

ORDINANCE NO. 2024-_____

AN ORDINANCE TO MODIFY DEFINITIONS AND STANDARDS RELATED TO SLOPE PROTECTION AND TREE PRESERVATION, THEREBY AMENDING CHAPTERS 19 AND 21 OF THE CITY CODE

The City Council for the City of Bloomington, Minnesota, ordains:

Section 1. That Chapter 19 of the City Code is hereby amended by deleting those words within brackets and ~~stricken through~~ and adding those words that are underlined, to read as follows:

CHAPTER 19: ZONING

ARTICLE V: PERFORMANCE STANDARDS

§ 19.57.01 ~~[STEEP-]SLOPE[S] PROTECTION.~~

(a) *Purpose.* The purpose of this section is to protect areas with ~~[steep]~~slopes from erosion caused by surface runoff due to development. These provisions apply to all properties in Single-Family R-1 and R-1A, and Large Lot Single-Family Residential RS-1 Zoning Districts with 12% or greater slope shown in a final plat or otherwise approved by the City Council after May 1, 1993. Additional provisions for the Bluff Protection (BP) Overlay District are located in § 21.208.02.

(d) *Best management practices.* The following best management practices are encouraged to filter, slow, and disperse surface water runoff:

- (1) Minimize stormwater runoff over slopes;
- (2) Limit or reduce impervious surfaces;
- (3) Direct runoff from impervious surfaces into a storm sewer system or well vegetated area;
- (4) Manage soil erosion;
- (5) Plant bare areas with native seedlings or seeds of native species and mulch; and
- (6) Cover bare soils with biodegradable erosion control blankets and/or logs while vegetation becomes established.

~~[(d)](e) *Special provisions.*~~

(1) *Surface runoff redirected away from slopes.* In those instances where surface water runoff from impervious surface is directed away from steep slopes and into a public storm sewer or public or approved private ~~[sedimentation pond]~~best management practice as defined in subsection (d), such areas shall not be considered as impervious surface for the maximum coverage limitations identified subsections (b) and (c). However, in no instance shall the total impervious surface, including those areas affected by this provision, exceed the maximum impervious allowed in the zoning district as shown in § 21.301.01(c).

(2) *Development occurring on areas with less than 12% slopes.* In those instances where all impervious surfaces on lots with steep slopes are located in an area of the lot with slopes of less than 12%^[7] and surface water runoff from impervious surface is directed away from steep slopes and into a public storm sewer ~~[or public]~~ or approved ~~[private sedimentation pond]~~ best management practice as defined in subsection (d), the restrictions of this section ~~[shall]~~ do not apply.

(3) *Mitigation.* When the City Council grants relief from the requirements of this section by granting of a variance, approval of a Planned Development (PD) Overlay District, approval of a conditional use permit for a Neighborhood Unit Development or other action, the City Council may require mitigation of the effects of surface runoff on steep slopes by any reasonable method, including but not limited to:

(i) *Trees.* The City Council may require applicants to plant additional trees to intercept rain[-]water on open portions of the lot. Any overstory tree of two and one-half caliper inches or greater or any evergreen tree of six feet or more feet in height at the time of planting, shall qualify as meeting this requirement. This provision shall not be required for any lot which has more than one tree of qualifying size (but not species) for each 3,000 square feet of lot area;

Section 2. That Chapter 21 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 21: ZONING AND LAND DEVELOPMENT

ARTICLE II: DISTRICTS AND USES

DIVISION G: OVERLAY ZONING DISTRICTS

§ 21.208.02 BLUFF PROTECTION (BP) OVERLAY DISTRICT.

(e) *Standards.* In addition to the provisions of the primary zoning district, the following provisions further regulate all development within the Bluff Protection Overlay District:

(7) *Single-Family Zoning Districts.* The following additional standards apply to sites that are zoned R-1, RS-1 or R-1A:

(A) Impervious surface area within the Bluff Protection Overlay District must not exceed 20% of the lot area within the Bluff Protection Overlay District. This standard applies in conjunction with the impervious surface regulations of the underlying zoning district defined in § 21.301.01 and any applicable ~~[steep slope]~~ impervious surface regulations in § 19.57.01.

ARTICLE III: DEVELOPMENT STANDARDS

DIVISION A: GENERAL STANDARDS

§ 21.301.14 TREE PRESERVATION.

(a) *Purpose.* The City Council recognizes that preservation and replanting of trees is important on new single-family residential development sites in order to maintain a healthy and desirable community. The City Council also recognizes that a certain amount of tree loss is an inevitable consequence of the residential development process. The City Council finds that these tree preservation regulations help to establish a balance between an individual's rights to develop his or her property and the needs of the community to protect the natural environment. The purpose of these tree preservation regulations includes, but is not limited to:

- (1) Prevention of soil erosion and sedimentation;
- (2) Improved air quality;
- (3) Reduced noise pollution;
- (4) Energy conservation through windbreaks and shading;
- (5) Control of the urban heat island effect;
- (6) Increased property values;
- (7) Protection of privacy by maintaining and establishing buffers between conflicting land uses;
- (8) Enhanced aesthetics; [~~and~~]
- (9) Providing habitat for wildlife[-]; and
- (10) Support stormwater management.

(c) *Definitions.* The following definitions supplement those in § 19.03 and apply only to this section of this code.

CRITICAL ROOT ZONE. The area within a radius surrounding the tree trunk of one foot per one inch DBH of tree diameter. For example, a 20-inch DBH tree has a **CRITICAL ROOT ZONE** with a radius of 20 feet.

DBH. Diameter at breast height. The diameter of a tree measured four and one-half feet above grade level.

DISTURBANCE ZONES. That part of a site disturbed by tree clearing, grading, trenching or any other construction activities.

