MINNETONKA BEACH PLANNING COMMISSION

Chair:
Jeff Breazeale

Council Liaison:
Jennifer Halverson

Members:
Jeff Breazeale, Scott Gamble, Colleen Finnegan, Joe Steinfeld, Susan Swanson, Bridget Wortman

Staff:
Heidi Honey, City Administrator
Phil Carlson, Zoning Administrator (Stantec)

Planning Commission Regular Meeting Agenda
Monday, May 19, 2025 ~ 7:00 PM

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES
4.1. May 6, 2025

5. ZONING CODE AMENDMENTS – Tree Protection Ordinance Update

6. REPORTS
6.1. Chair Report
6.2. Commissioner reports
6.3. Council Liaison
6.4. Building Permit Report - Receive and File

7. ADJOURNMENT

APPROVED
Minnetonka Beach Planning Commission Meeting Minutes
May 6, 2025 – 7 pm

1. Call to Order

Chair Breazeale called the meeting to order at 7 pm.

2. Roll Call

Present: Commissioners Breazeale, Finnegan, Gamble, Steinfeld, Swanson and Wortman; Council Liaison Halverson
Absent:
Staff in attendance: City Administrator Heidi Honey

3. Approve Agenda

Swanson motion, Finnegan second to approve the May 6, 2025 meeting agenda. All ayes; **motion passed.**

4. Approve Minutes

4.1. January 27, 2025

Steinfeld motion, Finnegan second to approve the January 27, 2025 meeting minutes. Aye – Wortman, Steinfeld, Breazeale, Finnegan; Nay – none; Abstain – Gamble, Swanson. Motion passed.

4.2. Regular Meeting of February 24, 2025

Finnegan motion, Swanson second to approve the February 24, 2025 meeting minutes. Aye – Gamble, Breazeale, Swanson, Finnegan; Nay – none; Abstain – Wortman, Steinfeld. Motion passed.

5. New Business

5.1. 2026 – 2035 Capital Improvement Program

Honey explained the process for the 2026 – 2035 Capital Improvement Program. The schedule is a little behind since Planning did not meet in March but that will not impact the overall schedule. She asked that they approve the schedule and appoint a representative to oversee the process. Honey added that the reason the Planning Commission leads the CIP is that they need to ensure the requests align with the Comprehensive Plan.

Swanson motion, Steinfeld second to approve 2026 – 2035 Capital Improvement Program schedule. All ayes; Motion passed.

Swanson motion, Steinfeld second to nominate Finnegan as CIP representative. All ayes; Motion passed.

6. Tree Preservation Ordinance Work Group Update

Gamble reviewed the Tree Ordinance Review Plan which lists all of the opportunities identified from the survey responses. The recommended changes, rationale, and next steps are listed for each opportunity.

<u>Heritage Trees/Significant Trees - Opportunity Items 1A, 2 and 1B</u> – There was a lot of input on the survey regarding the size/age definition for trees. 69% thought there should be regulations on heritage tees, but there was less support for regulations on coniferous trees because the height of coniferous trees does not accurately represent their age. The work group recommended measuring all trees by DBH (coniferous and deciduous). Recommend no change to heritage tree being 30" at DBH or larger. Breazeale explained that trees grow at different rates and most communities distinguish between faster and slower growing trees.

Generally, softwoods are rapidly growing, and hardwoods are slow growing. The City Forester, Manuel Jordan, had stated to the work group that hardwoods are more valuable, issues with them can be corrected, and they are less susceptible to disease or insects. The work group recommends all trees be measured by diameter and make a distinction between rapid and standard growing trees. Jordan agreed with this approach.

Breazeale then reviewed the redlined ordinance language in the packet and recommended the following:

- Strike the definitions of coniferous and deciduous trees, and references to them throughout.
- Add a definition for rapid growth tree and standard growth tree and all references to those.
- Significant definition for slow growth trees is 6 inches, and 10 inches for rapid growth trees.

These changes will make the regulations less restrictive.

Most arborvitae would not fall under the significant category because they branch out to multiple trunks. Swanson recommended a list of trees for residents and staff to use to determine what group they fall under. The work group can try to get a comprehensive list of trees and their growth rates. There was discussion about adding a chart to the definitions.

This approach simplifies the ordinance, is more in line with surrounding cities, and it is less restrictive.

Gamble motion, Swanson second to recommend the changes discussed about types of trees and size of trees in the ordinance with the addition of a more complete list of trees in the standard growth and rapid growth categories. All ayes; motion passed.

Heritage Trees - Item 2 – Recommend no change to the ordinance. The reason is that Council has not yet been asked to review a request to remove a healthy heritage tree and staff decisions can be appealed to council so they would ultimately make the decision.

Cottonwoods Item - 3 – The survey showed anti-cottonwood sentiment, part of which may be from lack of understanding of the ordinance. Recommend no change to current regulation. Cottonwoods are never considered heritage. The city forester had explained to the work group that cottonwoods are valuable in that they take up a lot of water, are good for shorelines and they provide a great deal of oxygen.

Hazard, dead, diseased, and dying trees - Item 4 – Gamble stated the code is confusing, but the actual permitting process is not difficult. If the code is restructured, it will make it much easier to understand. Recommend eliminating fees for hazard, diseased, dying which aligns with dead and emergency hazard. This removes a barrier that was presented in the survey. This will be redlined for the next meeting.

Redlines are needed on the fees but fees are part of the City's fee schedule and that can be done at the council level. Arborvitae which will be covered at the next meeting.

General Item - 8 – Council has requested that the ordinance be simplified and be clearer. Gamble stated that this will require additional eyes on the proposed changes to ensure that when language is moved around, nothing is left out. There was a discussion that the code is geared toward administrative functions and not user friendly. Gamble suggested replacing the code with a simplified chart, or an if/then layout, and removing a lot of the language. Steinfeld asked if a simplified chart could be provided to users based on the code, instead of changing the ordinance. Breazeale expressed concerns about having two documents to keep updated. Steinfeld stated that statutes are necessary but never user friendly. The code is written for interpretation by the zoning administrator or staff. Gamble discussed segmenting it for who

provides approvals. There was discussion about making a chart as part of the code. Steinfeld recommended adding the table to the code but keeping the necessary code language.

7. Reports
   7.1. Chair Report – no report
   7.2. Commissioner Reports – no reports
   7.3. Council Liaison – Council agreed for Planning to review the home occupation ordinance after the tree ordinance is completed. She then gave an update on the April 14th council meeting. She asked that they send letters to their representatives in support of the City's funding request for infrastructure projects to Rep. Myers, Senator Johnson Stewart, and the Governor. The deadline is May 12, 2025.
   7.4. Building Permit Report – received and filed

   The next Planning meeting is scheduled for May 19th. The work group is scheduled for the same date at 6 pm.

8. Adjournment

Steinfeld motion, Swanson second to adjourn. All ayes; motion passed.

Chair Breazeale adjourned the meeting at 8:30 p.m.

PUBLIC IN ATTENDANCE – none

Minutes respectfully submitted by City Administrator Heidi Honey

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Heidi Honey, City Administrator

Minnetonka Beach Tree Preservation Ordinance Work Group

Members:
Jeff Breazeale, Scott Gamble, Bridget Wortman

Staff:
Heidi Honey, City Administrator

Work Group Meeting Agenda
Monday, May 19, 2025 ~ 6:00 – 7:00 PM

1. Council Feedback from May 12, 2025 City Council Meeting
2. Review Proposed Ordinance Language Amendments – Redlines
3. Review Proposed Fee Schedule Changes
4. Review Tree Table – Standard vs. Rapid Growth
5. Community Engagement Strategies for Tree Preservation
6. Attorney Letter on Tree Ordinances
7. Deferred Items for Future Review

City Admin

From: Scott Gamble <srgamble21@gmail.com>
Sent: Tuesday, May 13, 2025 9:35 PM
To: City Admin
Cc: jeff Breazeale; Bridget Wortman
Subject: Tree Work Group Inputs
Attachments: Zoning Appendix A Replealed and replaced - SG Edits 5.13.25.docx

Hi Heidi,

Thank you for your time today. Below is a recap of the items we discussed. I'll be out of pocket until Sunday afternoon, but can reconnect Monday morning. Glad to take calls but won't have my computer. I spoke with Jeff, and he's fine with updating the packets for the Workgroup and Planning on Monday.

Summary of Redline Changes to Ordinance (see attached)

- Changed Tree Preservation Review Board title to Tree Permit Review Board throughout the ordinance.
- Moved tree removal approval within City Right of Way and Easement from Tree Review Board to City Council (Section 8.4.5).
- Simplified Site Plan Requirements by removing:
    - (c) Full tree identification on the property
    - (d) Identification of dead and noxious trees on the property
      These are already addressed in the Tree Preservation Plan.
- Added clarification on City Engineer involvement if stumps are removed within 75' of a lake (8.4.5).
- Restructured Replacement Tree Requirements and Fee for Tree Removal Without a Permit (8.4.6) by:
    - Categorizing by Protected Tree status – *Significant* and *Heritage*.
    - Removed conifer section, as it doesn't apply.
    - Fines were not changed – this will be a discussion item for Monday.
- Tree Density calculation remains unchanged – all protected trees count toward density.

Proposed Fee Schedule Changes

- Dead, Diseased, Dying, or Hazardous Trees – No fee
- Healthy Tree (Non-Construction) – $50
- Healthy Tree (Construction-Related) – $200
  Note: Additional City Forester or Arborist fees may apply.
- Environmental Remediation Fee – $2,000–$5,000 (subject to Monday's discussion)
- Fee in Lieu of Replacement – $160 per DBH inch
  (Remove conifer reference; I believe one standard makes sense—do you agree?)

Deferred Items for Future Review - Jeff agrees we'll address these later, during the broader ordinance simplification effort:

- 8.4.9 – Nuisance Trees
- 8.4.10 – Enforcement
- 8.4.11 – Financial Guarantee
- Related overlap with City Code Sections 508 and 110

Agenda Items for Monday's Workgroup Meeting

- City Council Feedback, especially addressing concerns about Cottonwoods

- Review Ordinance Redlines
- Review Fee Schedule Changes
- Review Tree Table - Standard vs. Rapid Growth - Jeff
- Discuss community engagement strategies for tree preservation ("Carrots and Stick")
    - Jeff's Idea: Create a special designation for properties meeting a tree preservation threshold (May include naturalized habitat elements, similar to Parks' shoreline restoration program.)

Let me know if I missed anything.

Regards,
Scott

City Council Tree Ordinance Review (*3 of the 10 opportunity areas evaluated by the Planning Commission)*

Area	#	Opportunity	Recommended Changes	Rationale	Next Steps
Heritage Trees	1A	**Tree size/age definition:** Do we need to adjust conifer definition to better align with deciduous definition and age of tree?	• **Change: Measure all trees (deciduous and conifers) by DBH** • current measurement for Heritage conifers is based on height 30 feet and taller • No change to Heritage DBH at 30" and larger	• Current conifer height measurement elevates younger conifers protection status • Simplifies code and management by measuring all protected trees by common measurement standard (DBH)	• Planning Commission to review and recommend "redlines" 5/6 • City Council review and approve 5/12
	2	**Approval process simplification:** Do we need City Council involved in approval process?	• **No change** to current approval process process for **Healthy** Heritage Trees.	• City Council is only involved in removing Healthy Heritage Tree permits decisions and unpaid fee in lieu of replacement trees not paid. <5% of all permits • Staff decision can be appealed to City Council • Uncommon event; City Council has not reviewed in the past two years	• Update Planning & City Council; no approval needed

Significant Trees	1B	**Tree size/age definition:** Do we need to adjust conifer definition to better align with deciduous definition and age of tree? Is the 6" minimum too small (young) for some trees?	• **Change: Measure all trees by DBH**
			• **Change: Create two tree classifications based on growth rates**
			  • Standard Growth Trees 6"to <30" (e.g. Bur and White Oak, Hickory
			  • Rapid Growth Trees 10" to <30" (e.g. Silver Maples, Ash, Elm, Basswood, Mulberry, Willow, Aspen)
				• Current conifer height measurement elevates younger conifers protection status
				• Current size measurement does not account for significant growth rate differences
				• DBH simplifies code by measuring all protected trees by common standard
				• Aligned with Wayzata definitions
					• Planning Commission to review and recommend "redlines" 5/6
					• City Council review and approve 5/12

	3	**Cottonwoods protection:** Have we appropriately classified Cottonwoods?	• **No change** to current regulation; currently only protected as Significant tree.	• While cottonwood seeds (cotton fluff) is viewed negatively by some residents, they do have ecological benefits stabilizing soli and reducing run-off	• Update Planning & City Council; no approval needed

Minnetonka Beach
Tree Ordinance Review Plan

Status Update from March 11, 2025 work group meeting

Tree Ordinance Opportunities Plan (pg. 1 of 3)

