts within the existing and amended text and map of the Wayzata Zoning Ordinance, and the Floodplain, Shoreland, and Wetland regulations and requirements. In cases where there is a conflict between regulations applicable within such zones, the more restrictive requirements shall apply.

936.04 City Forester Role

The City Forester has the authority to make final determinations on calculations, measurements, and interpretations under this Chapter.

936.05 Permit for Tree Removal.

A Tree Removal Permit is required prior to the removal of any Significant or Heritage Tree. All the requirements of this Chapter be met for the issuance of any Tree Removal Permit, along with the informational requirements listed in the Permit Application. An application for a Tree Removal Permit shall be prepared by the City and made available on the City's website and at City Hall.

Submittals for a Tree Removal Permit Application shall include:

- A. Completed Tree Removal Permit Application
- B. Tree Preservation Plan, if applicable, as provided in Sec. 936.07

The process for submitting and reviewing a Tree Removal Permit Application shall be as follows:

- A. Submission of a completed Tree Removal Permit Application and other required submittals to the City
- B. Review by City staff of the Application to determine if it is complete
- C. Submission of escrow payment to cover tree replacement, if applicable
- D. Staff approval or denial the Tree Removal Permit
- E. If approved, the Trees covered by the Permit can then be removed by the property owner or a tree contractor licensed under City Code Ch. 519

936.064 Applicability.

The tree permit application and tree replacement requirements~~provisions~~ of this ~~Section~~Chapter shall apply to the following types of land uses and activities:

- A. Subdivision, Public Infrastructure, Construction of Single-Family Home.** The following tree removal thresholds apply to Subdivision applications, Public Infrastructure projects, and construction of a single-family home ~~on a vacant lot~~.
 - 1. Heritage Trees. Heritage Trees are valued and special trees for the City of Wayzata due to their size and age. All possible measures must be taken to preserve Heritage Trees. Heritage Tree removal may occur only when there is not a practical alternative. There shall be a zero percent removal threshold of Heritage Trees, meaning every DBH inch of Heritage Tree removed requires full replacement in accordance with the standards within Section 936.~~1008~~, in addition to any other requirements hereunder.

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2. Significant Trees ~~Removal by Developers~~. Although the City encourages preservation of the maximum amount of trees possible, the City recognizes that a certain amount of Significant Trees removal is sometimes necessary during development. Accordingly, 25 percent (25%) of the existing DBH inches of Significant Trees can be removed pursuant to a Tree Preservation Plan without obligation of replacement. Any tree removal beyond 25 percent will require replacement in accordance with the standards of Section 936.1008.
 3. Public Infrastructure. The City Council may waive the tree replacement requirements of this Section for Public Infrastructure projects if the City Council makes a finding that the tree replacement requirements hereof would create an undue financial or other burden on the project, and the public benefits of the Public Infrastructure project outweigh the benefits of the required tree replacement hereof.

B. Land Disturbance Permits, Design Review, and Expansions to Single-Family Homes. The following tree removal thresholds apply to projects that require a Land Disturbance Permit under City Code Section 409.05, projects that require Design Review under City Code Section 909.04.B, and expansions or additions to an existing single-family home:

1. Heritage Trees. Heritage Trees are valued and special trees for the City of Wayzata due to their size and age. All possible measures must be taken to preserve Heritage Trees. Heritage Tree removal may occur only when there is not a practical alternative. There shall be a zero percent removal threshold of Heritage Trees, meaning every DBH inch of Heritage Tree removed requires full replacement in accordance with the standards within Section 936.1008 in addition to any other requirements hereunder.
2. Significant Trees ~~Removal~~. The City recognizes that additional tree removal may occur after the construction of new houses or commercial developments, or the expansion of existing homes or commercial developments, but to a lesser degree than the original development. Therefore, ten percent (10%) of the existing DBH inches of trees can be removed without obligation of replacement. Any removal beyond ten percent will require replacement in accordance with the standards within Section 936.1008.

~~DC.~~ Trees Exempt From Replacement Requirements. The following types of trees shall not be included as part of the tally of tree removals for purposes of calculating replacement in accordance with the standards within Section 936.1008:

1. Dead, Diseased, Dying, or Hazard Trees as determined by the City Forester. These trees must be reviewed and confirmed by the City Forester prior to removal; or
2. Trees that are transplanted from the site to another appropriate location within the City as approved by the City Forester; or
3. Trees that were planted as part of a commercial business such as a tree farm or nursery; or
4. Trees that are structurally unstable and pose a risk to people or permanent structures, as deemed by a certified arborist with a Tree Risk Assessment Qualification and the City Forester.
5. For any project not listed in 936.06.A or 936.06.B, there are no tree replacement requirements. A Tree Removal Permit is still required if removing a significant or heritage tree.

