

ORDINANCE NO. 2022-10
AN ORDINANCE AMENDMENT REGARDING
TREE PROTECTION

The City Council Of Edina Ordains:

Section 1. Chapter 10, Article III of the Edina City Code is amended to add Division 3 as follows:

DIVISION III. TREE PROTECTION

Sec. 10-82. Preservation, protection and replacement of Protected Trees: This Division applies to: **grading permits**, demolition permits; subdivisions applications; building permit applications for principal and accessory structures including a garage, deck or a pool; and additions to principal and accessory structures. **This Division does not apply to City parkland, which follows tree protection guidelines outlined in Edina’s Comprehensive Plan and City Park Master Plan.**

(1) Purpose: Edina is fortunate to have a robust inventory of mature trees that form an integral part of the unique character and history of the city, and that contribute to the long-term aesthetic, environmental, and economic well-being of the city. The goal of this Section is to preserve Edina’s high valued trees, while allowing reasonable development to take place and not interfere with how existing property owners use their property. The purpose of the ordinance is to:

- a. Preserve and grow Edina’s tree canopy cover by protecting mature trees throughout the city.
- b. Protect and enhance property values by conserving and adding to the distinctive and unique aesthetic character of Edina’s tree population.
- c. Protect and enhance the distinctive character of Edina’s neighborhoods
- d. Improve the quality of life for all stakeholders, including city residents, visitors and wildlife.
- e. Protect the environment by the filtering of air and soil pollutants, increasing oxygen levels and reducing CO2; preventing and reducing erosion and stormwater by stabilizing soils; reducing heat convection; decreasing wind speeds; reducing noise pollution and decreasing the urban heat island effect.
- f. Protect and maintain healthy trees in the development and building permit processes as set forth herein; and prevent tree loss by eliminating or reducing compacted fill and excavation near tree roots.

(2) Definitions:

- a. Protected Tree: Any tree that is structurally sound and healthy, and that meets one of the following:
 - i. a deciduous tree that is at least ~~8~~ **5** inches dbh, except box elders, poplar, willow, silver maple, black locust, fruit tree species, ash, and mulberry.
 - ii. a coniferous tree that is at least ~~20~~ **15** feet in height.
 - b. Removable Tree. Any tree not defined as a Protected Tree, and as defined as an invasive species by the Minnesota Department of Natural Resources.
 - c. Critical Root Zone. The minimum area around a tree that is left undisturbed. The critical root radius is calculated by measuring the tree's diameter at breast height. For each inch of tree diameter, 1.5 feet of root zone radius must be protected. For example, if a tree's dbh is 10 inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15). If the critical root zone **of a tree on site or an adjacent property** must be disturbed for construction or construction activity, a plan for the disturbance shall be submitted **as part of the Tree Protection Plan** subject to review and approval of the city forester to minimize the damage.
 - d. Diameter at Breast Height (dbh). The dbh shall be measured at a height of 4.6 feet.
 - e. Transplanted Tree. A protected tree which is removed from a lot and replanted to another private lot or a public space in Edina.
 - f. **Heritage Tree. A protected deciduous tree above 30" dbh and a protected coniferous tree taller than 30 feet.**
- (3) Applications **for all permit types identified in Sec 10-82** must include a tree protection plan indicating where Protected **and Heritage** Trees are located and, their species, caliper, and health. The plan must show how Protected **and Heritage** Trees are preserved and protected during construction. The plan must also show if any Protected **or Heritage** Trees are proposed to be removed and the location, species and size of all replacement tree(s). **The Tree Protection Plan should be coordinated with the Stormwater Management Plan; proposed and protected trees should be shown on the stormwater management plan to ensure no conflicts.**
- (4) If a Protected Tree is removed, ~~except as allowed for in paragraph (5);~~ it must be replaced with ~~one (1) tree~~ **trees equal to at least 75% of the deciduous dbh and 75% of the coniferous height in feet, as applicable**, subject to the following conditions:
- a. Protected trees must be replaced with species of a similar type (deciduous or coniferous) **according to Part 11** that are normally found

growing in similar conditions and that are included **in Hennepin County's "Recommended Tree List"** . on the list of acceptable replacement species on file with the city forester.

- ~~b. Replacement trees must be varied by species.~~
- b. Replacement trees must not be subject to known epidemic diseases or infestations. Disease or infestation resistant species and cultivars are allowed.
- c. Replacement trees must be at least three and one-half inches (23.5") in caliper for deciduous trees and a minimum of eight feet (78') tall for coniferous trees.
- d. Replacement tree plans are subject to approval by the City Forester before implementation.
- e. The tree protection plan shall be verified at the time of final inspection for the building permit.
- ~~f. If the city determines that there is no appropriate location for some or all the required replacement trees, those trees will not be required on site.~~
- f. **Failure to replace protected trees on site results in a payment fee of \$300 per dbh below 75% of the dbh removed, or \$300 per coniferous foot below 75% of the foot removed.**

(5) ~~Protected Trees may be removed without mitigation, in the following areas:~~

- ~~a. Including, and within a ten-foot (10') radius of, the building pad, deck or patio of a new or remodeled building.~~
- ~~b. Including, and within a five-foot (5') radius of driveways and parking areas.~~
- ~~c. Including, and within ten-foot (10') radius of installation of public infrastructure improvements including public roadways, stormwater retention areas and utilities.~~

(5) If a Heritage Tree is removed, it must be replaced with protected trees at least 100% of the dbh or coniferous feet, subject to the following conditions:

- a. **Heritage trees must be replaced with species of a similar type (deciduous or coniferous) that are normally found growing in similar conditions and that are included in Hennepin County's [recommended tree list \(xlsx\)](#).**
- b. **Replacement trees must not be subject to known epidemic diseases or infestations. Disease or infestation resistant species and cultivars are allowed.**

c. Replacement trees must be at least four and one-half inches (4.5") in caliper for deciduous trees and a minimum of ten feet (10') tall for coniferous trees.

d. Replacement tree plans are subject to approval by the City Forester before implementation.

e. The tree protection plan shall be verified at the time of final inspection for the building permit. If the protection plan is not in compliance, the inspection may not be approved.

f. Failure to replace Heritage trees results in a payment fee of \$500 per deciduous dbh below 100% of the dbh removed, and as applicable, \$500 per coniferous foot below 100% of the coniferous feet removed.