Area	#	Opportunity as agreed to with City Council	Recommended Changes under consideration from 2/18 work group meeting	Recommended Changes under consideration from 3/11 work group meeting	Who
Heritage Trees	1A	**Conifer size/age definition:** Do we need to adjust definition in the ordinance (i.e. is 30 feet too young?)	• Size/age Conifers by DBH vs. current height metric • Differentiate trees between Rapid and Slow growth trees. Apply different different size standards based on pace of growth • Apply to both Heritage and Significant Trees	• Follow Wayzata categories of hard wood, rapid growing and coniferous. • Simplifying the code by measuring coniferous by DBH, not height. • Significant trees minimum size - 6" hard, 10" soft, and 6" coniferous. • Heritage leave at 30". Leave cottonwood regulations as is.	Jeff
	2	**Approval process simplification:** How should City council be involved in approval process?	• No recommended changes to current process	• No change to process, staff decision can be appealed to council anyway so they may as well be the ones make healthy heritage tree removal decisions.	Scott
Significant Trees	1B	**Conifer size/age definition:** Do we need to adjust definition in the ordinance? (i.e. is 12 feet too young?)	• See Heritage Tree section	• Follow Wayzata categories of hard wood, rapid growing and coniferous. • Simplifying the code by measuring coniferous by DBH, not height. • Significant trees minimum size - 6" hard, 10" soft, and 6" coniferous. • Heritage leave at 30". Leave cottonwood regulations as is.	Jeff
	3	**Cottonwoods protection:** Should Cottonwoods have the same protections as other significant trees?	• TBD	• Recommend no change since they have environmental value but not as heritage.	Jeff
Smaller than Significant Trees		None identified	• None; they are not regulated	• None; they are not regulated. The threshold for significant definition from above will change what tress are considered Significant.	Scott

Tree Ordinance Opportunities Plan (pg. 2 of 3)

Area	#	Opportunity as agreed to with City Council	Recommended Changes under consideration from 2/18 work group meeting	Recommended Changes under consideration from 3/11 work group meeting	Who
Dead, diseased and Dying Trees	4	**Approval process simplification:** Can we simplify the process for residents and for the city?	• Include user friendly table similar to city's chart of situations to address misunderstanding by residents as to what situations require a permit or not. • Leave dead trees as is with no permit. CTI or CF to verify (No Change) • Diseased, dying and hazard trees still requires a permit but with no fee with the property owner plus the City Tree Inspector (Jason) or City Forester inspection (Manuel) for verification.	• No changes to 2-18 recommendation	Scott
General	5	**Arborvitae definition:** Have we appropriately defined and classified Arborvitae as trees? How do we manage overgrown Arborvitae that need to be replaced?	TBD	TBD	Jeff
	6	**Tree density definition:** Should we count the size of replacement trees (2.5") instead of significant or larger?	• Keep the code as is, requiring only trees significant or larger counting towards minimum density.	• No changes to 2-18 recommendation	Bridget
	7	**Tree stump removal process:** Do we need city engineer approval if tree stump is not removed (for erosion control) within 75 feet of lakeshore?	• Leaving the stump doesn't require a city engineer review, saving costs. If the homeowner wants it removed, an engineer's opinion is needed.	• No changes to 2-18 recommendation	Bridget

Tree Ordinance Opportunities Plan (pg. 3 of 3)

Complete after #1-7 are complete

Area	#	Opportunity as agreed to with City Council	Actions under consideration from 2/18 work group meeting	Who
General	8	**Ordinance clarity:** Can we make our ordinance more concise?	TBD after #1-7 are complete • Maintain current structure to align with rest of code • Include user friendly table similar to city's chart of situations • Streamline each section striking balance with necessary detail for enforcing the nuisances of the code; use red line tracking feature in Word for team to review • Condense application section details • Eliminate escrows section; city does not have capacity to manage complexity of escrows • Remove fee schedule; maintain outside of code • Add all permits are responsibility of homeowner – per Heidi	Scott
	9	**Ordinance code duplication:** What changes do we need to make to align the tree ordinance and the broader city code? (e.g. Definitions in multiple places in code)	TBD after #1-7 are complete • Compare and align revised tree ordinance with current city code	TBD
	10	**Appropriate fine structure for enforcement:** City Attorney commented on the fine amounts potentially being too high	TBD after #1-7 are complete • Compare current fine structure with other cities and review with Heidi and City Attorney	TBD
	11	**"Carrots**...and Stick"-City Council has asked us to provide a recommendation on how to acknowledge (all) residents' feedback and ideas to inspire broader community support for tree preservation efforts.	TBD after #1-7 are complete • Team brainstorming	TBD

(b) Two signs will be erected and maintained welcoming Regional Trail users to Minnetonka Beach and advising them of the residential character of the community and the multiple public and private roadway crossings that lie ahead;

(c) Property line identification signs;

(d) All other signs will conform to the requirements of Section 6.3 of this ordinance.

C. Maintenance and Construction Performance Standards.

(1) Any trail, accessory improvements and other lands shall be maintained in good order by the property owner or their designated representative while adhering to the City Code of Ordinances;

(2) The construction process and operation of the recreational uses shall be covered by a Construction and Operating Performance Agreement with the City.

D. Environmental Performance Standards.

(1) Rain gardens to retain and treat storm water runoff are to be developed and maintained using National Urban Runoff Program equivalent standards and Best Management Practices as contained in the Minnesota Pollution Control Agency's Stormwater Manual. for storm water retention and filtering with the following specific performance standards:

(a) Stormwater volume control: At a minimum, the first one inch of runoff from a 24-hour storm is infiltrated. Calculations shall use the appropriate Hydrologic Soil Group Classification and saturated infiltration rates unless specific rates are measured by a registered soil scientist and as approved by the City Engineer in accord with Minnesota Pollution Control Agency's "Minnesota Stormwater Manual" and Standards of the Minnehaha Creek Watershed District;

(b) Rain gardens shall be designed and maintained to reasonably reduce the production of adult mosquitoes;

(c) The rain gardens will be maintained in a functional manner.

(2) Institute design, construction and maintenance practices to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to Best Management Practices, and assuming no sediment re-suspension.

(3) Practices resulting in an increases in phosphorous loading to the public storm water system, Wetlands and Lake Minnetonka are not allowed.

(4) Additional over story trees and other landscaping will be added within the Zoning District. Such additional trees and other landscaping shall:

(a) Not impair the trail's use or safety;

(b) Be used to reduce trail user speed;

(c) Be selected by species, type and color as a means to creating community identity.

(5) Forest and other Vegetarian Preservation and Restoration standards are as follows:

(a) ~~Deciduous t~~Significant and Heritage trees ~~measuring 6 inches in diameter or more and coniferous trees 8 or more feet tall~~ shall not be removed unless approved by the City Council or the tree is deemed, by a licensed arborist, to be diseased and dying or of a noxious variety;

(b) Diseased and dying vegetation and noxious vegetation will be removed on an annual basis;

(c) Within two years of commencing construction of the trail, the property owner shall submit to the City a Forest Management Plan, prepared by a licensed arborist or ecologist with timing and sequencing that addresses the long-term health and viability and the actions needed to maintain the health of the forest within the P-1 Zone. Such plan shall:

(i) Provide measures to restore the original vegetation;

(ii) Enhance and restore the plant and forest community;

(iii) Restore the rarest or the otherwise highest priority plant community that is practical to restore;

(iv) Restore a representative variety of ecosystems for plants and animals throughout the forested areas; and

(v) Restore the highest priority and most easily attainable mix of forest ecosystems in the quickest and easiest way.

(d) The Forest Management Plan is subject to City approval.

(i) The property owner shall implement the Forest Management Plan upon the City's approval within the forested areas of the Zoning District.

(ii) The property owner shall actively manage the existing forests and woodlands by protecting the ecological integrity of the Maple- Basswood Forest, while improving the overall health and vitality of these plant communities using sustainable forestry principles. Forest management will include activities that implement the Forest Management Plan and include:

- Removal non-native invasive species;
- Protection of the ecological health of existing mature forests;
- Restoration of the ecological health of degraded and young forest areas; and
- The increase of habitat for birds, reptiles and other animals.

E. Site Plan Required.

(1) Unless otherwise waived by the Zoning Administrator, a site plan conforming to the performance standards of this ordinance, the Comprehensive Plan and depicting the following shall be required:

(a) Survey prepared by a Registered Land Surveyor showing the boundaries, a legal description of the site and all improvements on the site.

(b) Two-foot contour interval topographic maps the site with flood plains and flood prone areas, Lake Minnetonka Ordinary High Water Level and Wetlands delineated.

(c) Tree survey of the site identifying any Significant or Heritage ~~deciduous~~ trees ~~over six inches in diameter as measured 2 feet from the ground and coniferous trees 8 feet or greater in height~~ that are proposed to be removed;

8.0 VEGETATION AND LAND ALTERATION STANDARDS

8.1 Shoreland Alterations.

All land in the City of the Village of Minnetonka Beach is classified as Shoreland. Alterations of vegetation and topography will be regulated as outlined herein to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

8.1.1 Controlling Shoreline Erosion

A. Applicability and Required Shoreline Stabilization. Shoreline stabilization shall be installed in accord with Minnehaha Creek Watershed District Rules in the following circumstances:

(1) On any riparian property where the demolition permit for an existing residential home and a building permit for construction of a new residential home is issued;

(2) On any non-residential riparian property that is adding 1,000 square feet or more of floor area or is adding a new building containing a 1,000 square feet of floor area to the property;

(3) Where erosion on private or public riparian property threatens damage to public improvements, creates a public nuisance or a creates a danger to public safety;

(4) On public property owned or under the control of the City, County, Three Rivers Park district or Hennepin County Regional Railroad Authority;

B. Permit(s) Required

(1) A permit shall be required from the Minnehaha Creek Watershed District for the placement of any riprap or similar device including bio-stabilization methods along the shoreline of Lake Minnetonka below the Ordinary High Water Level.

(2) At the discretion of the City Engineer, shoreline stabilization projects which extend above the Ordinary High Water Level of Lake Minnetonka may also require a City issued grading permit [as outlined in Section 3.4.9] if the proposed work is deemed to go beyond normal yard maintenance by the City Engineer.

8.1.2 Vegetation Alterations. Vegetation removal in a Shore Impact Zone or Bluff Impact Zone is prohibited as follows:

A. Trees~~other than Buckthorn that are greater than six (6) inches in diameter measured two (2) feet above the ground may not be removed or intentionally killed by any person~~See Section 8.4.

~~**B.** Protected Tree that have the "status "of dead, diseased, insect-infested, rotted, or are so damaged by natural events as to be hazardous, may be removed with one of the following:~~

~~(1) The property owner files with the City Clerk prior to removal a written opinion of a Minnesota licensed arborist stating that removal is advisable because the tree constitutes a hazard to persons or property. Such opinion must be based only on the Protected Tree's "status", or~~

~~(2) The property owner obtains approval the City Council stating removal is advisable because the tree constitutes a hazard to persons or property based on the protected tree's "status" or without regard to the "status" that the Protected Tree removal is necessary to protect the public health or safety.~~

~~C.~~**B.** Intensive vegetation clearing is prohibited except as may be necessary for the construction of structures, other permitted uses, or Essential Services.

natural cooling, all of which minimizes runoff to Lake Minnetonka and provides a pleasing aesthetic that is difficult to replace or replicate.

The City of the Village of Minnetonka Beach is on a boot shaped peninsula surrounded by Lake Minnetonka. All land in Minnetonka Beach is within 1000 feet of the lake and is subject to the state shoreland management rules, regulations and statutes controlling land use that impacts the lake. Riparian homes as originally developed are set back an average of 130'-150' or more from the lake to enhance the lake experience, encourage natural habitat for wildlife, allow privacy and tranquility and to provide an area for natural vegetation including trees. Land Use regulations have evolved in the City utilizing considerations including but not limited to the following: impact on the neighborhood setting, impact on the environment, protection of the lake, protecting riparian owners' lake views, limiting noise and respecting privacy, recognizing and addressing drainage challenges to adjoining properties and narrow lots, topography, Steep Slopes, Bluff areas, vegetation, wetlands, floodplain, and susceptibility to erosion and sedimentation.

The City's Land Use regulations emphasize the importance of limiting runoff to the lake and adjoining homeowners, encourage open spaces with natural vegetation and trees around the lake and between homes and strive to maintain the character and setting of the historic development with the intent not only to protect the lake, but also to maintain property values.

B. Public Purpose and Intent. The public welfare requires the protection and preservation of trees and shrubs among the homes and streets of the City for soil stabilization, control of water pollution, tempering noise, provision of a habitat for wildlife, and shade and beauty. Indiscriminate removal of trees deprives the community of these benefits. It is in the interest of the general public welfare, the City and its residents to prevent the indiscriminate removal of trees, maintain and enhance wooded areas throughout the Village, establish minimum standards for Significant and Heritage tree preservation, maintain and replace tree canopy, maintain and improve diversity of species of trees, enforce tree preservation and tree replacement standards and prevent the unregulated clearing of vegetation. Existing Significant and Heritage Trees shall be preserved to the extent reasonably possible. Street, buildings, and lot layouts shall be designed to minimize the disturbance to Significant and Heritage Trees. Enforcement of tree preservation standards will promote and protect the public health, safety and welfare of the community and maintain property values.

C. Applicability. This Chapter applies to all land and districts in Minnetonka Beach. In cases where there is a conflict between regulations applicable to districts and this Chapter, the more restrictive requirements shall apply.

8.4.2 Definitions. Land Use definitions, including, but not limited to, "Bluff", "Bluff Impact Zone", "Steep Slope" and others set out in Section 2.4 of the City Zoning Code are incorporated. For purposes of the City's Land Use regulations, the following additional definitions shall apply:

A. "Administrative Land Use Permit " means grading, building, driveway, right of way permits, or any other City staff issued permits.