HEALTHY TREE. Any significant tree except those deemed diseased by a [~~certified forester, arborist~~]licensed tree inspector or the City Forester.

NONNATIVE BENEFICIAL. Plant species or varieties that historically originate from outside the local ecosystem and provide benefits to or do not pose a significant threat to native biodiversity, ecosystem function, or human interests.

SIGNIFICANT TREE. Any healthy deciduous hardwood tree or healthy coniferous tree of specific DBH inches as identified in the following table. [~~(except willow, boxelder, aspen, silver maple and multiple stem cottonwood) measuring 12 inches DBH or greater (or six inches DBH or greater in the case of oak, sugar maple, ironwood and hickory) and any healthy coniferous tree (except multiple stem white cedar) measuring eight inches DBH or greater.~~]For the purposes of this § 21.301.14, a prohibited tree species identified in § 18.03 may be considered a significant tree, unless otherwise specified in the table or determined by the City forester.

<u>Category</u>	<u>Tree Types</u>	<u>Size</u>
<u>Deciduous Hardwood (General)</u>	<u>All species except deciduous hardwood (exceptions) are significant when meeting the following size</u>	<u>12” DBH or greater</u>
<u>Deciduous Hardwood (Exceptions)</u>	<u>Oak, sugar maple, ironwood, hickory are significant when meeting the following size</u>	<u>6” DBH or greater</u>
<u>Coniferous (General)</u>	<u>All species are significant when meeting the following size</u>	<u>8” DBH or greater</u>
<u>Table Note: The following species are not considered significant at any size: willow, boxelder, aspen, silver maple, multiple stem cottonwood, and multiple stem white cedar.</u>		

TREE TRUNK. The stem portion of a tree from the ground to the first branch thereof.

(d) *Removal threshold.*

(1) Removal or disturbance of significant trees on lots or proposed lots in the R-1, R1-A and RS-1 Zoning Districts beyond 50% of the total inches DBH of significant trees on the lot or proposed lot requires reforestation as specified in this section. The following trees are not counted toward the calculation of significant trees:

- (A) Trees within existing or proposed conservation and protective easements;
- (B) Trees within 100-year floodplains;
- (C) Trees within wetlands;
- (D) Trees on slopes greater than 25%; and
- (E) Trees deemed diseased by a ~~[certified forester]~~licensed tree inspector or the City Forester.

(2) Significant trees within existing conservation and other protective easements, floodplains, wetlands or on slopes greater than 25% must be preserved and may only be removed upon issuance of a permit from the City Forester.

(f) *Tree preservation standards.* To receive credit for preserving existing significant trees, significant trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following preservation standards apply.

(4) Where tree preservation standards apply, [P]prior to issuance of building or grading permits, protective fencing must be installed around the limits of the disturbance zone or around the critical root zone of significant trees to be preserved. Such fences must be at least four feet high and must consist of orange polyethylene safety fencing. Fencing must remain in place until construction is completed or other landscaping has been installed and the City Forester has approved the removal of the fencing.

(h) *Reforestation plan.* All plat applications that would create one or more new parcels in the R-1, R-1A and RS-1 Zoning Districts must include a reforestation plan if the amount of significant tree caliper inches to be removed or disturbed as shown on the tree survey and tree preservation plans exceeds the removal threshold. The reforestation plan must be prepared and signed by a registered landscape architect or ~~[forester]~~certified arborist and must comply with the following criteria.

(1) The plan must indicate the location and caliper inches or height of all trees to be planted.

(2) No more than one-half of the trees to be planted may be from any one species.

(3) Trees are encouraged to be ~~[of similar species as found on the site]~~native to the region; up to one-half of the planted trees may be nonnative beneficial species or varieties.

(4) No more than 15% of the required tree inches may be of ornamental species.

(5) Proposed trees must not include trees prohibited in § 18.03.

(i) *Authority of the City Forester.*

(1) The tree survey, tree preservation plan and any related reforestation plan must be reviewed and evaluated by the City Forester.

(2) The City Forester has the authority to approve, deny, condition, or reject as incomplete a tree survey, tree preservation plan, ~~[and]~~or reforestation plan.

(k) *Inspection and enforcement of the tree preservation plan.*

(1) *Field staking and pre-grading inspection.* When a tree preservation plan is required, all sites must be staked and fenced for tree preservation pursuant to the approved tree preservation plan prior to removal of any trees and prior to issuance of a grading permit, or prior to commencement of any grading operations if no grading permit is required, or prior to

issuance of a building permit if no grading operations are required. A copy of the approved tree preservation plan must be submitted with an application for a grading permit or with an application for a building permit if no grading permit is required. Upon staking of the site and installation of the tree protection fencing, but prior to issuance of any permits or commencement of any grading operations, the ~~[subdivider]~~landowner or applicant must contact the City Forester to schedule an inspection of the staking and fence installation on the site. No permits may be issued, nor may any grading or grubbing operations commence without first receiving authorization by the City Forester. Tree protection fencing must remain in place until after the permanent certificate of occupancy is issued for the building on the site.

(2) *Post grading inspection.* Upon completion of the preliminary site grading operations, but prior to any further issuance of permits upon the site, the ~~[subdivider (or builder if different than the subdivider)]~~landowner or applicant must contact the City Forester to schedule a second inspection of the site to verify the preservation of trees as shown on the approved tree preservation plan.

(3) *Final inspection.* Prior to issuance of a certificate of occupancy, the ~~[subdivider (or builder if different than the subdivider)]~~landowner or applicant must contact the City Forester to schedule a final tree preservation inspection to verify the preservation of significant trees and the planting of any reforestation trees as shown on the approved tree preservation plan.

Passed and adopted this _____ day of _____, 2024.

Mayor

ATTEST:

APPROVED:

Secretary to the Council

City Attorney