~~936.05 Process.~~

~~A. Construction of or Expansion to Single-Family Homes and Land Disturbance Permits.~~ For construction of a single-family home, expansion to an existing single-family home, or a project that requires a Land

~~Disturbance Permit, a Site Plan must be submitted to the City prior to any proposed tree removal. The Site Plan must include the following information:~~

- ~~1. Identify the Significant and Heritage Trees on the property.~~
- ~~2. Identify the Significant and Heritage Trees removed due to grading or construction.~~
- ~~3. Identify the Mandatory Protection measures in Section 936.06 that will be used to protect the preserved trees during grading or construction.~~
- ~~4. Comply with the City's tree replacement procedure and requirements set forth in this section.~~

~~The Site Plan must receive the approval of the City Forester. Any denial of a Site Plan by the City Forester may be appealed to the City Council.~~

~~B. **Subdivision, Public Infrastructure, and Design Review.** Unless otherwise determined by the City Council, the following process for preserving trees shall be required for Subdivision applications, Public Infrastructure projects, and projects that require Design Review:~~

- ~~1. Prepare a Tree Preservation Plan that is incorporated on the grading plan, which meets the requirements of Section 936.05.~~
- ~~2. Implement the Tree Preservation Plan prior to and during site development.~~
- ~~3. Submit a financial guarantee for compliance with the approved Tree Preservation Plan in accordance with Section 936.09.~~
- ~~4. Comply with the City's tree replacement procedure and requirements set forth in this section.~~
- ~~5. The Tree Preservation Plan must be certified by a Forester, Landscape Architect, Nursery Stock Dealer or a Nursery Stock Grower.~~

936.076 Tree Preservation Plan.

When a Tree Preservation Plan is required with a Tree Removal Permit, an applicant is responsible for implementing the approved Tree Preservation Plan prior to and during site grading and plan development. A Tree Preservation Plan is required for any land use approval or activity mentioned in Section 936.06. The Tree Preservation Plan will be reviewed by the City Forester and any other relevant City staff to assess the best overall tree design for the project involved, taking into account the preservation, renewal and health of Significant and Heritage Trees, and ways to enhance the efforts to mitigate damage to the trees on the property and the natural environment. The applicant is encouraged to meet with City staff prior to submission of a Subdivision application, Public Infrastructure project, or Design Review application to determine the placement of buildings, parking, driveways, streets, storage and other physical features which result in the fewest Significant and Heritage Trees being destroyed or damaged. The Tree Preservation Plan must include the following items:

- A. The name(s) and address(es) of property owners and applicants.
- B. Delineation of the buildings, structures, impervious surfaces, utilities, and other site improvements situated thereon or contemplated to be constructed thereon.
- C. Delineation of all areas to be graded and limits of land disturbance, including the contouring of all areas to be graded.
- D. Size, species, location and condition of all Significant and Heritage Trees located on the property as well as on adjacent properties where the Critical Root Zones of the trees are within the proposed Construction Area. The size of Deciduous Trees must be recorded in DBH and the size of Coniferous Trees must be recorded both in DBH and approximate height.
- E. Identification of all Dead, Diseased, Dying and Hazard Trees.

- F. The Critical Root Zone of all Significant and Heritage Trees proposed to be preserved.
- G. Identification of all Significant and Heritage Trees proposed to be removed within the Construction Area.
- H. Identification of all Significant and Heritage Trees on all individual lots. The Developer must submit a list of all lot and block numbers identifying those lots.
- I. Measures to protect Heritage and Significant Trees as outlined in Section 936.06-8
- J. Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement requirements.
- K. Total calculations for the amount of tree removal proposed with the allowed removal percentage and tree replacement calculations included.
- ~~L.~~ Signature of the person preparing the plan and statement which includes acknowledgment of the fact the trees to be used as replacements are appropriate species with respect to survival of the replacement trees.

936.087 Tree Protection.

The following tree protection measures are required with any Tree Removal Permit:

- A. **Mandatory Protection.** Measures to protect Significant and Heritage Trees must include:
 1. Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the Critical Root Zone. Placement is also based on -the City Forester's discretion of Significant and Heritage Trees to be preserved on or adjacent to the property being developed.
 2. Aluminum tags or nails trees to clearly mark which trees are proposed to be removed on the site. Trees must be tagged at least one week before they are removed.
 - ~~3.~~ Identification of any oak trees requiring pruning between April 1 and July 15; any oak trees so pruned are required to have any cut areas sealed with an appropriate, non-petroleum based tree wound sealant, such as shellac.
- B. **Discretionary Protection.** Measures to preserve or protect Significant and Heritage Trees which may be required by the City include, but are not limited to:
 1. Installation of retaining walls or tree wells to preserve trees by eliminating the filling or cutting of soil within Critical Root Zones of Significant and Heritage Trees on or adjacent to the lot being developed.
 2. Placement of utilities in common trenches outside of the Critical Root Zone of Significant and Heritage Trees, or use of tunneled installation.
 3. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
 4. Use of tree root aeration, fertilization, and irrigation systems when appropriate.
 5. Transplanting of Significant Trees into a protected area for later moving into permanent location within the Construction Area.
 6. Safety pruning for people working within the construction limits and for the trees involved.
- C. Construction Protection. The City Forester has the authority to inspect trees on a project site five (5) years after construction has been completed to ensure the health of the trees. If the trees are determined to be in dead, dying, or in general poor health because of the construction on the site the same number of tree inches must be replaced on site.

