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**\*Cross references** – Environmental assessment worksheets and environmental impact statements, § 12-89; radiation and electrical interference, § 12-202; storage of hazardous materials, § 12-203; explosives, § 12-204; environmental pollution, § 12-205; environmental nuisances, § 12-206; miscellaneous nuisances, § 12-207; noise § 12-208.

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### ARTICLE I. IN GENERAL

**Secs. 10-1--10-25. Reserved.**

### ARTICLE II. NUISANCES\*

**Sec. 10-26. Prohibition.**

No person shall cause or permit any nuisance to exist or to be maintained upon property situated in the whole or in part within the limits of the city.  
(Code 1982, § 1101.101)

**Sec. 10-27. Enumeration.**

Nuisances prohibited by this article include the following:

- (1) Obstructions and excavations affecting the ordinary use of or rendering dangerous a public street, alley, sidewalk, or other public property.
- (2) The maintenance of any tree or shrub, which causes damage to any public sewer, street, alley, sidewalk or other public property.
- (3) The allowing of rain, water, ice or snow to fall from any building onto, or to flow across any public street, alley, sidewalk or other public property.
- (4) To pump a cesspool so as to allow the contents thereof to flow onto another's private property or any street, alley, sidewalk or other public property.
- (5) The doing of any act which may alter or affect the drainage on, onto, or from public streets, alleys, sidewalks, or other public property, including but not limited to the placing of driveways, driveway entrances, or culverts.

(Code 1982, § 1101.102)

**Sec. 10-28. Abatement.**

Upon any nuisance being found in the city, the City Council may by majority vote, order the owner, lessee or occupant or any person having care or control of any such lot or land to abate the nuisance and shall issue a written notice to such person allowing five days after the service of notice for such person to comply.  
(Code 1982, § 1101.103)

**Cross reference(s)**--Abatement of nuisance dogs, § 6-5.

**Sec. 10-29. Assessment of cost.**

If the nuisance is not abated within five days in compliance with the notice, the City Council shall cause the nuisance to be abated and shall recover the actual cost thereof, plus an additional 25 percent of such expenditure, by civil action against the person or persons served; or, if service of notice of assessment of such cost has been made upon the record owner, as shown on the records of the county auditor, by ordering the clerk to extend such sum, plus 25 percent thereof as a special tax against the property upon which the nuisance existed and to certify the same to the county auditor for collection in the same manner as taxes and special assessments are certified and collected.  
(Code 1982, § 1101.104)

**Secs. 10-30--10-65. Reserved.**

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\***Cross references**—Determination of dogs as a public nuisance, § 6-4; abatement of nuisances caused by individual sewage treatment systems, § 12-2087; abatement of nuisance mining, § 12-2303.

**State law references**—Authority to define and abate nuisances, M.S.A. § 412.221, subd. 31; nuisances generally, M.S.A. § 561.01 et seq.

**ARTICLE III. PROTECTING GROUND WATER AND SURFACE WATERS  
FROM FERTILIZER, PESTICIDE OR OTHER HERBICIDES**

**DIVISION 1. GENERALLY**

**Sec. 10-66. Intent and purpose.**

This article is adopted for the purpose of:

(a) Regulating permitted uses in the city, and; regulating the use of certain lawn care practices. The use of certain lawn care practices within the city will be regulated to preserve and enhance the water quality of the lakes, ponds, wetlands, creeks, and St. Croix River, prevent erosion into these water bodies, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, protect fish and wildlife habitat, and preserve the economic and natural environmental values of the surface waters and underground waters of the city to the best of its ability.

(b) Conserving and developing natural resources, and maintaining a high standard of environmental quality.

**Sec. 10-67. Statutory authorization and policy.**

(a) Statutory authorization. This article is adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 103A-1, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minn. Stat. Ch 462.

(b) Policy. The uncontrolled use of the waters and shorelands within the city, affects the public health, safety and general welfare by contributing to pollution of public waters and degradation of the environmental and aesthetic values and by impairing the local tax base. Also, the inability of local land use controls on areas where there is sensitivity to pollution of the bedrock aquifers and water table aquifers can greatly lead to the degradation of the ground water. Therefore, it is in the best interest in the public health, safety and general welfare to provide for the wise development, use, and conservation of the land and waters with the city. Furthermore, the Minnesota legislature has delegated responsibility to local governments of the state to regulate the subdivision, development and use of shorelands of public waters and thus to preserve and enhance the quality of surface waters, to manage the effects of shoreland crowding, to conserve the economic, historic and natural environmental values of shorelands, and to provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the city.