B. "Bluff" has the meaning provided in Section 2.4 Definitions of the zoning code.

~~C. "Coniferous Tree" means a woody plant bearing seeds and cones oftentimes, but not always, retaining foliage throughout the year.~~

~~D.~~C. "Construction Activity" means construction activity on a property pursuant to an Administrative Land Use Permit.

~~E.~~D. "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, or such lesser area as determined by the City Forester. For example, if a tree's DBH is ten inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).

~~F. "Deciduous Tree" means a woody plant which has a defined crown, and which loses leaves annually.~~

~~G.~~E. "Diameter of Tree at Breast Height" or "DBH" means the diameter of a tree as measured 4½ feet (54 inches) above the root flare. Trees that branch near or below 4½ feet from the root flare 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.

~~H.~~F. "Environmental Remediation Fee" means a fee that applies if a Protected Tree is removed without a required Tree Removal Permit. It applies in addition to Replacement Tree requirements as provided in 8.4.6(C) and 8.4.6(D).

~~I.~~G. "Fee-in-Lieu" means a fee that will apply if Minimum Tree Density will not be met after tree removal and City Council (or Review Board if responsible for approving the Tree Removal Permit) determines that it is physically impractical to plant all required Replacement Trees on site, based on the individual facts at issue. The Fee-in-Lieu is based on the number of inches ~~(deciduous) or feet (coniferous)~~ actually replaced versus the number of inches ~~(deciduous) or feet (coniferous)~~ required to be replaced. For example, if a 31" Heritage Tree is removed, 31" of Replacement Trees are required. If only 15" of Replacement Trees can practically be planted on site, in addition to planting the Replacement Trees, a Fee-in-Lieu based on 16" not replaced will be applied. The amount of the Fee-in-Lieu is provided on the City fee Schedule and shall be paid into the City's Tree and Environmental Fund.

~~J.~~H. "Hazard Tree" means a tree that:

(1) in the opinion of the City Forester, a certified arborist with a Tree Risk Assessment Qualification or if directed by the City Administrator in the opinion of the City Tree Inspector, is structurally unstable and poses a risk to people or permanent structures; or

(2) is an emergency where it is reasonably impractical to obtain a Tree Removal Permit prior to removal, when the structural instability and risk to people or permanent structures is caused by weather factors, storm or other act of God.

Removal of parts of Hazard Trees, such as broken limbs, that does not cause the tree to become diseased or die, is considered tree trimming and not removal.

~~K.~~I. "Healthy Tree" means the average or better condition and vitality of a tree for the area as determined by the City Forester or City Tree Inspector. A Healthy Tree does not include Hazard Trees or Noxious Trees.

~~L.~~J. "Hedge" means a fence or boundary formed by closely growing bushes, shrubs or trees.

~~M.~~K. "Heritage Tree" means a ~~Deciduous T~~tree, except Cottonwood, that is 30 inches or greater in DBH~~, or a Coniferous Tree that is 30 feet or greater in height~~.

~~N.~~L. "Minimum Tree Density" means one Healthy Protected Tree per 2,500 square feet of property, or fraction thereof; provided that the trees in a Hedge do not count towards Minimum Tree Density. When the trunk of a Protected Tree at DBH is located on a common property line, all properties on which such trunk is located may count the tree as a Protected Tree for purposes

of meeting Minimum Tree Density. Square footage shall be determined from the Hennepin County property tax records for the property at issue or recent professional survey with the approval of the City Administrator. For example, Minimum Tree Density for a 15,000 square foot lot is 6 Protected Trees and Minimum Tree Density for a 16,000 square foot lot is 7 Protected Trees.

~~O.~~M. "Noxious Trees" include, but are not limited to, buckthorn, box elder, Siberian elm, green ash, and white poplar, and other trees that are identified by the Minnesota DNR (https://www.dnr.state.mn.us/invasives/terrestrialplants/index.html).

~~P.~~N. "Nuisance Tree" includes trees as specified in 8.4.9(B).

~~Q.~~O. "Protected Trees" mean Heritage Trees and Significant Trees.

~~R.~~P. "Public Infrastructure" means the construction, installation or maintenance of:

(1) City Streets and County collector or arterial roads;

(2) Public recreational trails;

(3) Stormwater, water, sewer and any other utility infrastructure;

(4) Any essential service or public improvement;

(5) Parks;

(6) City property.

Q. "Rapid Growth Tree" means a ~~Deciduous~~ species of tree (excluding Noxious or Nuisance trees) recognized as rapid-growth trees by the City Forester including white and black ash, cottonwood, silver maple, elm, (other than non-native white) poplar/aspen, basswood, mulberry and willow,

~~S.~~R. "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;

(4) Any other impact to a tree that compromises the long-term health or structural stability of a tree.

~~T.~~S. "Replacement Tree" means a tree that is of a species native and indigenous to the site where a tree is to be removed, creates diversity of species, is not planted as a Hedge, and is ~~a minimum size of eight feet in height measured from top of the root flare for coniferous trees and with~~ a minimum trunk diameter of two- and one-half inches measured at four inches above the top of the root flare ~~for deciduous trees~~. A list of recommended species is maintained at City Hall.

~~U.~~T. "Significant Tree" means a Standard Growth ~~Deciduous~~ Tree that is six inches or greater in DBH but less than 30", or a Rapid Growth ~~Coniferous~~ Tree that is 10 inches or greater in DBH but less than 30" ~~12 feet or greater but less than 30 feet in height~~. Cottonwood trees 6 inches or greater, no matter how large, are considered Significant Trees.

~~V.~~U. "Site Plan" for purposes of Chapter 8.4 means the site plan established and described in Section 8.4.5(F).

V. “Standard Growth Tree” means a species of tree recognized as standard-growth trees by the City Forrester including fir, pine, spruce, cedar, sugar and red maples, oaks, walnut, cherry, birch, redbuds, ironwood, and hickory.

W. "Steep Slope" has the meaning provided in Chapter 8.4 Definitions of the zoning code.

X. "Tree Preservation Plan" means the tree preservation plan established and described in Section 8.4.5(F).

Y. "Tree ~~Preservation~~ Permit Review Board" or "Review Board" means the reviewing body that may issue or deny a Tree Removal Permit as described in Section 8.4.4(C) below. The Tree ~~Preservation~~ Permit Review Board will consist of the City Administrator, City Forester and the City Tree Inspector, with discretion by the Review Board to request advice of the City Engineer in appropriate circumstances.

Z. "Tree Removal Permit" is the permit required to be issued prior to Tree Removal as provided in Section 8.4.5.

8.4.3 City Forester and City Tree Inspector.

A. Position of City Forester. The City Council shall designate from time to time the person who shall perform the duties of City Forester. The City Forester shall be the appropriately qualified person with a minimum licensure level of certified arborist with a Tree Risk Assessment Qualification who acts in the best interest of the City in its goal to preserve trees while allowing property owners the use and enjoyment of their real property. The City Forester shall report to and take direction from the City Administrator, or such other person designated by City Council.

B. City Tree Inspector. The City Council may designate one or more persons with inspector-level certification, qualified to provide input and recommendations to the City Administrator. The duties and responsibilities of the Tree Inspector are to be determined by the City Council and determined by scope of training. The City Tree Inspector cannot be a person or contractor who is privately employed by residents to provide tree trimming or removal services.

8.4.4 Minimum Requirements for Removal of Protected Trees. Protected Trees are valued due to canopy and root benefits, their size and age, and shall be preserved and maintained according to the standards of this Chapter.

A. Minimum Tree Density. Minimum Tree Density and diversity of tree species on all properties is encouraged. A property that meets Minimum Tree Density should maintain the minimum number of required trees. Properties that do not meet Minimum Tree Density are encouraged, but not required, to plant trees to meet the Minimum Tree Density standard.

B. No Removal of Protected Trees without a Permit Unless Exempt. No Protected Tree shall be removed without a Tree Removal Permit unless exempt as provided in this Chapter.

C. Preserve Heritage Trees. There shall be a zero percent removal threshold of Heritage Trees, meaning every DBH inch ~~(deciduous) and foot (coniferous)~~ of Heritage Tree removed requires full replacement in accordance with the requirements of this Chapter. Heritage Tree removal may occur only when there is not a practical alternative.

D. Potential Costs of Environmental Remediation. Unless exempt as provided in Section 8.4.5(A), any property owner who removes, directs or allows removal of, intentionally damages or allows to be damaged, a Protected Tree without a Tree Removal Permit is subject to Environmental Remediation Fees as set out in this Chapter as well as other City ordinances.

E. Replacement Standards Apply. Unless exempt as provided in Section 8.4.6(B), any Protected Tree that is removed is required to be replaced as provided in this Chapter.

F. Meet with City Staff to Mitigate Effects of Tree Removal. The property owner is encouraged to meet with City staff prior to submission of a Tree Removal Permit application or Administrative Land Use Permit or variance application to determine alternatives to tree removal, the species of replacement trees if required and the placement of buildings, parking, driveways, storage and other physical features which result in the fewest Protected Trees being destroyed or damaged with a goal of conforming with other City land use regulations.

8.4.5 Tree Removal Permits. A Tree Removal Permit, on a form provided by the City, must be issued prior to removal of Protected Trees in the City unless the trees to be removed are exempt as provided in this Chapter.

A. Exempt from a Tree Removal Permit and Tree Replacement Requirements. The following trees are exempt from a Tree Removal Permit. Replacement Trees are encouraged to be planted but are not required.

(1) Trees that are dead in the opinion of the City Forester, City Tree inspector or certified arborist;

(2) Trees that are Noxious;

(3) Trees that are neither a Significant Tree nor a Heritage Tree;

(4) Trees that become a Hazard Tree in an emergency. An emergency Hazard Tree has been damaged by weather factors, storm, or other act of God creating an imminent danger that cannot be corrected by trimming and it is reasonably impractical to obtain a Tree Removal Permit prior to removal of the Hazard Tree. Promptly after removal, the property owner must provide photos showing the size, species, location and condition of the affected tree(s), the circumstances of the emergency and certify that imminent harm could not have been corrected by pruning, transplanting, or other treatments. If not an emergency, a permit for removal of Hazard Trees is required under Section 8.4.5(B).

B. Tree Removal Permits that require approval by City Staff.

(1) Diseased, Dying or Hazard Tree. Tree Removal Permits will be issued by City staff in any of the following situations. Replacement Trees are encouraged to be planted but are not required.

(a) A Hazard Tree proposed to be removed that is structurally unstable and poses a risk to people or permanent structures. The following is required: attestation of the property owner and certification by a certified arborist with Tree a Risk Assessment Qualification (or City Tree Inspector if approved by the City Administrator) as to the size, species, location and condition of the affected tree(s), the nature of the hazard and that the risk could not have been corrected by pruning, transplanting, or other treatments.

(b) A Protected Tree that is not Healthy upon attestation of the property owner and certification by the City Forester or City Tree Inspector.

(2) Non-Construction Activity. If all of the following conditions are met, Tree Removal Permits will be issued by City staff:

(a) No Heritage Trees are proposed to be removed, unless not Healthy as provided in Section 8.4.5(B)(1)(b) above;

(b) A Significant Tree that is proposed to be removed is more than 75 feet from the lake, not on a Steep Slope or Bluff and not within the City Right of Way or City Easement;

(c) Tree removal is not in connection with other Construction Activity on the property;

(d) A Site Plan is provided;

(i) If Minimum Tree Density will continue to be maintained on the property after removal, Replacement Trees are encouraged but not required; or

(ii) If Minimum Tree Density is not met prior to removal or will not be maintained on the property after removal, all required Replacement Trees will be planted on site.

(3) Construction Activity. If all of the following conditions are met, Tree Removal Permits will be issued by City staff

(a) No Heritage Trees are proposed to be removed;

(b) A Significant Tree that is proposed to be removed is more than 75 feet from the lake, not on a Steep Slope or Bluff and not within the City Right of Way or City Easement;

(c) Tree removal is in connection with Construction Activity that includes an approved Administrative Land Use Permit or improvements to Public Infrastructure;

(d) A Tree Preservation Plan has been reviewed and approved by the City Administrator, City Forester, City Planning and Zoning Administrator and City Engineer with the intent of mitigating loss and preserving Protected Trees as described in this Chapter;

(e) A variance to other land use regulations, e.g., hardcover, setbacks, is not required. If a land use variance is required, Section 8.4.5(D) applies;

(f)

(i) If Minimum Tree Density will continue to be maintained on the property after removal, Replacement Trees are encouraged but not required; or

(ii) If Minimum Tree Density is not met prior to removal or will not be maintained on the property after removal, all required Replacement Trees will be planted on site. Staff may provide recommendations for Replacement Tree species and planting location.

C. Tree Removal Permits that require approval by the Tree ~~Preservation~~ Permit Review Board (Review Board).

(1) Tree Removal Permits for Significant Trees will be approved by the Review Board in the following circumstances:

(a) Property does not meet Minimum Tree Density requirements prior to proposed tree removal, and

(b) it is impractical to plant all required Replacement Trees on site as determined in the sole discretion of the Review Board, and

(c) the property owner agrees to plant as many Replacement Trees as determined by the Review Board, and

(d) the property owner will pay the applicable Fee-in-Lieu to the City.

(e) Review Board will determine the number of Replacement Trees that must be planted and calculate the Fee-in-Lieu.