936.09 Clear Cutting.

Clear Cutting is prohibited on all properties in the City unless the removal on a property amounts to less than five (5) trees per year.

936.1098 Tree Replacement.

A. **Tree Replacement Formula.** Replacement of removed or disturbed trees in excess of the percentage allowed by this section shall be according to the following ratios.

1. For any removal that exceeds the percentage of allowable removal of Significant Trees as set in Section 936.047, all Significant Trees shall be replaced at the ratio of one caliper inch per one inch of DBH removed.
2. All Heritage Trees must be replaced at the ratio of two caliper inches per one inch of DBH removed.
3. The coniferous tree height shall count towards the caliper inches for tree replacement or tree removal listed below:

a. 4-6 foot tall coniferous tree is equivalent to 2 caliper inches of tree replacement. For every two feet in additional tree height, one additional caliper inch is counted (i.e. a 15 foot coniferous tree = 7 caliper inches of replacement).

B. **Size, Types and Diversification of Replacement Trees.** ~~Unless an approved Tree Preservation Plan sets forth a different requirement, all replacement trees must be of a similar species to those that are removed.~~ A Tree Replacement plan must include a diversity of tree species that are suitable for the property given soil conditions, hydrology, topography, and tree pathogens. No more than 20% of the trees planted can be of the same genus. The recommended tree replacement species can be found on the Hennepin County Recommended Tree List. Replacement trees must be no less than the following sizes.

1. ~~Deciduous Trees shall be no less than 2½ caliper inches; and~~
2. ~~Coniferous Trees shall be no less than six feet in height.~~

~~§C. Recommended Tree Replacement Species.~~ In order to encourage a diverse tree canopy in the City, the following list of tree species are recommended for planting as part of a tree replacement plan:

- ~~Arborvitae.~~
- ~~Black cherry.~~
- ~~Butternut.~~
- ~~Cedar.~~
- ~~Elm (disease-resistant).~~
- ~~Fir.~~
- ~~Hackberry.~~
- ~~Hickory.~~
- ~~Hemlock.~~
- ~~Kentucky Coffee.~~
- ~~Linden/Basswood.~~
- ~~Maple (except Silver Maples).~~

~~Oak.~~

~~Pine.~~

~~Spruce (except Colorado Blue).~~

~~Tamarack.~~

~~Walnut.~~

D. **Prohibited Tree Replacement Species.** The tree replacement plan may not include any tree species included in the Minnesota Department of Natural Resources Terrestrial Invasive [Species-Plants](#) List.

E. **Tree Replacement Location.** The trees shall be located only on the project property. Staff and Council have the discretion to allow tree replacement on neighboring properties if the neighboring property owner agrees. The main reasons to allow tree replacement on neighboring properties is if tree replacement on the property site is impractical and to allow additional screening from the neighboring property. Planting trees on neighboring properties shall only be allowed if all the options for planting trees on the project site are exhausted.

EF. **Other Replacement Tree Requirements.** Choice of replacement trees species and location of the trees should also take into account the following information:

1. Soil Composition. Comparisons should be made between soil conditions and the ecology of the proposed species to make sure they are compatible. This is particularly important for the existing and proposed soil composition for the root balls of spaded and B&B trees.
2. Spatial Requirements. The potential height and crown spread of the proposed replacement trees should be known. Generally, half of the adult tree crown diameter is the amount of distance a tree should be planted from any aboveground objects.
3. Pathogen Problems. Appropriate replacement choices shall also consider insect and disease problems that may be common with particular species in the part of the state in which the City of Wayzata is located.

GF. **Fee-In-Lieu of Tree Replacement or Replacement Trees Planted in Public Areas.** The City recognizes that there may be instances where the total amount of tree replacement required under this section cannot occur on site. In those instances, the City may, at its option, accept a fee-in-lieu of tree replacement or allow the planting of replacement trees in public areas. Tree replacement is encouraged to happen on site as much as possible and fee in lieu-of-tree replacement should be used only when replacement on site is not feasible. The amount of fee-in-lieu of tree replacement will be determined annually by the City Council through the City fee schedule.

936.11 Past Tree Removal

If trees have been removed on a property within in the last two years of the date of a Tree Removal Permit application, then those tree inches removed must be incorporated into the tree removal/replacement calculations of the current Tree Removal Permit.

936.1209 Financial Guarantee.

A. **Financial Guarantee.** The City may, at its option, withhold a certificate of occupancy or require cash escrow or a letter of credit satisfactory to the City in the amount of 110 percent of the value of the tree [removal and/or](#) replacement, securing the full performance of Tree Preservation Plan and the tree replacement plan. The amount of such security shall be calculated by the fee-in-lieu of tree replacement schedules. The

financial security shall be sufficient to cover the costs of the tree removal and/or replacement trees planted, including any needed replacement of the trees over a three-year period.