**Sec. 10-68. General provisions and definitions.**

(a) Jurisdiction. The provisions of this article apply to the entire city due to the fact that all lands drain runoff or surface water directly or indirectly into the lakes, streams, and tributaries of the St. Croix River.

(b) Correlation with other political units of government. In addition, to the following provisions as set forth in this ordinance all property owners shall also abide by Minnesota State Statute 18C, as well as any related WMO and Watershed District's rules and regulations in respect to ground water and surface water protection.

(c) Interpretation. In their interpretation and application, the provisions of this article shall be held as minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(d) Severability. If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected thereby.

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(e) Abrogation and greater restrictions. The restrictions set forth in this chapter do not apply to flower or vegetable gardens less than 1,000 in square feet, except if they are within the buffer zone. In addition, all agriculture, rural or suburban, uses shall be exempt from this chapter.

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### Sec. 10-69. Definitions.

*Commissioner.* “Commissioner” means the commissioner of agriculture.

*Buffer zone.* Buffer zone means the two hundred (200) foot wide strip of land, measured at a right angle to the shoreline or the ordinary high water level, adjacent to every lake, pond, wetland, creek, river or standing water surface.

*Fertilizer.* Fertilizer means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth. Fertilizer does not include animal and vegetable manures that are not manipulated, marl, lime, limestone, and other products exempted by rule by the commissioner.

*Flower or vegetable gardens.* The use of land for growing or showing plants and vegetables for private use or consumption.

*Half-life.* The period of time it takes for one-half of the amount of pesticide in the soil to degrade.

*Lot.* Lot means a parcel of land designed by plat, metes and bounds, registered land survey, auditor’s plat, or other accepted means, and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

*Pesticide.* Pesticide means insecticides, herbicides and fungicides.

*Quick-release nitrogen.* Quick-release nitrogen means ammonium nitrate, ammonium sulfate, creek or river within the city.

*Slow-release nitrogen.* Slow-release nitrogen means IBDU (isobutylidene diurea), sulfur-coated or resin-coated urea, ureaformaldehyde, bio-sludge from a WWTP, and natural organics such as milorganite, ringer, sustane, manure, grass clippings, phosphate rock, potash, and sewage sludge from the wastewater treatment plant.

### Sec. 10-70. Restrictions.

(a) Fertilizers.

- (1) Fertilizing is prohibited between November 15<sup>th</sup> and April 1<sup>st</sup> due to frozen soil conditions.
- (2) Lot owners who fertilize should have their soil tested at least once every three years by a soil test laboratory such as the University of Minnesota to determine the proper amounts of nitrogen and potassium to be applied.
- (3) Fertilizer, yard waste or grass clippings must not be cast up or applied to an impervious surface such as a driveway, sidewalk, or street. If this material is inadvertently spilled upon such a surface it should be swept and cleaned from the surface or piled in drainage ways.
- (4) Whenever possible property owners shall use fertilizers with a half life of seven days. A listing of fertilizers which meet this requirement of the ordinance will be available at the City Hall.
- (5) The use of fertilizer on vegetable or flower gardens is prohibited in the buffer zone.

(b) Compost Sites.

- (1) Compost sites shall not be permitted within any buffer zone.

(c) Phosphorus.

- (1) General. Fertilizers containing phosphorus are prohibited on lawns unless the soil is demonstrably phosphorus deficient. Phosphorus may be applied if the following conditions apply or are met:

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- A. A tissue, soil or other test by a laboratory or method approved by the commissioner and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;
  - B. The property owner or an agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season; or
  - C. The fertilizer containing the plant food phosphorus is used on a golf course under the direction of a person licensed, certified, or approved by an organization with an ongoing training program approved by the commissioner.
  - D. Applications of phosphorus fertilizer authorized under paragraph (b) must not exceed rates recommended by the University of Minnesota and approved by the commissioner.
- (2) Flower and vegetable gardens. Fertilizer containing no more than three (3) percent phosphorus is permitted on flower and vegetable gardens not located within the designated buffer zone.
- (d) Nitrogen.
- (1) Application of more than 2 pounds actual nitrogen per 1,000 square feet of lawn per year on “low maintenance” lawns applied at 1 pound in the spring and 1 pound in the fall and of more than 4 pounds actual nitrogen per 1,000 square feet of lawn per year on “high maintenance” lawns applied at 2 pounds in the spring and 2 pounds in the fall is prohibited unless the lot owner has a written recommendation from a competent professional based upon a reliable soil test for higher nitrogen applications.
  - (2) Only 50 percent controlled slow-release nitrogen organic fertilizer may be used. The use of quick-release nitrogen is prohibited.
  - (3) If nitrogen is applied at rates greater than those specified in subsection (1) above, the lot owner must provide copies of the written recommendation required therein to the city forester.
- (e) Pesticides (insecticides, herbicides, and fungicides).
- (1) The use of chemical pesticides shall be in accordance with their label.
  - (2) Before using chemical pesticides, the lot owner must consult the Minnesota Extension Services, the Washington Conservation District or other competent professional to diagnose properly the pests, disease or other vegetative problems, and to determine if pesticide use is justified or if there are other control options.
  - (3) When consultation as provided under subparagraph (b) has determined that pesticide use is warranted, a pesticide program may be implemented, provided that:
    - A. When choosing a pesticide, the lot owner must consider toxicity, effectiveness, and availability. The city discourages stockpiling of supplies.
    - B. The pesticide must be applied only and exactly as directed on the label.
    - C. Pesticide applications must be properly timed to maximize their overall effectiveness.
    - D. Pouring of excess pesticide on the ground or into the lakes or other surface waters is prohibited.
    - E. Pesticide treatment of aquatic organisms is limited to licensed professionals and may not be performed by landowners.

### DIVISION 2. COMMERCIAL LAWN FERTILIZER REGULATIONS

#### **Sec. 10-71. Regulations for commercial lawn fertilizer applicators.**

(a) License required. No person, firm, corporation or franchise shall engage in the business of commercial lawn fertilizer application within the City of Afton, unless a license has been obtained from the city clerk as provided herein.

(b) License application procedure. Applications for a commercial lawn fertilizer license shall be submitted to the city clerk. The application shall consist of the following:

- (1) Name, address and telephone number of applicant and any individuals authorized to represent the applicant.
- (2) Description of lawn fertilizer formula proposed to be applied on lawns within the city

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- (3) A time schedule for application of lawn fertilizer and identification of weather conditions acceptable for lawn fertilizer application.
- (4) Fertilizer sample. A sample of lawn fertilizer must be submitted to the city along with the initial application for a license, and, thereafter, at least 30 days before fertilizer composition changes are implemented. A sample submittal can be replaced by a chemical analysis certified by an independent testing laboratory.
- (5) License fee. The license fee will be as designed, from time to time, by city council resolution. The license will expire on the 31<sup>st</sup> day of December. The license fee will not be prorated.
- (6) Performance bond. A bond will also be submitted with the application form in an amount to be determined at the discretion of the council. The bond will be conditioned upon compliance with the city's regulations. Actions to collect bond proceeds may not prevent the city from filing criminal complaints for ordinance violations.

(c) Conditions of license. A commercial lawn fertilizer applicator license shall be issued subject to the following conditions which shall be specified on the license form:

- (1) Random sampling. Commercial lawn fertilizer applicators shall permit the city to sample any commercial lawn fertilizer to be applied at any time after issuance of the initial license.
- (2) Possession of license. The commercial lawn fertilizer applicator license or a copy thereof shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer applications within the City.
- (3) State regulations. Licensee shall comply with the provisions of the Minnesota Fertilizer and Soil Conditioner Law as contained in Minn. Stat 17.11 through and including 17.729 and amendments thereto.
- (4) Compliance with city regulations. The licensee must abide by the restrictions on the use of fertilizers and pesticides that are contained in this article.

### **Sec. 10-72. Enforcement.**

(a) Enforcement. The city council is responsible for the administration and enforcement of this article.

(b) Violations and penalties. Any violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or both, plus the cost of prosecution in any case. Violations of this article can occur regardless of whether or not a permit is required for a regulated activity pursuant to this article.