(2) Tree Removal Permits for Significant Trees will be approved or denied by the Review Board if the trees proposed for removal are within 75 feet from the lake, on a Steep Slope or Bluff ~~or within the City Right of Way or a City Easement~~. If stump needs to be removed, City Engineer review is required.

(3) The Review Board may not approve Tree Removal Permits for Heritage Trees.

(4) The Review Board may provide recommendations for Replacement Tree species and planting location.

Tree Removal Permits approved by the Review Board will be issued by City staff.

D. Tree Removal Permits that require approval by City Council. Tree Removal Permits will be approved or denied by City Council in any of the following circumstances:

(1) All required Replacement Trees will not be planted and applicable Fee-in-Lieu will not be paid;

(2) A variance is required in connection with Construction Activity;

(3) A Heritage Tree is proposed to be removed; ~~.~~

~~(3)~~(4) Tree removal from City Right of Way or a City Easement;

~~(4)~~(5) City Council may provide recommendations for Replacement Tree species and planting location.

Tree Removal Permits approved by City Council will be issued by City staff.

E. Tree Removal Permit Application Requirements. The application for a Tree Removal Permit includes, at a minimum, the following requirements:

(1) Name, address and contact information for the property owner;

(2) Name, address and contact information for the primary contractor or licensed tree removal company;

(3) Identification of Significant and Heritage Trees proposed to be removed by species, diameter, height, location, condition and reason for removal;

(4) Description of trees proposed for replacement by species, diameter~~, height~~ and expected planting date;

(5) Site Plan for Tree Removal Permit applications that do not involve Construction Activity or review by City Council;

(6) Tree Preservation Plan for Tree Removal Permit applications that involve Construction Activity and Tree Removal Permits for a Heritage Tree that are reviewed by City Council;

(7) Photographs supporting the application;

(8) Such other information as may be required on the City's Tree Removal Permit application or as requested by City staff.

F. Site Plan and Tree Preservation Plan Requirements. For tree removal that does not involve Construction Activity but requires a Tree Removal Permit, a Site Plan is required. For tree removal that does involve Construction Activity, a Tree Preservation Plan is required. A Tree Preservation Plan will be reviewed by City staff to assess the best overall site and tree design for the project involved, considering the preservation, renewal and health of Protected Trees, and to mitigate damage to the trees on the property and the natural environment.

(1) Site Plan. At a minimum, a Site Plan must include the following information:

(a) The drawing need not be professionally prepared but must be indicative of scale and scope;

(b) The name(s) and address(es) of property owners and applicants;

~~(c) Identify trees to remain on the property by species, size, condition and location in proximity to trees proposed to be removed;~~

~~(d)~~(c) Identify by species, size, condition and location the trees that are proposed to be removed;

~~(e) Identify by size and location any dead or Noxious trees on the property;~~

~~(f)~~(d) Indicate where any replacement trees, if applicable, will be planted, indicating the species, size and location and planting date;

~~(g)~~(e) Indicate the Minimum Tree Density on the property;

~~(h)~~(f) Name of person preparing the Site Plan;

~~(i)~~(g) Date Site Plan was prepared;

~~(j)~~(h) Photos of the trees to be removed are encouraged.

(2) Tree Preservation Plan. At a minimum, a Tree Preservation Plan must include the following information:

(a) A Tree Preservation Plan must be certified by a licensed land surveyor, civil engineer, certified arborist, licensed landscape architect, or other person whose credentials are deemed acceptable by the City Administrator. A survey or landscape plan that includes the information in this Section may serve as a Tree Preservation Plan;

(b) The name(s) and address(es) of property owners and applicants;

(c) Delineation (scale not less than 1" to 30') of buildings, structures, impervious surfaces, utilities, and other site improvements situated thereon or contemplated to be constructed thereon;

(d) Delineation of all areas to be graded and land disturbance, including the contouring of all areas to be graded;

(e) 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 area proposed for site preparation, grading, building construction or any other construction activity, or the canopy extends over the property line, the size of ~~Deciduous T~~trees must be recorded in DBH ~~and the size of Coniferous Trees must be recorded in approximate height~~;

(f) Identification of all dead, diseased, dying and Hazard Trees;

(g) The Critical Root Zone of all Significant and Heritage Trees proposed to be preserved;

(h) Identification of all Significant and Heritage Trees proposed to be removed;

(i) A written inventory of all trees by species, size, condition and location and an indication of the trees that would be at risk or will be lost to grading and construction activities;

(j) Measures to protect remaining Heritage and Significant Trees as outlined in this Chapter;

(k) Species, size and location of all replacement trees to be planted on the property in accordance with the tree replacement requirements.

(l) Indicate the Minimum Tree Density on the property;

(m) 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;

(n) Date Tree Preservation Plan was prepared;

(o) Photos of the trees to be removed are encouraged.

G. Approval prior to Removal. The Tree Removal Permit application must receive approval and a permit be issued by the City prior to any removal of trees unless exempt as provided in Section 8.4.5(A).

H. Appeal. Any denial of a Tree Removal Permit application made by a City staff member or the Review Board may be appealed to the City Council.

8.4.6 Tree Replacement Standards.

A. No Tree Removal Permit Required. If no Tree Removal Permit is required, replacement trees are encouraged but not required.

B. Exemptions from Tree Replacement with approved Tree Removal Permit. Upon approval of a Tree Removal Permit for removal of Significant Trees, replacement trees are encouraged but not required if all of the following provisions apply:

(1) Property meets Minimum Tree Density after removal;

(2) Removed tree is not within 75' of the lake, on a Steep Slope or Bluff or on City property, or in City Right of Way or City easement or, if the removed tree is within 75' of the lake, on a Steep Slope or Bluff or on City property, within the City Right of Way or City easement, removal is approved by the Tree ~~Preservation~~ Permit Review Board or City Council;

(3) Removed tree is not a Heritage Tree, unless the Heritage Tree is not Healthy upon attestation of the property owner and certification by the City Forester or City Tree Inspector.

C. ~~Deciduous Trees:~~ Replacement Tree Requirements and Fee for Removal without a Permit

Protected Tree Classification ~~DBH~~ of Tree to be Removed		Required replacements when Minimum Tree Density not met after removal	Environmental Remediation Fee for Removal without a required Tree Removal Permit, to be paid in addition to replacement requirements
~~Min. DBH~~	~~Up to, but not including~~		
~~6 inches~~	~~15 inches~~	~~One 2.5 inch caliper deciduous tree or one 8 ft coniferous tree~~	~~$1,000 per tree~~
~~15 inches~~ Significant Tree	~~30 inches~~	Two 2.5 inch caliper ~~deciduous~~ trees ~~or two 8 ft coniferous trees, or one of each.~~	$2,000 per tree
~~30 inches (heritage)~~ Heritage Tree	~~No limit~~	Even if Minimum Tree Density is maintained, must replace 1" caliper per 1"~~ deciduous~~ tree, no	$5,000 per tree

		smaller than 2.5" caliper trees~~ or one foot for one foot in height coniferous tree, no smaller than an 8 foot tree. The exchange between deciduous and conifer is 1" equals 1 ft.~~	

~~D. Coniferous Trees: Replacement Tree Requirements and Fee for Removal without a Permit~~

~~DBH of Tree to be Removed~~		~~Required replacements when Minimum Tree Density not met after removal~~	~~Environmental Remediation Fee for Removal without a required Tree Removal Permit, to be paid in addition to replacement requirements~~
~~Min. DBH~~	~~Up to, but not including~~		
~~6 inches~~	~~15 inches~~	~~One 2.5 inch caliper deciduous tree or one 8 ft coniferous tree~~	~~$1,000 per tree~~
~~15 inches~~	~~30 inches~~	~~Two 2.5 inch caliper deciduous trees or two 8 ft coniferous trees, or one of each.~~	~~$2,000 per tree~~
~~30 inches (heritage)~~	~~No limit~~	~~Even if Minimum Tree Density is maintained, must replace 1" caliper per 1" deciduous tree, no smaller than 2.5" caliper trees or one foot for one foot in height coniferous tree, no smaller than an 8 foot tree. The exchange between deciduous and conifer is 1" equals 1 ft.~~	~~$5,000 per tree~~

~~E.~~D. Options when Full Replacement of Trees On-Site is Not Feasible. Tree replacement is encouraged to happen on site as much as possible and payment of a Fee-in-Lieu should be used only when full tree replacement on-site is not feasible.

(1) Minimum Tree Density Maintained after Removal of a Heritage Tree. If Minimum Tree Density will be met after removal of a Heritage Tree, and the property owner is unable or unwilling to plant all required Replacement Trees on site as determined in the sole discretion of City Council, the property owner must plant as many Replacement Trees as possible on site as determined by City Council, and mitigate the loss of trees by payment of a Fee-in-Lieu.

(2) Minimum Tree Density Not Maintained after Removal of a Protected Tree. If the Minimum Tree Density will not be met after removal of a Protected Tree, and the property owner is unable or unwilling to plant all required Replacement Trees on site as determined in the sole discretion of the Review Board or City Council, as applicable for approval of the Permit, the property owner must plant as many Replacement Trees as possible on site as determined by the Review Board or City Council, and mitigate the loss of trees by payment of a Fee-in-Lieu.

(3) Any request for waiver of the Fee-in-Lieu must be approved by City Council.

(4) This subsection 8.4.6(E) only applies to property owners who have requested and received a Tree Removal Permit issued prior to removal.

~~F.~~E. Recommended Tree Replacement Species. Replacement Trees shall be chosen that are suitable for the property given soil conditions, hydrology, topography and tree pathogens and to accommodate diverse tree species, a diverse tree canopy and the anticipated natural growth

and survival of the replacement tree, including potential height and crown spread of proposed Replacement Trees. A list of recommended Replacement Tree species is maintained at City Hall.

~~G.~~F. Prohibited Tree Replacement Species. Replacement Trees may not include Noxious Trees.

~~H.~~G. Placement of Replacement Trees. Replacement Tree centers must be planted entirely on the lot and at least 2 feet from common property lines, or such other distance and requirements as prescribed in Section 8.3 Landscaping.

~~I.~~H. Source of Replacement Trees. Replacement Trees shall consist of "certified nursery stock" or state inspected transplant stock as defined by Minnesota statutes chapter 18 as amended.

~~J.~~I. Timing of Replacement.

(1) For removal pursuant to Construction Activities, Replacement Trees that are required by this Chapter shall be planted within 60 days following final inspection from the appropriate City official, or if such date is not within a growing season, within the first 60 days of the next growing season.

(2) For tree removal not related to Construction Activity, Replacement Trees shall be planted within 60 days of removal, or if such date is not within a growing season, within the first 60 days of the next growing season.

~~K.~~J. Property Owner Warranties of Replacement Trees. The property owner shall warrant the survival of Replacement Trees planted pursuant to this ordinance for a term of 2 years from the date of planting. The property owner, their successors and assigns shall be responsible for the replanting of Replacement Trees which die during the 2 years following initial planting or replanting. The property owner shall be responsible to remove and restore any Replacement Tree that is not alive and Healthy 2 years after the date that the Replacement Tree was planted. In the event a dead or unhealthy tree is not replaced on 30-day written demand to the owner from the City, the property owner shall be subject to the provisions of Section 8.4.10.

8.4.7 Tree Protection Specifications and Measures for Construction Activity. The following tree protection specifications and measures should be followed to the maximum extent feasible for all projects on land with existing Protected Trees. Best management practices must be undertaken.

A. Required Protections.

(1) Any Tree Removal Permit application, Administrative Land Use Permit application, variance request or a zoning code review shall not be considered complete unless and until all of the requirements for the application have been completed and submitted by the property owner;

(2) Unless otherwise allowed in this Chapter, no tree removal shall be allowed on a site until a Tree Removal Permit has been issued as provided in this Chapter.

(3) An area of prohibited disturbance, generally corresponding to the Critical Root Zone of the Protected Tree shall be protected during construction with a temporary five-foot-high fence. The fencing shall be installed prior to issuance of development permits for the site;

(4) Snow fencing, silt fence, or polyethylene laminate safety netting shall be placed at the Critical Root Zone of Significant and Heritage Trees to be preserved on or adjacent to the property being developed;

(5) No fill, excavation, or storage of construction materials shall be permitted within the area defined by such fencing;

(6) Any oak trees requiring pruning between April 1 and July 15 shall be identified and 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;

(7) Utilities shall be placed in common trenches outside of the Critical Root Zone of Significant and Heritage Trees or through use of tunneled installation;

(8) Change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints shall be prevented;

(9) Tree root aeration, fertilization, and irrigation systems shall be used when appropriate;

(10) Other tree protection measures shall be used as required by the state Building Code;

(11) Other protections identified as appropriate and necessary to fulfill the intent of this Chapter shall be used.

B. Recommended Protections that may be required where appropriate.

(1) Where vehicular/equipment access is required within the Critical Root Zone of a tree, the soil, and the tree's roots shall be protected with 10 inches of woodchips and/or plywood placed over the path of the vehicle to limit soil compaction and subsequent root compression;

(2) A rock well shall be constructed if the grade level around the tree is to be raised by more than one foot. The inside diameter of the well shall be equal to the Critical Root Zone of the tree;

(3) The grade level shall not be lowered within the Critical Root Zone of the tree(s);

(4) When construction is complete, all trees to remain must have the soil out to their Critical Root Zone aerated and de-compacted. Aerating must include multiple concentric circles of one-inch holes, two inches deep, or as recommended by the City Forester; and

(5) Alternative protection methods may be used if determined by the City Forester to provide equal or greater tree protection.