- B. **Use of Financial Guarantee.** If the property owner does not implement the approved Tree Preservation Plan or Site Plan, including the tree replacement plan, in accordance with the City Council or City Forester approval, the City may use the financial guarantee to correct or complete the work.
- C. **Release of Financial Guarantee.** At least once annually, the City Forester shall review the financial securities, inspect the applicable trees, and release the financial securities as necessary. The financial security shall be released based on the following schedule:
 - 1. Upon installation of a healthy tree: 50 percent of the financial guarantee for that tree shall be released.
 - 2. First year inspection determining the installed tree is still healthy: 15 percent of the financial guarantee for that tree shall be released.
 - 3. Second year inspection determining the installed tree is still healthy: 15 percent of the financial guarantee for that tree shall be released.
 - 4. Third year inspection determining the installed tree is still healthy: 20 percent of the financial guarantee for that tree shall be released.

936.130 Penalties.

- A. **Intentional or Deliberate Damage.** It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any living tree, deciduous or coniferous, on private land within the limits of the City of Wayzata in violation of this ~~Section~~Chapter. Minn. Stats. § 561.04 strictly prohibits intentional damage to trees on public property in any form and provides that whoever willfully and without lawful authority injures any tree, timber or shrub on City property is liable for treble the amount of damages which may be assessed therefore. The City Forester and other City Staff ~~shouda~~ not make any claims related to the structural integrity of any tree, and any assessments made related to a tree may not be relied upon by the property owner.
- B. **Violation.** Unless expressly provided otherwise, it shall be a misdemeanor for any person to violate any provision of the City Code including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" shall be as defined in Minn. Stats. § 609.02, Subd. 3.

It shall also be a misdemeanor for any person to attempt to commit a misdemeanor or to cause, aid, assist, counsel or advise another to commit misdemeanor. Any person who commits a misdemeanor, upon conviction, shall be subject to the penalties therefore established by State Statute. Unless expressly provided otherwise, each act in violation of the City Code, including this Chapter, shall constitute a separate offense, and each and every day that such a violation occurs or continues shall constitute a separate offense.

- C. **Fines.** A person or property in violation of this Chapter may also incur fines- in -accordance with the City's Fee Schedule.

**CHAPTER 710 MAINTENANCE AND REMOVAL OF TREES AUTHORITY AND DUTIES
OF CITY FORESTER**

710.01. Purpose.

The Wayzata City Council has determined the preservation of trees growing on public and private property are necessary to maintain the general welfare of the public ~~and has established regulations for the appropriate preservations of trees in Chapter 936 and is set forth more fully in Section 710.13 of this Chapter, and Section 801.36~~ of the Zoning Ordinance. In order to ~~administer those regulations, and to~~ maintain and enhance the quantity and quality of trees growing within the City, this Chapter is adopted to ~~regulate the maintenance and removal of trees within the City of Wayzata by:~~ (1) ~~Defining-Define~~ the duties and responsibilities of the City Forester as the agent ~~administering and~~ enforcing regulations relating to the planning, maintenance and removal of trees within the City of Wayzata; (2) ~~Providing for the issuing of permits and/or licenses for any maintenance and/or removal of trees within the City of Wayzata;~~ (3) ~~Providing-Provide~~ for the pruning and removal of trees on private property that endanger public safety; (34) ~~Providing-Provide~~ for standards and specifications of all policy concerning trees on public property; and (55) ~~Providing-Provide~~ for standards and specifications for care protection policy concerning trees within ~~project~~ construction ~~limits~~ areas.

(Ord. 614 [5-27-1999])

710.02. Duties and Qualifications of the City Forester.

- A. Duties. The City Forester, ~~as shall be~~ appointed by the City Manager, ~~for the purposes of this Chapter shall to~~ identify diseased and hazardous trees that threaten the health and safety of the public and coordinate all activities of the City relating to the control and prevention of tree pathogens. It shall ~~further~~ be the duty of the City Forester and the City Manager and/or his/her designee to ~~review~~ identify ~~and describe~~ Heritage and Significant Trees in any proposed subdivision or development project and to assist planners, developers, and architects in the development of a tree preservation plan for each construction ~~or~~ development project.
- B. Qualifications of the City Forester. The qualifications of the City Forester shall be, ~~at~~ a minimum, those qualifications prescribed for certified arborists by the International Society of Arboriculture, or such other appropriate qualifications as determined by the City Manager.

(Ord. 614 [5-27-1999])

710.03. Pathogen Control Program.

It is the intent of the City to conduct a program of plant pest control pursuant to the authority granted by Minn. Stat. §18.022. This Chapter provides full power and authority over all trees, plants and shrubs located within the street rights-of-way, parks and public places of the City; and to trees located on private property that constitute a hazard or threat as described herein; and trees that fall under the tree protection ~~and preservation policy~~ as regulations described ~~in Section 710.17 of this Chapter~~ elsewhere in City Code.