- (6) Before construction, grading or land clearing begins; city-approved tree protection fencing, or other method must be installed and maintained at the critical root zones of the trees to be protected. The location of the fencing must be in conformance with the approved tree protection plan. The fencing must be inspected by city staff before site work begins. The fencing must remain in place until all demolition and construction is complete.
- (7) No construction, compaction, construction access, stock piling of earth, storage of equipment or building materials, or grading may occur within the critical root zone areas of trees to be protected, unless there are no other on-site alternatives. If there are no other alternatives, a plan for this activity would need to be reviewed and approved by the city forester **and included in the tree protection plan**. A reasonable effort must be made when trenching utility lines to avoid the critical root zone.
- (8) When construction is complete all trees to remain must have the soil out to their drip line aerated and de-compacted. Aerating must include multiple concentric circles of 1" holes, 2" deep, or as recommended by an arborist.
- (9) If Protected Trees **and/or Heritage Trees** were removed within one (1) year prior to the date the development, subdivision application, demolition, **grading** and building permit applications were submitted, these Protected Trees **and/or Heritage Trees** are also subject to the replacement policy set forth in paragraphs (4) **and (5)** above.
- (10) Any **tree transplanted on-site** shall not be counted as a protected tree **or heritage tree** under this section and **therefore does not require** ~~requires~~ replacement under this section, **provided it is viable at 36 months after the permit's final inspection per Part 12.**
- (11) Amount of required replacement trees in (4) and (5) above shall be a variety of types and sizes as demonstrated below. Species shall comply with Hennepin County's "Recommended Tree List."**

Deciduous (dbh)	Coniferous (in feet)	Lot size < 1 acre	Lot size >= 1 acre
3½" or greater	8' or greater	70%	50%
4½" or greater	10' or greater	20%	25%
5½" or greater	12' or greater	10%	25%

(12) Financial Guarantee.

- a. The City shall, at its option, require cash escrow or a letter of credit satisfactory to the City in the amount of 110 percent of the value of the tree replacement identified in the tree protection plan, securing the full performance of Tree Protection Plan. The amount of such security shall be calculated by the fees described in Parts 4f and 5f.
- b. Release of Financial Guarantee. The financial security shall be released based on the following schedule:
 - i. Upon issuance of a Certificate of Occupancy and approval by City Forester that the Tree Protection Plan has been met: Forester will inspect the site and calculate actual fee owed based on how much dbh preserved or replaced on site. The original escrow or line of credit, minus this fee, is 50% released at this time.
 - ii. 36 months after issuance of Certificate of Occupancy, an applicant must submit a landscape review by a certified arborist, indicating planted and preserved trees are still healthy. If any trees are found to be unhealthy, the certified arborist can replace these trees onsite and the balance of the financial guarantee (50% of financial guarantee net of fees in Part a) are released at this time. If the applicant does not opt to replace trees onsite, these fees are considered owed to the City and retained permanently.

Section 2. Chapter 24, Article I. Section 24-1 Definitions, in the Edina City Code is amended to add the following:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public right-of-way owned by the city or over which the city owns an easement which is less than 30 feet in width and which is used or is usable as a public thoroughfare.

Boulevard means that portion of a street not occupied by the traveled portion of the street or a sidewalk.

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Easement means an easement owned by the city for any public purpose.

Park means property owned by the city which is used or is usable for park, recreation or open space purposes.

Public grounds means any land owned by the city, or over which the city owns an easement, including streets and alleys.

Right-of-Way means the surface and space above and below a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements owned by the city for city utility purposes.

Sidewalk means an improved thoroughfare located on a public right-of-way or public easement limited to usage by pedestrians and nonmotorized vehicles.

Street means a public right-of-way owned by the city or over which the city owns an easement which is 30 feet or more in width and which is used or is usable as a public thoroughfare.

Section 3. Chapter 24, Article I. Section 24-2 through 3 is added as follows:

Sec. 24-2 – BOULEVARD TREE PLANTING

The City of Edina encourages the planting of trees in boulevards adjacent to homeowners' properties. Residents are responsible for planting trees on the boulevard area adjacent to their property and should consult the "Recommended Tree List" held by Hennepin County to avoid planting tree species which detract from the environment.

The City of Edina may initiate tree-planting on the boulevard.

Sec. 24-3 – BOULEVARD TREE MAINTENANCE

The City of Edina believes that it is in the best interest of the residents of Edina and the general public to regulate the planting, maintenance, and removal of trees on City boulevards, rights-of-way, and easements. The City encourages the proper planting and care of trees within the City, in order to increase our overall canopy for the purposes of aesthetics, traffic calming, and climate change response.

It is the responsibility of the adjacent property owner to maintain trees on their boulevard. Sightlines along roadways must be maintained at all times; Planted trees should comply with the regulations of City Code, Article VII – Clear Zone View. Pruning should be done between the months of November and March for best care of trees.

Section 4. This ordinance is effective January 1, 2023.

First Reading: September 7, 2022

Second Reading: October 6, 2022

Published:

ATTEST:

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Sharon Allison, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two affidavits of publication.
Bill to Edina City Clerk