8.4.8 Tree Trimming. A property owner or his or her agent or contractor may trim an otherwise Healthy Tree in such a manner as to manage its growth, improve its appearance, or eliminate branches which encroach upon structures and improvements without first obtaining a permit, provided, however, that such trimming does not cause the tree to become diseased or will likely cause the tree to die. In the event such trimming is likely to cause the tree to become diseased or die, such activity shall be considered Tree Removal without a permit and subject to Fees-in-Lieu, Environmental Remediation Fees, and replacement requirements.

8.4.9 Nuisance Trees: Diseased, Dead, Dying and Hazard Trees. The nuisance and abatement provisions in this Chapter shall apply to Nuisance Trees to the exclusion of similar provisions in Sections 110 and 508 of the Minnetonka Beach City Code.

A. Declaration of Policy. The City has determined that the loss of trees growing upon public and private property may substantially depreciate the value of property and impair the safety, good order, general welfare, and convenience of the public. It is the intention of the City to control and prevent the spread of diseases fatal to trees including, but not limited to, Dutch elm disease,

emerald ash borer infestation, and oak wilt. It further has been determined that dead, dying and Hazard trees are safety concerns within the City and may be trimmed or removed.

B. Nuisance Declared. The following are public nuisances whenever they are found within the City and any tree so affected is declared to be a Nuisance Tree:

(1) Any living or standing elm tree or part thereof infected to any degree with Dutch elm disease fungus, or which harbors any of the elm bark beetles;

(2) Any dead or dying elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed;

(3) Any living or standing oak tree or part thereof infected to any degree with oak wilt

(4) Any living or standing ash tree or part thereof infected to any degree with the emerald ash borer;

(5) Any living or standing tree affected by any other pathogen determined to be harmful by the State of Minnesota;

(6) A Hazard Tree;

(7) A dead tree.

C. Inspections. The City may authorize inspections by the City Forester or City Tree Inspector to determine whether there exist Nuisance Trees that need to be trimmed or removed.

D. Abatement. It is unlawful for any person to permit any Nuisance Tree to remain on any premises owned, leased, occupied, or controlled by them.

(1) Inspection and Investigation.

(a) Upon request by the City or a property owner, the City Forester or the City Tree Inspector shall inspect property to determine whether any Nuisance Trees exist thereon and shall report incidents of Nuisance Trees to the City Administrator;

(b) The City Forester or the City Tree Inspector, upon authorization, may enter upon private premises with notice at any reasonable time for the purpose of carrying out any of the duties assigned to them hereunder;

(c) The City Forester or the City Tree Inspector, after an on-site inspection and investigation has revealed the existence on the property of one or more Nuisance Trees, shall notify the owner, lessee, occupant, or person in control of the property inspected of the existence of these conditions and of the trees or wood affected.

(2) Abatement of Nuisance Trees on City Property. In abating Nuisance Trees on property owned by the City, the City shall cause the Nuisance Tree or wood to be removed and in the case of a diseased tree, burned or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of the disease. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans directed by Best Management Practice guidelines designed by the Commissioner of Agriculture of the State of Minnesota.

(3) Abatement of Nuisance Trees on Property Not Owned by the City.

(a) Whenever the City Forester or City Tree Inspector determines that a Nuisance Tree is being maintained or exists on a property owned by a party other than the City, the official shall notify in writing the owner of record or occupant of the property of such

fact and order that the Nuisance Tree be abated. The notice of violation shall specify the steps to be taken to abate the Nuisance Tree and the time within which the Nuisance Tree is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a Nuisance Tree and further order that if it is not abated within the time prescribed by the City Council, the Nuisance Tree may be abated by the city.

(b) Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; and notice of the City Council order shall be served by a City peace officer, City Forester or City Tree Inspector on the owner of record or occupant of the property either in person or by certified or registered mail. If the property is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the property.

(4) Emergency procedure; summary enforcement.

(a) In cases of an emergency, when delay in abatement required to complete the procedure and notice requirements as set forth above will permit a Nuisance Tree to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abatement of the Nuisance Tree. To proceed with summary enforcement, the City Forester or City Tree Inspector shall determine that a Nuisance Tree exists or is being maintained on property and that delay in abatement will unreasonably endanger public health, safety, or welfare. The City Forester or City Tree Inspector shall notify in writing the occupant or owner of the property of the nature of the Nuisance Tree, and that public health, safety, or welfare will be unreasonably endangered by a delay in abatement required to complete the procedure set forth above and may order that the Nuisance Tree be immediately abated. If the Nuisance Tree is not immediately abated, the City Council may order summary enforcement and abatement of the Nuisance Tree.

(b) Nothing herein shall prevent the City, without notice or other process, from immediately abating any Nuisance Tree that poses an imminent and serious hazard to human life or safety.

(c) Nothing herein shall prevent the City from seeking a judicial remedy in addition to or in lieu of an administrative remedy.

(5) Sale, Storage and Transport of Diseased Wood.

(a) It is unlawful for any person to transport, store or sell within the City any bark-bearing elm wood, or red oak wood infected with oak wilt, emerald ash borer (EAB) or any other diseased wood;

(b) Any such wood sold, stored or transported contrary to the provisions of this Chapter must be removed and properly disposed of at the owner's expense within 24 hours of receipt of removal notice. Any such wood not so removed may be seized and destroyed by the City and all costs incurred assessed against the owners.

(6) Interference Prohibited. It is unlawful for any person to prevent, delay, or interfere with the City, its authorized agents, employees and representatives while they are engaged in the performance of duties imposed by this Section.

E. Recovery of Costs.

(1) Personal liability. The owner of the property on which a Nuisance Tree has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk shall prepare a bill for the cost and mail it to the owner and occupant, where applicable. The amount shall be immediately due and payable at the office of the City Clerk.

(2) Costs constitute service charge. Any charges incurred by the City in carrying out abatement of a Nuisance Tree shall constitute a service charge pursuant to Minn. Stat., section 366.012 and Minn. Stat., section 415.01. The City may recover all unpaid services charges as authorized by state law, including but not limited to as a special assessment pursuant to Minn. Stat., Chapter 429.

(3) Assessment. After notice and hearing as provided in Minn. Stat., section 366.012 and Minn. Stat., section 429.061, the City Clerk shall, on or before September 1 next following abatement of the Nuisance Tree, list the total unpaid charges as well as other charges for current services to be assessed under Minn. Stat., section 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the City Council may determine in each case.

8.4.10 Enforcement.

A. Intentional or Deliberate Damage. It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any Protected Tree on public and private land within the limits of the City in violation of this Chapter. Minn. Stat., section 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.

B. Violation. Unless expressly provided otherwise, it shall be a misdemeanor for any person to violate any provision of the City Code including this Chapter, any rule or regulation adopted in pursuance of any such provision, or any order lawfully enforcing the City Code or this Chapter. The term "misdemeanor" shall be as defined in Minn. Stat., section 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. Actions of Property Owner. Prohibitions on actions by a property owner extend to and are binding on the property owner's heirs, administrators, successors, assigns, agents, invitees, guests, employees, and independent contractors. A general, or sub-contractor, engaged by a property owner shall, for the purpose of this ordinance, be considered an authorized agent of the property owner.

8.4.11 Financial Guarantee.

A. Certificate of Occupancy or Cash Escrow. The City may, at its option, require cash escrow or a letter of credit satisfactory to the City in the amount of 125% percent of the value of the tree replacement, securing the full performance of the provisions of this Chapter, the Tree

Preservation Plan and the tree replacement plan. The amount of such security shall be calculated by the Fee-in-Lieu schedules. The financial security shall be sufficient to cover the costs of the replacement trees planted, including any needed replacement of the trees over a two-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 requirements, in accordance with the City's 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 shall review the financial securities, inspect the applicable trees, and recommend release of 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: 20 percent of the financial guarantee for that tree shall be released;

(3) Second year inspection determining the installed tree is still Healthy: 30 percent of the financial guarantee for that tree shall be released.

8.4.12 Ordinance Administration. The administration of this ordinance shall be through the offices of the City Administrator who shall have the authority to sign complaints of violation. Fees for permits hereunder shall be set by the City Council from time to time and set forth in the City fee schedule.

8.4.13 Tree Contractor License Required. No person may conduct or offer commercial (service for hire) tree trimming or removal services in the City without first obtaining a tree contractor license. The license shall be issued on an annual basis and licensees must pay the fee and provide proof of insurance in the amounts set forth in the City fee schedule. The City has sole discretion in whether it will issue a license. Licensees who violate the provisions of this Chapter or other City Ordinances may have their license revoked or non-renewed.

9.0 PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

9.1. **Purpose**. The purpose of the Planned Unit Development (PUD) zoning district is to provide greater flexibility in the development of residential areas in order to achieve more creative development outcomes that better reflect the character of the community and surround area of the land being developed. This is achieved by undertaking a process that results in a development outcome exceeding that which is typically achievable through the underlying zoning district.

9.2. District Application

9.2.1. PUDs were allowed to be established over properties zoned R-1 prior to the effective date of this ordinance, as denoted in Section 1.5.

9.2.2. Establishment of new PUDs after the effective date of this ordinance, as denoted in Section 1.5, is prohibited.

9.3. Pre-existing PUDs.

Pre-existing PUDs authorized prior to the effective date of this ordinance, as denoted in Section 1.5, shall continue to be governed per the original conditions of approval until the PUD is cancelled by the City, or the PUD is requested to be amended.

9.4. PUD Amendments.

APPENDIX B
City of Minnetonka Beach
Fees and Charges 2025
Adopted 12/09/2024 - Effective 1/1/2025

Fees for Licenses, Permits, Services

Animal Impound	
First in a Calendar Year	$60
Second	$80
Third and Subsequent	$100

Animal Violation Fines (Section 514, 12B)	
Dogs or Cats not licensed	$60
Animals causing disturbance, noise	$60
Dogs running at large	$60
Fierce dogs running at large	$75

Copy Services		
*Photocopies	$0.25	per page if less than 100 pages
Fax	$1.00	per fax to send long distance
City Code - **Available on-line and for review at City Hall at no charge**		
	$0.25	copy per page plus staff time
	$30.00	complete code unbound
	$60.00	complete code bound
Comprehensive Plan	$60.00	bound
Comprehensive Plan CD	$10.00	
City Directory	$ 3.00	
Large Plans and Surveys	Actual costs for duplicating plus staff time	

*See Data Access Policy – additional charges for time to compile to data if over 100 pages

False Alarms		
Police	$0	1st in calendar year
	$100.00	2nd in calendar year
	$200.00	3rd in calendar year
	$300.00	4th in calendar year
	$400.00	5th and subsequent

TIME FEE: To be added to base fee, $25.00 per one-half hour or fraction thereof for waiting time beyond the first 15 minutes. There would be no charge when extreme weather conditions set off an alarm or when there is actual need for emergency response. See City Code 504 for further information on False Alarm. False fire alarm rates set by Long Lake Fire Department.

Fire	$0.00	1st in one rolling year
	$250	2nd in one rolling year
	$500	3rd in one rolling year
	$1,000	4th and subsequent in one rolling year

Finance and Electronic Payments (PSN)	
Non-Sufficient Funds Check	$30.00
PSN Convenience Fee – Credit Card Transactions	2.95% or 2.75% + $ .50 for $100 or less
PSN Convenience Fee - PSN E-Check Payment	$1.50
PSN Credit Card Charge Dispute Fee	$15.00

APPENDIX B
City of Minnetonka Beach
Fees and Charges 2025
Adopted 12/09/2024 - Effective 1/1/2025

Licenses

Animal	
Spayed/Neutered	$5.00
Not Spayed/Neutered	$10.00
Replacement Tag	$1.00
Liquor	
Club On-Sale	$1000.00 (Set by statute based on Club Members)
Sunday On-Sale	$200.00 (Set by statute)
Malt Beverage On-Sale	$10.00
Peddlers, Solicitor, Transient Merchant	$100.00
Tree Contractor (Annual)	$50.00 (after 8/1, license is good through following year)

Permits

Dock Fees:
Priority One - $20.00
All Other Docks:

BSU Size (Sq. Feet)	BSU Factor		Rate per BSU
<200	1.00	$	372
201-300	1.50	$	558
>301	2.00	$	744

Dock Reconfiguration	$250.00	plus costs
Dock Variance (requiring LMCD Approval)	$250.00	plus costs

Building Permit	Fee set by State Uniform Building Code (UBC) Schedule based on total construction costs plus 15% plus state surcharge plus any mailing cost. Subject to change with changing of UBC.	
Demolition Permit	$200.00	Principal Residence
	$100.00	Accessory Structure
Driveway Permit	$250.00	plus costs (Engineering, Zoning)
Fireworks Display Permit	$50.00	
Grading & Filling Permit	$250.00	plus costs (Engineering, Zoning)
Mechanical & Plumbing	The greater of 1.25% of contract price or $35.00 plus state surcharge and $1.00 mailing fee	
Right-of-Way Permit	$250.00 plus security deposit	
Special Event Permit	$50.00	
Tank Removal Permit	$50.00	
Telecommunication Tower Application	$5,000.00	
Tree Removal Permit	~~Non-Construction Related – staff review~~	~~$50.00~~
	~~Construction Related – staff review~~	~~$200.00~~
	~~Tree Preservation Review Board review~~	~~$200.00~~
	~~City Council review~~	~~$200.00~~
	Dead, Diseased, Dying, Hazard	no fee
	Healthy Trees – Construction Related*	$200.00
	Healthy Tres – Non-Construction Related*	$50.00

*(additional arborist/forester fees may apply)

Environmental Remediation Fee (Removal without a permit)	$1,000 - $5,000
Fee In Lieu (For non-replacement of trees)	$160.00 per inch Deciduous $160.00 per foot Coniferous

Note: Double permit fee for an "after-the-fact" application/permit.