(Ord. 614 [5-27-1999])

710.04. Nuisances Declared.

The following things hereby are declared to be public nuisances whenever they may be found within the City:

-
- A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus (as defined by the Minnesota Department of Agriculture) or which harbors any of the elm bark beetles known by the Minnesota Department of Agriculture to transmit the disease.
 - B. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed ~~or sprayed with an effective Dutch Elm insecticide,~~ or disposed of in a manner prescribed by the Commissioner of Agriculture.
 - C. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt disease fungus, as defined by the Minnesota Department of Agriculture.
 - D. Any infected oak tree or part thereof, including logs, branches, stumps, firewood or other oak material unless all bark material is removed and disposed of in a manner prescribed by the Commissioner of Agriculture.
 - E. Any ash ~~tree at risk of infestation~~ infested with the Emerald Ash Borer (EAB) as determined by the City Forester after considering Minnesota Department of Agriculture guidance.
 - F. Any infested ash tree or part thereof, including logs, branches, stumps, firewood or other ash material unless all bark material is removed and disposed of in a manner prescribed by the Commissioner of Agriculture.
 - GF. Any living or standing tree or shrub or part thereof infected to any degree by any organism to be controlled as set forth and described by the Commissioner of Agriculture.
 - HG. Any dead, dying, decaying or living tree, shrub or parts thereof that interferes with the public use of any public thoroughfare or right-of-way.

It shall be unlawful for any person to permit any public nuisance as defined in this Section to remain on any property owned or controlled by him within the City. Such a nuisance shall be abated in the manner prescribed by this Chapter. Abatement shall be at the discretion of the City Forester in accordance with all State Law and City Code.

(Ord. 614 [5-27-1999])

710.05. Inspection and Investigation.

The City Forester shall inspect all premises and places within the City as often as practicable to determine whether any nuisances as described in this Chapter exist thereon. The Forester shall investigate all reported incidents of diseased trees within the City. The Forester or duly authorized representative(s) may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this Chapter. Except for cases of emergencies or the imminent threat of personal or property damage, the City shall notify the property owner at least five days prior to the inspection through certified mail to the address listed on the Hennepin County tax records. The inspection may occur after five days even if the certified letter is undeliverable or returned. The City Forester may, upon finding conditions indicating disease infestation is suspected and unconfirmed by a field diagnosis, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 710.08, or in the case of a positive field diagnosis, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

(Ord. 614 [5-27-1999])

710.06. Abatement of Nuisances.

In abating the nuisances defined in Section 710.05, the City Forester shall cause the infected and/or infested tree or wood to be ~~sprayed~~, removed, burned or otherwise effectively treated so as to destroy and prevent as fully as possible spread of the disease or insects. Such abatement shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

(Ord. 614 [5-27-1999])

710.07. Abatement Procedure.

Whenever the City Forester finds with reasonable certainty that an infestation defined in this Chapter exists in any tree or wood on any public or private property within the City, ~~he the City Forester~~ shall proceed to abate said nuisance as follows:

- A. If the City Forester finds that the danger of infestation of other trees is not imminent the Forester shall notify in writing the person(s) owning or controlling the property upon which the nuisance is located that the nuisance must be abated within 21 days from the date of the mailing. If no action to abate the nuisance is taken within this period the City Forester then shall make a written report of findings to the City Council. The Council shall take action to abate the nuisance, and it may proceed to recover the costs of such abatement as provided in Section 710.09-8
- B. If the City Forester finds that the danger of infestation of other trees is imminent the Forester shall notify in writing the person(s) owning or controlling the property upon which the nuisance is located that the nuisance must be abated within seven days from the date of the mailing, and shall report findings to the City Manager. If no action to abate the nuisance is taken within this period the Forester then shall make a written report of actions to the City Council, which may proceed to recover the costs of such abatement as provided in Section 710.09.
- C. If the City Forester finds that the danger of infestation of other trees is imminent the Forester shall notify in writing all persons owning or controlling property upon which is located trees in danger of becoming infested. Within this notice the City Forester shall state that action, if any, which should be taken to protect the trees in danger of becoming infested and the period within which such action must be taken. If no such action is taken within this period the City Forester then shall take appropriate action to protect these trees as an emergency measure and shall make a written report of this action to the City Council, which may proceed to recover the costs of such action as provided in Section 710.09-8

(Ord. 614 [5-27-1999])

710.08. Special Assessment Procedure.

Upon receipt of a report from the City Forester required by Section 710.07~~8~~, subsections a. through c., the City Council may pass a resolution to provide for recovering the costs of abatement of a nuisance and/or for recovering the costs of protecting threatened trees by a special assessment procedure. Before such a resolution may be approved, the City Manager shall notify all affected property owners by mail that such a procedure is under consideration prior to the meeting thereon. This notice shall state the time and place of the meeting, the abatement action proposed to be taken or already taken, the estimated or actual cost of such abatement and the proposed basis of assessing such cost. At this meeting all affected property owners shall have the right to be heard with reference to the proposed assessments and assessment procedure. The Council thereafter by resolution may approve such special assessments for the purposes specified herein.

(Supp. No. 7)

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The City Forester shall keep a record of all abatement activities and all abatement costs for which special assessments are to be made or may be made, stating the description of the properties involved and the amounts chargeable to each property. On or before October 10th of each year the City Manager shall list the total unpaid charges for such abatement activities against each separate property to which they are attributable under this Chapter. The City Council then may spread the charges or any portion thereof against the property involved as a special assessment for certification to the Hennepin County Auditor and for collection the following year along with current taxes.

(Ord. 614 [5-27-1999])

710.9. Transporting Diseased Wood.

~~It shall be unlawful for any person to transport within the City any diseased wood without first having obtained a permit therefore from the Forester. The Forester may grant such a permit only when the purposes of this Chapter will be served thereby.~~ The transporting of diseased wood out of the City shall be governed by current State Statutes MDA quarantine notifications related to transportation of diseased and/or infested ~~infected~~ material and any other applicable State Statutes.

(Ord. 614 [5-27-1999])

710.10. Interference Prohibited.

It shall be unlawful for any person to prevent, delay or interfere with the City Forester or duly authorized representative(s) while they are engaged in the performance of duties imposed by this Chapter.

(Ord. 614 [5-27-1999])

710.11. License Required.

No person shall conduct as a business, the cutting, trimming, pruning, removal, spraying or other treatment of trees within the City without first having been issued a license therefore pursuant ~~Refer~~ to Chapter 519, Section .01 and Chapter 936.____ of the City Code.

(Ord. 614 [5-27-1999])

710.12. Intentional or Deliberate Damage.

It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any living tree, deciduous or coniferous, on private land within the limits of the City of Wayzata in violation of this Section. Minn. Stat. §561.04 strictly prohibits intentional damage to trees on public property in any form and provides that whoever willfully and without lawful authority injures any tree, timber or shrub on City property is liable for ~~treble~~ ~~triple~~ treble the amount of damages which may be assessed therefore. The City Forester and other City Staff ~~should~~ not make any claims related to the structural integrity of any tree, and any assessments made related to a tree may not be relied upon by the property owner.

(Ord. 614 [5-27-1999])

710.13. Violation.

Unless expressly provided otherwise, it shall be a misdemeanor for any person to violate any provision of the City Code including this Section, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Section. The term "misdemeanor" shall be as defined in Minn. Stat. §609.02, Subd. 3.

It shall also be a misdemeanor for any person to attempt to commit a misdemeanor or to cause, aid, assist, counsel or advise another to commit misdemeanor. Any person who commits a misdemeanor, upon conviction, shall be subject to the penalties therefore established by State Statute. Unless expressly provided otherwise, each act in violation of the City Code, including this Chapter, shall constitute a separate offense, and each and every day that such a violation occurs or continues shall constitute a separate offense.

(Ord. 614 [5-27-1999])

710.14. Severability.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of the City Code, including this Chapter are severable, and if any phrase, clause, sentence, paragraph, or section of the City Code, including this Chapter, shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the City Code, including this Chapter.

(Ord. 614 [5-27-1999])

(7-21-81 Code; Chapter repealed and replaced by Ord. 574 [2-21-1995]; Ord. 588 [2-27-1997]; Chapter repealed and replaced by Ord. 614 [5-27-1999]; Ord. xxxx [xx-xx-2016])

CHAPTER 519 TREE REMOVAL AND TREATMENT

519.01 License Required.

No person shall conduct as a business, the cutting, trimming, pruning, removal, spraying or other treatment of trees within the City without first having been issued a license therefor [as provided in this Chapter](#).

519.02 License Fee.

The annual license fee which shall be charged for licenses issued under this Chapter shall be as established by City Council resolution.

(Ord. 449 [1-7-1986])

519.03 Surety Bond Required.

All persons licensed under this Chapter shall maintain and file with the City a bond in the amount and form approved by the City Manager payable to the City and executed by a surety company authorized to do business in the State of Minnesota. Said bond shall be drawn on a form furnished by the City and shall be conditioned to require that the licensee will in all respects well and faithfully perform all things undertaken by him for which a license is required hereunder, and it shall save the City, its property owners and residents harmless from all accidents and damages consequent thereto.

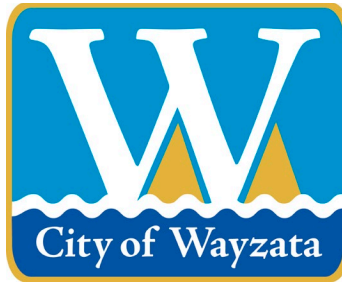
(7-21-81 Code; Ord. 449 [1-7-1985])

519.04 Required Insurance.

All persons licensed under this Chapter shall maintain and file with the City public liability insurance coverage covering all operations of the licensee with minimum bodily injury limits of \$100,000.00 per person and \$300,000.00 per occurrence and with minimum property damage limits of \$50,000.00 per occurrence. Said insurance shall include the City as an additional party insured and shall provide that the coverage may be cancelled only after ten days' written notice to the City. If a licensee's coverage is cancelled and not replaced with coverage meeting the requirements of this Section, said License immediately shall be suspended until said coverage is provided. All persons licensed under this Chapter also shall maintain and file with the City a Certificate of Worker's Compensation Insurance, as such coverage is required by State Statute.