Planning and Zoning

Performance Agreement	$300.00	plus costs
Conditional Use Permit	$250.00	plus costs
Variance Request	$250.00	plus costs
Variance Renewal	$250.00	plus costs
Re-zoning Request	$250.00	plus costs
Administrative Appeals	$250.00	plus costs
Zoning Reviews*	$205.00	per hour
Engineering Reviews*	$189.00	per hour
Other Land Use	$250.00	plus costs
Planning and Zoning Consultation*	$205.00	per hour
"After-the-Fact" Application	$500.00	plus costs
Resident landscaping in the right-of-way	$50.00	plus costs incurred
Park Dedication Fee		Per City Code 202 (2)
Resident Accounts Receivable Invoices	10% late fee net 60 days	

*rates subject to change based on current contract rates

Public Utilities

Garbage	$69.90	per quarter (flat fee)
Leaf Pick Up	$21.00	per quarter (flat fee)
Recycling	$18.32	per quarter (flat fee)
Sewer (Residential)	$132.50	per quarter (flat fee)
Lafayette Club Sewer	$ 3.15	per 1000 gallons of water
Stormwater Utility	$20.00	per quarter
Water Treatment Plant Fee	$335.00	per quarter
Local Water Availability Charge (12/12)	$ 2,700	
Local Sewer connection Fee (10/97)	$ 2,400	
Service Availability Charge (SAC)	$ 2,485	* Set by Met Council
Yard Waste Cart Subscription	$110.34	per year billed directly by Republic

Water Fees

Water Base Fee (Residential)	$38.00	per quarter (flat fee)
Water Base Fee (Lafayette Club)	$76.00	per quarter (flat fee)
Usage Fee (Residential)	$13.40	per 1000 gallons Residential
Usage Fee (Orono)	$8.26	per 1000 gallons Orono Water Users
Note: This may change at the discretion of City of Orono		
Usage Fee (Lafayette Club)	$13.40 per 1000 gallons	
Minimum charge when water is shut off	$ 5.00	
Late Fee	10% of bill is charged for late payments	

Water Shut Off/On (per each)	$50.00	(request by resident to shut off/on)
Water and Sewer Disconnect/Reconnect	$50.00 each	(charged on demolition permit)
Water Test Fee (State)	$9.72	(Billed 2nd Quarter only)

SORTED FOR AGE	Signif 6" DBH Age	Heritage 30" DBH Age	Growth factor (yrs per in)	Minne-tonka	Edina	Mintka Beach	Wood-land	Green-wood	Way-zata	Excel-sior	Shore-wood
Hickory	42	210	7.5					hard			
Ironwood	42	210	7.0					hard			
Redbud	42	210	7.0								
Oak (Bur)	39	195						hard			
Oak (White)	39	195	5.0					hard			
Pine (Red)-- 6" and 30" dia	33	165	5.5					conif			
Birch (White)	30	150	5.0					hard			
Cherry	30	150	5.0								
Maple (Sugar)	30	150	5.5					hard			
Pine (White)-- 6 " and 30" dia	30	150	5.0					conif			
Maple (Red)	27	135	4.5					hard			
Walnut	27	135	4.5					hard			
Ash	24	120	4.0		excl		excl green, pric	hard	rapid		
Elm	24	120	4.0				excl siberian	hard	rapid		
Oak (Red)	24	120	4.0					hard			
Basswood/Linden	18	90	3.0								
Maple (Silver)	18	90	3.0		excl			soft	rapid	excl	soft
Oak (Pin)	18	90	3.0					hard			
Aspen	12	60			excl			soft	rapid	excl	soft
Cottonwood	12	60	2.0		excl		excl	soft	rapid	excl	excl
Willow	12	60			excl		excl	soft	rapid	excl	excl
Mulberry					excl				rapid	excl	
Box Elder					excl		excl		rapid	excl	excl
Locust (Black)					excl					excl	
Fruit Tree Species					excl						
Pine (Red)-- 12' and 30' tall	13	30	ISSUE?								
Pine (White)-- 12' and 30' tall	13	30	ISSUE?								
				significant	**protected**	**significant:**	**significant**	**significant:**	**significant:**	**significant:**	**significant:**
				decid 4"	Decid 5"	decid 6"	any 6"	hard 6"	std 6"	any 8"	hard 8"
								soft 10"	rapid 12"		soft 12"
				conif 10 ft	conif 15 ft	conif 12 ft		conifer 8"	conif 12"/12 ft		conifer 8 ft
				high priority	**heritage**	**heritage**	**landmark**		**heritage**	**landmark**	
				decid 10"	30"	decid 20"	any 30"		std 25"	any 30"	
									rapid 30"		
				conf 15 ft	conif 30 ft	conif 30 ft			conif 25"		

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MEMORANDUM

Date: May 10, 2024

To: The City Council of the City of the Village of Minnetonka Beach
Through Heidi Honey, City Administrator

From: Ron Batty, City Attorney
Sam Ketchum, Assistant City Attorney

Subject: Review of Tree Preservation Ordinance

In 2022, the City adopted a tree preservation ordinance, a copy of which is attached to this memorandum. The ordinance defined certain "protected trees," established minimum requirements and a permitting process for their removal, created a Tree Preservation Review Board, provided standards for tree replacement, and identified certain tree nuisances. The ordinance was adopted by the city council after months of work by a task force of local citizens and council members, with some input from City staff and consultants.

The Minnetonka Beach tree preservation ordinances is not unique. Such ordinances have become increasingly common as cities seek to protect tree resources from a variety of modern concerns. However, these ordinances can sometimes generate resident complaints, become an administrative burden, and have even been met with legal challenges. In 2021, federal courts ruled that a Township of Canton, Michigan tree ordinance was unconstitutional after a developer alleged it violated the Fifth Amendment's prohibition on taking private property for public use without just compensation. While the court noted that local governments may implement certain permitting requirements to protect trees from development impact, the permit requirements must have "an essential nexus and rough proportionality to those impacts."

Some have asked whether the Canton case renders Minnetonka Beach's tree preservation ordinance unconstitutional. The short answer is that it does not. That case was decided by the U.S. Sixth Circuit Court of Appeals. Minnesota is in the Eighth Circuit. We are not aware of any similar decisions from federal or state courts having jurisdiction in Minnesota. Although technically not applicable to cities in Minnesota, the Canton case raises issues which are worth being aware of. In addition, from speaking to City staff, there remain concerns that the current ordinance is too onerous for a small city to administer and may have unintended consequences. It is often a good practice to evaluate new ordinances after several years of experience with them to see if they have

performed as planned or could be improved. We are aware the city council is reviewing the tree ordinance and think that is appropriate.

City Admin

From: Signe Koehler <koehlersigne@gmail.com>
Sent: Monday, May 12, 2025 2:59 PM
To: Scott Gamble; City Admin
Subject: Edmonds tree replacement requirements violate property rights, Washington court rules

Hi Scott and Heidi,
In our April 30th meeting, I referenced Edmonds WA tree ordinance that was found to be Unconstitutional. I have included this article as a source.

An excellent real estate attorney and the courts analyze history, background, facts, common laws and precedence not perception.

In this particular case, the court's decision reinforces Constitutional protections against excessive government demands and overreach on landowners.

If this case and the findings have any bearing on MB tree ordinance please consider in your review of the tree ordinance which should include the balance of property rights and preservation.

Thank you,
Signe

https://pacificlegal.org/press-release/edmonds-tree-replacement-requirements-violate-property-rights-washington-court-rules/

Sent from my iPhone

110 Violations and Enforcement.

(1) Misdemeanor. Any person who violates or fails to comply with any of the provisions of this Code or of any permit, other authorization or order issued pursuant hereto, including conditions and safeguards in connection with permits, grants of variances, conditional uses, or any other requests, or who makes any false statement in any document required to be submitted under the provisions of this Code, shall be guilty of a misdemeanor punishable by fine and/or imprisonment to the maximum extent permitted by law. Violations of this Code can occur regardless of whether or not a permit or other authorization is required for an activity regulated under this Code.

(2) Enforcement. The City Council is responsible for the administration and enforcement of this Code. The Council shall conduct and supervise the enforcement of the City Code with the assistance of City Staff as provided in this section.

(A) Legal Proceedings. The Council may authorize the institution of legal proceedings to restrain, correct or abate any violation of this Code.

(B) Revocation; Suspension; Modification. Prior to the institution of legal proceedings, the City may, by written order, suspend, revoke or modify any permit or authorization issued pursuant to this Code, on information and belief that the permit or other authorization has been issued in error or on the basis of incorrect or inadequate information, or that the work is not being performed in compliance with this Code or with the provisions of any permit issued pursuant hereto. The City, in addition, may issue an order to the owner or occupant of any premises to cease and desist the use of such premises immediately, when such premises are being used in a manner creating substantial hazard to the public health, safety or welfare, or in violation of any permit issued pursuant hereto. The City shall have the powers to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of lands or structures within the City and to restrain, correct or abate such violations, or to prevent the occupancy of buildings, structures or lands, or prevent any illegal act, conduct, business, or use on or about said premises.

The City's Building Inspector, Planning and Zoning Administrator and their regularly authorized assistants are hereby authorized to issue written orders upon information or belief that the issuance of an order is warranted under this provision. They are hereby authorized to order any condition remedied in such manner as to secure compliance. Failure to comply with such written order shall constitute a misdemeanor. Upon receipt or posting of written notice, all persons engaged in the work prohibited by such an order shall stop such work until authorized in writing by the City's Building Inspector or Planning and Zoning Administrator to proceed.

(C) Vegetation; Restoration.

Vegetation Restoration and Replacement:

1. Violation; Restoration. The City shall require a property owner who has removed vegetation in violation of Section 211{1}{B} to replace vegetation as follows:

a. Replacement vegetation shall be species except: Buckthorn, American Elm and Green Ash that are considered hardy in this area are the same or similar as the species removed;

b. Replacement Vegetation shall be placed in close proximity to the location of the removed vegetation in such a way that it does not impair traffic visibility;

c. Replacement trees shall be at least two {2} inches in diameter measured two {2) feet above the ground;

d. Replacement trees shall have a cumulative measurement at least equal to that of the removed tree{s},and

e. Replacement shrubs shall be at least ten {10} inch potted shrubs.

2. The Property Owner shall enter into a 5 year agreement with the City guaranteeing the healthy growth of the replacement vegetation.

3. **Authorized Enforcement** The City Engineer or other qualified person shall be designated Authorized Enforcement Agent and authorize to enforce to the maximum extent practicable (MEP) this ordinance regarding Best Management Practices (BMP), Clean Water Act, Construction Activity related to stormwater management, Hazardous

Material, Illicit Discharge, Illicit Connections, Industrial Activity, Municipal Separate Storm Sewer System, National Pollutant Discharge Elimination System Stormwater Discharge Permit, non-Stormwater Discharge, Pollutants, Premises, Storm Drainage System, Stormwater, Water Quality Management Plan Stormwater Pollution Prevention Program, and Wastewater.

(D) **Nuisance Abatement: Duties of Police, Tree Inspector and Building Inspector.**

1. The Police Department Officers, who shall also be the Assistant Weed Inspector in accord with Minnesota Statutes 18.75 through 18, and the Tree Inspector and Building Inspector shall enforce the provisions of Chapter 5, Section 508 as specified by the City Council. The Police Department Officers, Tree Inspector and Building Inspector have the power to inspect private premises, determine if probable cause exists and take all reasonable precautions to prevent the commission and maintenance of public nuisances or to control or abate the public nuisance in accord with Section 508, State and Federal laws.

2. The Tree Inspector must identify diseased trees by generally accepted field symptoms contained in Minnesota Rules chapter 1505 such as wilting, yellowing of leaves or staining of wood and/or by tests as may be recommended by the Commissioner of the Minnesota Department of Natural Resources.

(E) Notice of Violation. Whenever the Officer, Tree Inspector or Building Inspector charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the property owner and occupant of the premises of such fact and order in writing that such nuisance be controlled, removed, eradicated, terminated, or abated. Unless an emergency, the notice shall provide a reasonable time for the removal, termination, eradication, or abatement; provide how the nuisance removal, termination, eradication or abatement shall occur and shall in the case of noxious or rancorous weeds, trees and other

vegetation provide specific instructions on when and how the weeds or tree disease or pest infestation are to be controlled, eradicated or abated.

Failure to terminate, control, remove, eradicate or abate a Public Nuisance Appeal of Nuisance Abatement, Termination, or Eradication:

1. If the notice of violation is not complied with within the time specified, the enforcing officer shall report that fact at the next scheduled City Council meeting. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the City may seek injunctive relief by serving a copy of the Council order and notice of motion for summary enforcement. Furthermore, the City Council may request the Chief of Police to issue a misdemeanor citation.

2. Written notice City Council hearing to determine or abate nuisance shall be served on the owner of record and occupant of the premises either in person or by registered mail and shall be published in the official newspaper. Such notice and publication shall be given at least 10 days before the scheduled hearing.

3. Written notice of any Council order shall be made as provided in Minnesota. Statute 463.17 (Hazardous and Substandard Building Act).

In cases of emergency, where delay in abatement required to complete the normal notice and procedure requirements set forth in this Section will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement and abate the nuisance.

1. To proceed with summary enforcement, the officer charged with enforcement shall determine that a probable cause of a public nuisance exists or is being maintained on premises

in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare.

2. The enforcement officer shall notify in writing the occupant and owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement.

3. The Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in this Section, and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the Council may order summary enforcement and abate the nuisance.

4. Written notice of any motion for summary enforcement shall be made as provided for in Minn. Stat. 463.17 (Hazardous and Substandard Building Act).

Immediate Abatement. The police officer or designated officer without notice or other due process may immediately abate or control any nuisance condition which poses an imminent and serious hazard to human life or safety.

(3) <u>Impoundment Procedures.</u>

Upon the order of any police officer, a motor vehicle, Lake Accessory Use, Recreational Vehicle or Trailer deemed a public nuisance or abandoned or driven by an individual arrested for a violation of Minn. Stat. §169A.20 et. seq., or an ordinance in conformity with it, may be removed and impounded in the manner provided in this Section.

1. Except in an emergency where removal of the vehicle or other use is necessary to prevent an imminent danger to the public, the officer shall notify the owner in writing of the vehicle or other use of the intension to impound the vehicle or other use. The notice

shall provide a stated reasonable amount of time that the owner has to correct the public nuisance;

2. If the owner or operator requests that the vehicle be towed to any garage other than the towing contractor, and provided before the tow, the owner shall advance to the towing contractor a sum estimated to equal the minimum towing charge as established by the towing contract and upon arrival to the requested garage and prior to the release of the vehicle, the owner or operator shall advance to the towing contractor a sum equal to the actual minimum towing charge under the towing contract less the estimated towing charge paid at the time of the tow the owner may request that the vehicle or other use be towed to a specific garage.

A. **Redemption; Prerequisites.**

1. Any motor vehicle, Recreational Vehicle, Trailer, Lake Accessory Use impounded under this Section shall only be released from impoundment:

(a) To the registered owner, or person authorized by the registered owner, a lien holder of record, or a person who has purchased the vehicle from the registered owner, who provides proof of ownership, and in the case of a vehicle or trailer, proof of valid Minnesota driving privileges, and proof of insurance required by law to cover the vehicle or trailer.

(b) If the vehicle is subject to a rental or lease agreement, to a renter or lessee with valid Minnesota driving privileges who provides a copy of the rental or lease agreement and proof of insurance required by law to cover the vehicle; or

(c) To an agent of a towing company authorized by the registered owner, renter or lessee if the owner provides proof of ownership of or the renter or lessee provides a copy of the rental or lease agreement for the vehicle and proof of insurance required by law to cover the vehicle; and

(d) Upon payment of all towing and storage charges resulting from impounding the vehicle under this Section.

The proof of ownership, valid driving privileges and insurance, and when applicable, the copy of the rental or lease agreement shall be provided to the person or entity designated by the City as a towing contractor to provide impoundment and storage services under this Section.

2. Nothing in this Section shall be construed to impair any lien of a garage keeper under the laws of this State or the right of a lien holder to foreclose. For the purposes of this Section, "garage keeper" is an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

(4) <u>Procedures for Removals, Repair, or Abatement of Hazardous Building or Property.</u>

A. **The City Council Order for Removal, Repair, or Abatement of Hazardous Buildings or Property:**

1. The order shall be in writing; recite the grounds therefore; specify the necessary repairs, if any, and provide a reasonable time for compliance; and shall state that a motion for summary enforcement of the order will be made to the District Court of the Hennepin County unless corrective action is taken, or unless an answer is filed within the time specified in the order;

2. The order shall be served upon the owner of record, or the owner's agent if an agent is in charge of the building or property, and upon the occupying tenant, if there is one, and upon all lien holders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon the owner by posting it at the main entrance to the building or, if there is no building, in a conspicuous place on the property, and by four weeks' publication in the official newspaper of the municipality.

3. A copy of the order with proof of service shall be filed with the Hennepin County District Court administrator not less than five days prior to the filing of a motion pursuant to enforce the order. At the time of filing such order The City of Attorney

shall file for record with the County Recorder or Registrar of Titles a notice of the pendency of the proceeding, describing with reasonable certainty the lands affected and the nature of the order. If the proceeding be abandoned the City Attorney shall within ten days thereafter file with the County Recorder a notice to that effect.

4. Within 20 days from the date of service, any person upon whom the order is served may serve an answer in the manner provided for the service of an answer in a civil action, specifically denying such facts in the order as are in dispute.

5. If no answer is served, the City Council may move the District Court for the enforcement of the order. If such a motion is made the District Court may, upon the presentation of such evidence as it may require, affirm or modify the order and enter judgment accordingly, fixing a time after which the City Council may proceed with the enforcement of the order. The Hennepin County Court administrator shall cause a copy of the judgment to be mailed forthwith to persons upon whom the original order was served.

6. If an answer is filed and served further proceedings in the action shall be governed by the Rules of Civil Procedure for the District Courts, except that the action has priority over all pending civil actions and shall be tried forthwith. If the order is sustained following the trial, the District Court shall enter judgment and shall fix a time after which the building must be destroyed or repaired or the hazardous condition removed or corrected, as the case may be, in compliance with the order as originally filed or modified by the court. If the order is not sustained, it shall be annulled and set aside. The Hennepin County Court administrator shall cause a copy of the judgment to be mailed forthwith to the persons upon whom the original order was served.

7. If a judgment is not complied with in the time prescribed, the City Council may cause the building to be repaired, razed, or removed or the hazardous condition to be removed or corrected as set forth in the judgment, or acquire the building, if any, and

real estate on which the building or hazardous condition is located by eminent domain as provided in 560.15. The cost of the repairs, razing, correction, or removal may be a lien against the real estate on which the building is located or the hazardous condition exists, or recovered by obtaining a judgment against the owner of the real estate on which the building is located or the hazardous condition exists. A lien may be levied and collected only as a special assessment in the manner provided by Minnesota Statutes sections 429, but the assessment is payable in a single installment. When the building is razed or removed by order of City Council, it may sell the salvage and valuable materials at public auction upon three days' posted notice.

8. The City Clerk shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses theretofore incurred in connection with its enforcement, including specifically, but not exclusively, filing fees, service fees, publication fees, attorney's fees, appraisers' fees, witness fees, including expert witness fees, and traveling expenses incurred by the municipality from the time the order was originally made, and shall credit thereon the amount, if any, received from the sale of the salvage, or building or structure, and shall report its action under the order, with a statement of moneys received and expenses incurred to the court for approval and allowance. Thereupon the court shall examine, correct, if necessary, and allow the expense account, and, if the amount received from the sale of the salvage, or of the building or structure, does not equal or exceed the amount of expenses as allowed, the court shall by its judgment certify the deficiency in the amount so allowed to the City Clerk for collection. The owner or other party in interest shall pay the same, without penalty added thereon, and in default of payment by October 1, the clerk shall certify the amount of the expense to the County Auditor for entry on the tax lists of the county as a special charge against the real estate on which the building or hazardous condition is or was situated and the same shall be collected in the same manner as other taxes and the amount so collected shall be paid into the City’s treasury. If the amount received for the sale of the salvage

or of the building or structure exceeds the expense incurred by the City as allowed by the District Court, and if there are no delinquent taxes, the court shall direct the payment of the surplus to the owner or the payment of the same into Court. If there are delinquent taxes against the property, the Court shall direct the payment of the surplus to the Hennepin County Treasurer to be applied on such taxes.

9. The net proceeds of a sale shall be paid to persons designated in the judgment in the proportions as their interests shall appear therein. Acceptance of such payment shall be taken as a waiver of all objections to the payment and to the proceedings leading thereto on the part of the payee and of all persons for whom the payee is lawfully empowered to act. In case any party to whom a payment of damages is made be not a resident of the State of Minnesota, or the place of residence be unknown, or the party be an infant or other person under legal disability, or, being legally capable, refuses to accept payment, or if for any reason it be doubtful to whom any payment shall be paid to the City Clerk, to be paid out under the direction of the District Court; and, unless an appeal be taken such deposit with the City Clerk shall be deemed a payment of the award.

10. If any building ordered razed, removed, or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing, removal, or repair of such building, or if the razing or removal of the building makes necessary the removal of such personal property or fixtures, the original order of the City Council may direct the removal of such personal property or fixtures within a reasonable time. If the property or fixtures are not removed by the time specified, the City Council may order the sale the same at public auction as provided in or if without appreciable value, the City Council may order may order destruction of the same.

(5) <u>Public Nuisance Recovery of Cost.</u>

A. Personal Liability. The property owner on which a nuisance has been abated, eradicated or removed or the removal of a Hazardous Building or Hazardous Property by the City shall be personally liable for the cost to

the City of the abatement, removal or eradication, and in addition shall be liable for related City costs including: enforcement costs, legal costs and administrative costs. In a reasonable time after the work has been completed and the costs determined, the City Clerk shall prepare a bill for the costs and mail it to the property owner. The amount shall be immediately due and payable to the City of the Village of Minnetonka Beach at the Office of the City Clerk, City Hall.

B. Should the property owner of the premises not pay the cost in a reasonable amount of time after the City Clerk has caused a bill to be sent to the property owner, the City Council, after notification of the property owner and providing an opportunity for the owner to be heard, will collect the unpaid costs in one of the following manners:

1. If the nuisance is a public health or safety hazard on private property, removal of hazardous building or hazardous property, the accumulation, the growth of noxious or rancorous weeds on private property or outside the traveled portion of streets, or unsound, diseased or insect-infected trees, any unpaid charges by the City for the cost of elimination of the nuisance, may be collected as a special cost and assessed to the property pursuant to the requirements of Minnesota Statute Chapter 429.

2. In such case, the City Council shall certify all unpaid costs to the Hennepin County Auditor who shall enter them upon the tax records as a lien upon such land to be collected in the manner as other real estate taxes are collected.

3. In addition, the City may sue to collect the unpaid costs plus any reasonable attorney fees and court costs.

(6) <u>Event Recovery Costs: Payment for Services to provide security, control crowds, or provide other City services.</u>

After the event has occurred, the public works, police and fire services will determine from the actual time spent and document their costs due to the services provided directly because of the event, such costs to be separate from the cost normally billed the City.

The City Clerk shall prepare a bill based on the information received from the public works, police and fire services for the cost of providing the services adding one percent of those costs for administration and mail it to the property owner on whose property the event took place or event organizer if the event took place on public property. The amount shall be immediately due and payable to the City of the Village of Minnetonka Beach at the Office of the City Clerk, City Hall.

Should the owner of the property or event organizer not pay the cost in a sixty (60) days after the City Clerk has caused a bill to be sent to the property owner, The City Council, after notification of the property owner or event organizer and providing an opportunity for the owner or event organizer to be heard, will collect the unpaid costs in one of the following manners:

If the event was held on private property and if the public nuisance required providing public safety law enforcement, traffic control, emergency or fire services, police protection or security or any other City service related to that event, any unpaid charges for those services may be collected as a special cost and assessed to the property within the authority granted to the City, by its Charter and Minnesota Statutes. In such case, the City Council shall certify all unpaid costs to the Hennepin County Auditor who shall enter them upon the tax records as a lien upon such land to be collected in the manner as other real estate taxes are collected. In addition, the City may sue to collect the unpaid costs plus any reasonable attorney fees and court costs.

If the event was held on public property and if the public nuisance required providing public safety law enforcement, traffic control, emergency or fire services, police protection or security or any other City service related to that event, any unpaid charges for those services may be collected as a special cost within the authority granted to the City by its Charter, other instruments or Minnesota Statutes. The City may sue to collect the unpaid costs plus any reasonable attorney fees and court costs.

(C) Injunction or Special Assessment. In addition to any other remedies authorized by this Code or other law, the City has the right to seek an injunction in District Court ordering compliance with this Code; or in the alternative the City, after due notice as

specified in this section, may correct the violation itself and certify the costs of correction as a special assessment against the property on which the correction was made; provided, however, that the following steps are taken before the City so corrects the violation itself:

1. Notice. The City must send written notice of the violation to the owner of the affected property, mailed by first class mail, postage prepaid, to the owner c/o the address of the affected property or such other address for the owner as may be on file at City Hall.

2. Opportunity to Correct Violation. The above specified notice shall give the owner ten (10) calendar days from the date the notice was mailed in accordance with section 110 (2) (C) (i) to correct the violation. Upon expiration of the ten (10) days, if the violation remains uncorrected, the City may correct the violation itself in accordance with section 110 (2) (C).

3. Appeal. For good cause shown, the owner may appeal to the City Council the notice of violation. Such appeal must be in writing addressed to the City Clerk and received before expiration of the ten (10) day period specified in section 110 (2) (C) (ii). Such appeal shall toll the ten-day notice period until after the City Council has heard and decided the matter.

(**D)** **Private Cause of Action**. Any resident or owner of lands within the City may institute appropriate legal action to prevent, restrain or correct violations of this Code, including proceedings in the District Court to compel the specific performance by the proper official(s) of any duty required by this Code.