519.05 Chemical Treatment Requirements.

All persons licensed under this Chapter who propose to use chemical substances in any activity related to treatment or disease control of trees shall file with the City evidence that the licensee or the employee of the licensee administering the treatment has been certified by the ~~Agronomy Division of the~~ Minnesota Department of Agriculture as a "commercial pesticide applicator." Said certification shall include the knowledge of tree disease chemical treatment.



City Council
Mayor Johanna Mouton
Jeff Buchanan
Cathy Iverson
Molly MacDonald
Alex Plechash

City Manager
Jeffrey Dahl

City of Wayzata Tree Replacement Fee-in-Lieu Fund Policy Proposed August 15, 2022

The fee-in-lieu funds received by the City for the purpose of tree replacement as required in §936.10.G shall be used in accordance with the policy outlined below. Any tree removal required to submit fee-in-lieu funds must also meet the requirements of the overall Tree Preservation Ordinance - §936.

Purpose and Intent:

The Wayzata City Council finds it is in the best interest of the City to protect, preserve, and enhance the natural environment of the City, and to encourage a balanced approach to the development and alteration of wooded areas. In the interest of achieving these objectives, the City has established a comprehensive Tree Preservation Ordinance and this proposed Tree Replacement Fee-in-Lieu Fund Policy to promote the following:

- A. Protection and preservation of the environment and natural beauty of the City;
- B. Assurance of orderly development within wooded areas to minimize tree and habitat loss;
- C. Evaluation of the impacts to trees and wooded areas resulting from development;
- D. Establishment of minimal standards for tree preservation and the mitigation of environmental impacts resulting from tree removal;
- E. Provision of incentives for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clear cutting during development; and
- F. Enforcement of tree preservation standards to promote and protect the public health, safety and welfare of the community.

Fee-in-Lieu Funds:

The City recognizes that there may be instances where the total amount of tree replacement required under the Tree Preservation Ordinance cannot occur on site. In those instances, the City may, at its option, accept a fee-in-lieu of tree replacement or allow the planting of replacement trees in public areas. Tree replacement is encouraged to happen on site as much as possible and fee in lieu-of-tree replacement should be used only when replacement on site is not feasible. The amount of fee-in-lieu of tree replacement will be determined by the City Council and authorized by the City Fee Schedule.

Priorities for Funds:

If tree replacement cannot occur on site then the fee-in-lieu funds are collected by the City and held in an account restricted for the following eligible tree preservation activities. Eligible activities are listed in order of priority:

1. Planting of new trees on adjacent or nearby public properties or right-of-way
2. Maintenance or removal of trees on adjacent or nearby public properties or right-of-way
3. Planting or maintenance of trees on public property or right-of-way farther from the subject property and within the City of Wayzata
4. Planting or maintenance of plants/shrubbery on adjacent or nearby properties or right-of-way
5. Other similar activities that mitigate the impacts of tree removal on the subject property and fulfill the purpose and intent of the Wayzata Tree Preservation Ordinance, the Wayzata Comprehensive Plan, and this Policy, as determined by the City of Wayzata Public Works Director or his/her designee.



Tree Removal Permit Application

600 Rice Street East Wayzata, MN 55391

952-404-5300

permits@wayzata.org

2022 FEE:

\$58.00

Property Information			
SITE ADDRESS <div style="text-align: right;">Wayzata, MN</div>	Is this a new home?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
NAME OF BUSINESS (if applicable):			
Applicant Information			
Applicant: <input type="checkbox"/> Licensed Tree Contractor <input type="checkbox"/> Property Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Other			DATE
APPLICANT NAME		PHONE NUMBER	
APPLICANT ADDRESS		CITY	STATE
TREE REMOVAL COMPANY NAME		STATE LICENSE #	
Send Approved Permit Via:			
<input type="checkbox"/> Emailed: _____ <input type="checkbox"/> Mail or <input type="checkbox"/> In Person			
Property Type:			
<u>Residential</u>		<u>Non-Residential</u>	
<input type="checkbox"/> Single-Family	<input type="checkbox"/> Two-Family	<input type="checkbox"/> Commercial	<input type="checkbox"/> Institutional <input type="checkbox"/> Other: _____
<input type="checkbox"/> Townhouse	<input type="checkbox"/> Multi-Family	<input type="checkbox"/> Church	<input type="checkbox"/> Public
Type of Project			
<input type="checkbox"/> Subdivision	<input type="checkbox"/> Home Addition	Call Gopher State One before you dig. (651) 454-0002	
<input type="checkbox"/> New Single-Family Home	<input type="checkbox"/> No Associated Project		
<input type="checkbox"/> Grading	<input type="checkbox"/> Other: _____		
<input type="checkbox"/> Design Review			
Project Information:			
Has a tree inventory of the site been completed?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the tree replacment calculations been completed, if applicable?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are all the other requirements in the Tree Preservation Ordinance been met?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Acknowledgment and Signature			
I hereby apply for a Tree Removal Permit and acknowledge that the information above is complete and accurate; that the work will be in conformance with the ordinances and codes of the City of Wayzata.			
Applicant Signature:		Date Signed:	
<i>By electronically signing (or typing) your name, you acknowledge that all information provided is true and correct.</i>			
OFFICE USE ONLY			
Staff Comment:			
Date Received:	Authorization to Issue:		Permit#
	<input type="checkbox"/> Approved <input type="checkbox"/> Denied		Date Issued:
<u>Address Verified:</u>		Processed by:	
<input type="checkbox"/> Yes <input type="checkbox"/> No		Permit Fee: _____ Escrow Required: _____	
Future Inspection Needed			
<input type="checkbox"/> Yes <input type="checkbox"/> No		Permit Sent Via:	
<u>Zoning District:</u>		Date:	

Tree Removal Permit Requirements

Under Wayzata City Code, a Tree Removal Permit is required for the removal of any tree that is over six inches in diameter measured at a height of 4.5 feet from the ground (§936.05). Overall, a Tree Removal Permit is required for any Significant or Heritage tree removal. All the requirements listed in the Tree Preservation Ordinance shall be met with any Permit along with the requirements listed in the Permit itself. The Tree Removal Permit can be found on the City's website or at City Hall.

Process:

1. Submit Tree Removal Permit Application and other required submittals to city staff
2. City staff reviews the Application and determines if it is complete
3. Submit tree escrow payment to cover tree replacement, if applicable (§936.12)
4. Staff approves or denies the Tree Removal Permit
5. If approved, the Trees cover by the Permit can then be removed by a tree removal business licensed under § 519.

Application Requirements:

- Tree Removal Permit Application
- Tree Preservation Plan if applicable. A Tree Preservation Plan is required for any project listed in §936.06. Mainly, if the tree removal is associated with a building permit, land disturbance permit, or a development application then a Plan is required. The list below are the required items to be in the Plan:
 - o The name(s) and address(es) of property owners and applicants.
 - o Delineation of the buildings, structures, impervious surfaces, utilities, and other site improvements on the property.
 - o Delineation of all areas on the property to be graded and limits of land disturbance, including the contouring of all areas to be graded.
 - o Size, species, location and condition of all Significant and Heritage Trees located on the property as well as on adjacent properties where the Critical Root Zones of the trees are within the proposed Construction Area. The size of Deciduous Trees must be recorded in DBH and the size of Coniferous Trees must be recorded both in DBH and approximate height.
 - o Identification of all Dead, Diseased, Dying and Hazard Trees.
 - o Identification of all Significant and Heritage Trees proposed to be removed within the Construction Area.

- Measures to protect Heritage and Significant Trees as outlined in §936.08.
 - Size, species, and location of all replacement trees to be planted on the property in accordance with the tree replacement requirements (§936.10).
 - Total calculations for the amount of tree removal proposed with the removal percentage allowed incorporated and the tree replacement calculations.
 - Signature of the person preparing the plan and statement which includes acknowledgment of the fact the trees to be used as replacements are appropriate species with respect to survival of the replacement trees.
- Escrow amount (if applicable in §936.12).

Allowed Tree Removal:

- Property that is the subject of a subdivision, public infrastructure installation or improvement, or the construction of single-family homes are allowed to remove up to 25% of existing trees on the property before tree replacement is required (§936.06.A).
- Property that is the subject of land disturbance permits, design review, or expansions to single-family homes are allowed to remove up to 10% of existing trees on the property before tree replacement is required (§936.06.B).
- Heritage trees are an exception. Any heritage tree that is removed in connection with any of the land use approvals and activities listed above must be replaced at a 2:1 ratio (§936.10.A).
- Property that is not the subject of any of the land use approvals and activities listed above is not required to replace any trees, even heritage trees.

Required Calculations Template:

Total Significant Tree Inches On Site	DBH inches
Total Significant Tree Inches to be Removed	DBH inches
Percent of Significant Tree Inches to be Removed	Percentage
Allowed Tree Inches to be Removed before Replacement (10% or 25%)	DBH inches
Required Significant Tree Inches to be Replaced after Allowed Removal	DBH inches

Total Heritage Tree Inches to be Removed	DBH Inches
Required Heritage Tree Inches to be Replaced (2:1 ratio)	DBH Inches
Total Tree Inches Required to be Replaced	DBH
Total Tree Inches to be Planted	DBH
Total Remaining Tree Inches not Planted	DBH
Total Fee-in-Lieu to be Paid (\$160 per inch)	\$

Recommended Replacement Trees :

Permit holders are encouraged but not required to follow the recommendations listed in the Hennepin County list of recommended trees on the County website for new tree plantings found [here](#). No more than 20% of the trees planted can be of the same genus.