(7) **<u>Continuing Violation</u>**. Each day that a violation continues shall constitute a separate offense.

(8) **<u>Penalties For Each Offense</u>**. When a penalty or forfeiture is provided for the violation of any provision of this Code, such penalty or forfeiture shall be construed to be for each such violation.

(9) **Compliance Monitoring** may be as often as reasonably necessary to determine compliance of this ordinance

1. Right of Entry: Inspection and Sampling.

The authorized enforcement agent shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be reasonably necessary to determine compliance with this ordinance.

(A) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agent.

(B) Facility operators shall allow the authorized enforcement agent ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(C) The authorized enforcement agent shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agent to conduct monitoring and/or sampling of the facility's storm water discharge.

(D) The authorized enforcement agent has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(E) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agent and shall not be replaced. The costs of clearing such access shall be borne by the property owner.

(F) Unreasonable delays in allowing the authorized enforcement agent access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial or construction activity commits an offense if the person denies the authorized enforcement agent reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance

(10) SUSPENSION OF MS4 ACCESS

(A). Emergency Cease and Desist Orders

When the authorized enforcement agent finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the authorized enforcement agent and the Mayor may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

(1) Immediately comply with all ordinance requirements; and

(2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the authorized enforcement agent may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including with written approval of the Mayor immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The authorized enforcement agent may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the authorized enforcement agent that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the authorized enforcement agent within **5** days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(B). Suspension due to Illicit Discharges in Emergency Situations

The authorized enforcement agent may with the approval of the Mayor may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened

discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agent may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(C). Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The **authorized enforcement agent** will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agent for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agent.

(11) ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 10 days of the decision of the Mayor upholding the decision of the authorized enforcement agent, then the **authorized enforcement agent** shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

508 Prohibiting Public Nuisances, Unsound, Diseased and Pest Infested Trees and Hazardous Building and Requiring Building Maintenance

(1) Public Nuisance. Unless otherwise provided, a person who acts or fails to perform a legal duty by intentionally doing any of the following shall be guilty of a misdemeanor of maintaining a public nuisance:

(A) Prohibiting Public Nuisances, Unsound, Diseased and Pest Infested Trees and Hazardous Buildings and Requiring Building

1. Exposed accumulation of decayed or unwholesome food or vegetable matter, except compost;

2. All diseased animals running at large;

3. Carcasses of animals not removed, buried, or destroyed within twenty-four (24) hours after death;

4. Accumulations of manure, refuse, or other debris;

5. Privy vaults and garbage cans which are not rodent free and insect-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

6. Accumulation beyond two sanitary garbage pickup cycles of rubbish, animal or human fecal waste, cut and piled hay, grass, straw, weeds or litter emitting a noxious smell or providing a breeding place for flies, mosquitoes or rodents.

7. Garbage, recyclable products or waste paper in unsealed containers that is left out of doors for more than 60 hours.

8. The pollution of any public or private well or cistern, stream or lake, drainage area, wetland or body of water by sewage, industrial waste, sediments, hazardous material or substance, or fertilizers;

9. All noxious weeds and other rank vegetative growths;

10. Dense smoke, noxious fumes, rank odors, gas, soot, or cinders, in quantities that pose a fire, health or safety hazard;

11. Public exposure of persons having a dangerous contagious disease;

12. Any offensive trade or business as defined by statute not licensed by the City Council;

13. Except as otherwise provided, farm, other animals or fowl used for the production of food.

14. Illicit Discharge, In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(B). Public nuisances affecting public welfare. The following are hereby declared public nuisances affecting public welfare:

1. All gambling devices, slot machines, and punch boards available for public use connected to illegal gambling;

2. Betting, bookmaking, and all apparatus used in such occupations with connection with illegal gambling activities;

3. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;

4. All places where intoxicating liquor is manufactured or illegal drugs are grown or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor or using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor or illegal drugs and other property used for maintaining such a place;

5. Any vehicle used for the illegal transportation of intoxicating liquor or illegal drugs, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

(C). Public Nuisances Affecting Peace and Safety. The following are declared to be public nuisances affecting public peace and safety:

1. As provided in Section 209, all trees, hedges, billboards, signs or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;

2. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

3. As provided in Section 510, all unnecessary noise and vibration;

4. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, parks or public grounds except under such conditions as are permitted by this Code or other applicable law;

5. Radio aerials, communications towers or television antennae erected or maintained in a dangerous manner;

6. All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;

7. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;

8. Any barbed wire fence within five feet of a public sidewalk, public street or private street;

9. All dangerous, unguarded machinery, or machinery left operating without an operator present in any public place, or so situated or operated on private property as to attract the public or to be a hazard to pedestrians or vehicles;

10. Except as otherwise provided, all trailers, construction vehicles, service vehicles, construction or other large trash containers or large storage containers or other such devices parked on a public street right-of-way, public property or private street between the hours of 5:30 PM and 7:30 AM;

11. Waste water cast upon or permitted to flow upon streets or other public property;

12. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, tires or other material, in a manner conducive to the harboring of rats, mice, snakes, insects, or vermin, or to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated;

13. Any well, hole or similar excavation which is left uncovered, un-barricaded or in such other condition as to constitute a hazard to any child coming on the premises where it is located;

14. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

15. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;

16. The depositing of garbage, construction debris or other refuse on a public right-of-way or depositing of garbage, construction debris or other refuse on adjacent private property that is not properly contained in a garbage can or dumpster;

17. Entry upon the premises of another person if the person entering has been given oral or written notice not to, or if the premises are clearly marked with “no trespassing" or no soliciting signs posted so as to be in plain view along all routes of access to the premises, unless such entry is upon official business of a government agency or public utility;

18. Ammunition, gasoline, cleaning fluids, fireworks, explosive nitrate fertilizer or similar combustible, flammable or explosive material of any kind stored, dumped or deposited in a way as to create a hazardous condition;

19. Use or display of explosive fireworks in any manner except as authorized by law under Minnesota State Statutes 624.20-624.25 Relating to Fireworks;

20. Unmaintained long grass or other vegetation promoting the infestation of rodents, vermin, or dangerous insects;

21. An excavation for building or other purposes is left open for more than six months without proceeding with the erection of a building thereon, whether or not completed, or if any excavation or basement is not filled to grade or otherwise protected after a building is destroyed, demolished or removed;

22. Unsecure vacant or unoccupied buildings that are deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building can be made safe by securing the building;

23. Erosion of lakeshore that endangers the free, unobstructed use of public streets, sidewalks, or public property or is dangerous to people using the public street sidewalk or public property, or threatens to undermine the street or public utilities in a way that will cause damage to the public street or utilities.

24. Improperly stored firewood or fallen uncut trees where such wood becomes infested with rats, rodents or vermin;

25. Animal Abuse or Neglect;

26. Unused construction or landscape material remaining on the property for more than one year after the construction is completed where such material becomes infested with rats, rodents or vermin;

27. Any attractive nuisance where a child could be injured;

28. Honey Bees, Farm, Wild or Exotic Animals and Reptiles
    a. No person shall keep, harbor, or maintain care, custody or control over any nondomestic animal, reptile, wild or exotic animal any place in the city. This section shall not prohibit hoofed animals from being transported expeditiously through the city, use of horses or similar animals by law enforcement personnel, or animals on display when in a City Council approved parade or other City Council approved civic event;
    b. No person shall keep or allow to be kept any hive or other facility for the housing of honeybees.

29. All other conditions or things which are likely to cause injury to the public;

(D). Public Nuisance Property Maintenance. The following are declared to be nuisances affecting public welfare, health and safety:

1. Any building or structure, including an accessory building, structure or use, is a public nuisance if its exterior does not comply with the following requirements:
    a. All exterior property shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property, which such occupant occupies, or controls in a clean and sanitary condition.

    b. All dwellings, garages and other accessory buildings shall have complete siding. No part of any exterior surface shall have significant deterioration including, but not limited to, holes, breaks, gaps, or loose or rotting siding. All exterior surfaces of the structure including, but not limited to, doors, door and window frames, cornices, porches and trim, shall be maintained in a good and safe condition. Exterior wood surfaces on the structures, other than decay-resistant woods, stucco or other materials that do not normally require protection from the elements shall be protected from the elements and decay by staining, painting or other protective covering or treatment or other appropriate method.

2. Any building or structure in the City that is found to be dangerous to public safety or health by reason of the following is hereby declared to be a public nuisance and a hazardous structure or hazardous condition:
    a. Severely damaged by fire, storm, or vandalism where the structure or condition poses a hazard to the occupants or to the public;

b. Defective chimneys or stovepipes where the condition poses a hazard to the occupants or the public;

c. Dilapidated condition or decay where the condition poses a hazard to the occupants or the public; or

d. Any other defect endangering the structures occupant or public safety, or health.

3. Any structure declared a public nuisance structure which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent-infested, presents environmental health risks or which lacks provisions for safe illumination, ventilation, or sanitary facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or of the public, may be declared unfit for human habitation or unsafe to the public by the City Council.
   a. Should the City Council declare a structure unsafe it may not be occupied by human habitation;

   b. Whenever any building has been declared unfit for human habitation or unsafe to the public, the City may proceed to declare the building a hazardous building or hazardous property and may seek to correct or remove the hazardous condition as authorized by Minnesota law and this ordinance.

4. All construction waste not contained in a metal construction dumpster or otherwise similarly contained as to prevent the waste from becoming windblown or from being an unattractive nuisance;

5. All construction waste remaining at a building site, where a permit has been issued, 60 days from the date that the building is occupied by the owner or 60 days from when the certificate of occupancy has been issued by the building inspector;

6. Junk or Abandon Property:
   Junk or abandoned: Vehicle, Lake Related Accessory Uses, Recreational Equipment, Recreational Vehicles or Trailers, Water–Oriented Accessory Structures and Facilities on any property for more than three years without being used as intended unless the aforementioned items are within the confines of a lawfully erected building. Junk or abandoned stairs leading to public property or to a public body of water are declared a public nuisance.

(2) The City Council declares the following as public nuisance not punishable as a misdemeanor:

A. Any living or standing oak tree, or part of it, infected to any degree with oak wilt disease fungus ceratacystis fagacearum;

B. Any living or standing elm tree, or part of it, infected to any degree with the Dutch elm disease fungus, Ophiostoma novo-ulmi or any tree or elm wood which harbors any of the elm bark beetles scolytus multistriatus or hylurgopinus rufipes and non-native elm bark beetle.

C. Any dead elm tree or part of one, including logs, branches, stumps, firewood or other elm material that has tight bark or an elm tree with one half or greater dieback.

D. Any tree that harbors a tree disease, tree pest infestation or is unsound that the City Council, upon advice, considers a danger to the community forest or a danger to the public safety, health and welfare of the community.

Abatement, Removal, Eradication:
Unless the tree is being treated by a qualified arborist, a property owner must not permit any dead, diseased tree or tree pest infestation or wood from such a tree to remain on premises owned or controlled by the property owner within the city. The nuisance may be abated in the manner prescribed by this ordinance.

Abatement of Tree Pest Infestation and Diseases Nuisances:
In abating the nuisance, the organism, condition or plant and any tree, wood or material identified as injurious to the health of trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the disease or tree pest. Such abatement procedures shall be carried out in accordance the control measures prescribed by the Commissioner of the Minnesota Department of Natural Resources.

(3) Hazardous Building, or Hazardous Property Removal

A. The City Council may order the removal or razing of any hazardous building or remove or correct any hazardous condition of real estate upon obtaining the consent in writing of all owners of record, occupying tenants, and all lien holders of record, or

B. The City Council may order the owner of any hazardous building or property within the City to correct or remove the hazardous condition of the building or property or to raze or remove the building, or

C. The City Council may order the correction or removal the hazardous condition of any hazardous building or property.

(4) Event: Payment of City Services to Provide Security, Traffic Control, Control Crowds or provide other City Services.

A. Any Event on private or public property or any use of a public street or sidewalk that obstructs traffic or the free use of the public street shall be considered a public nuisance not punishable as a misdemeanor to be controlled or abated as City and law enforcement officials deem reasonable and necessary. City service costs to control or abate the nuisance including but not limited to providing City security, City Traffic Control or City services shall be paid by the property owner on whose property the Event occurs, or if on public property, paid by the organizer of the event.

B. Any Event held on public property shall have been approved by the City Council and the Event organizer shall provide surety in the form and amount determined by the City Council.

HOMES FOR SALE 2025

Sold Price	Address	Date Closed	Former Owner	New Home Owner
$8,800,000	2306 Huntington PT Rd W	2/14/2025	Ericson	Harriet Investments, LLC

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LISTING PRICE	ADDRESS	STATUS	LISTING STATUS	OWNER SELLER
$1,200,000	2669 Woodbridge Rd	Pending	Land 0nly	Birkholz
$4,499,000	2625 Woodbridge Rd	For Sale	was $4,850,000 was $4,699,000	Radford
$950,000	3147 Lafayette Ridge Rd	For Sale	Was $1,050,000	B. Johnson
$2,995,000	2645 Arcola Ln	For Sale	was $3,599,000 was $3,295,000	Davis
$1,995,000	2314 Old Beach Rd	For Sale	was $2,195,000	Baumer
$3,200,000	3150 Northview	For Sale		Anderson
$4,500,000	2482 Lafayette Rd	Pending		Rosenblum
$1,999,999	3022 Shoreline Dr.	For Sale		Bedell