(c) Civil remedies. This article may also be enforced by injunction, action for abatement, or other appropriate civil remedy, or by citation written and processed as an administrative proceeding in city court.  
(Ord 7-2005, § 25-1 –25-7, 5/17/2005; Ord 10-2005, § 25-1 – 25-7, 6/21/2005)

### **Secs. 10-73 -- 10-90. Reserved.**

(Ord 06-2013, § 10-66 – 10-72, 3/19/2013)

## ARTICLE IV. TREE DISEASES

### **Sec. 10-91. Adoption of county model regulations.**

The September 5, 1972, resolution of the board of county commissioners of the county, setting forth regulations to prevent, control and eliminate epidemic diseases of shade trees, is hereby adopted by reference in its entirety except as modified in section 10-92. Not less than three copies of such resolution are on file in the office of the city clerk.

(Code 1982, § 1102.101; Res. No. 1997-16, § 4, 6-17-97)

### **Sec. 10-92. Modifications to county regulations.**

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Wherever used in the model regulations adopted in section 10-91, the words "county" or "County of Washington" shall mean the city, and the words "county board" shall mean the City Council, insofar as may be necessary to effectuate the policy of this article, which is hereby declared to be to cooperate with and participate in the program of the county to prevent, control and eliminate epidemic diseases of shade trees. (Code 1982, § 1102.102; Res. No. 1997-16, § 4, 6-17-97)

**Secs. 10-93—10-110. Reserved.**

### ARTICLE V. RIGHT TO FARM

**Sec. 10-111. Short title.**

This chapter shall be known and may be cited as the Right-to-Farm Ordinance.

**Sec. 10-112. Definitions.**

For the purpose of this section, the following terms have the meanings given them:

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. As used in this paragraph, "expanded or significantly altered" means:

- (1) An expansion by at least 25 percent in the amount of a particular crop grown or the number of a particular kind of animal or livestock located on an agricultural operation; or
- (2) A distinct change in the kind of agricultural operation, as in changing from one kind of crop, livestock, animal or product to another, but not merely a change from one generally accepted agricultural practice to another in producing the same crop or product.

**Sec. 10-113. Nuisance.**

(a) An agricultural operation is not and shall not become a private or public nuisance after two years from its established date of operation if the operation was not a nuisance at its established date of operation.

(b) An agricultural operation is operating according to generally accepted agricultural practices if it is located in an agriculturally zoned area and complies with the provisions of all applicable federal and state statutes and rules or any issued permits for the operation.

(c) The provisions of this Section do not apply:

- (1) to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;
- (2) when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;
- (3) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution control agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or
- (4) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance.

**Sec. 10-114. Disclosure in development permits.**

Prior to the issuance of any development permit for a use on agricultural land, the owner of the property shall be required to sign a statement of acknowledgment containing a Right-to-Farm disclosure, as set forth in Sec. 10-115.

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The acknowledgment shall be on a form provided by the Zoning Administrator and made available to the public. The Zoning Administrator shall file development permit disclosure forms with the Washington County Recorder.

### **Sec. 10-115. Disclosure to buyers.**

Upon any transfer of real property, subject to the acknowledgement required in Sec. 10-114, by sale, exchange, installment and sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, the transferor shall deliver to the prospective transferee a Right-to-Farm disclosure statement signed by the transferee to be filed with the Washington County Recorder in conjunction with the transfer instrument.

### **Sec. 10-116. Repeal of Laws in Conflict.**

All City Ordinances applying in conflict with any provisions of this Ordinance are hereby repealed. (Ord 1997-24, 6/15/99)

### **Secs. 10-117 – 10-118. Reserved.**

\***Cross references** – Wind Energy Systems, § 12-229 C.3.a. Performance standards, noise; agricultural operations, § 12-189;

## **ARTICLE VI. TREE PRESERVATION AND REFORESTATION**

### **Sec. 10-119. Purpose.**

The intent of this ordinance is to preserve, protect, maintain, and manage the community's existing forest resource and the planting of trees to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce storm water supplies; aid in the removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer and screen against noise pollution; provide protection against severe weather; aid in the control of drainage and restoration of denuded soil subsequent to construction of grading; provide a haven for birds which in turn assist in the control of insects; protect and increase property values; conserve and enhance the City's physical and aesthetic environment and generally protect and enhance the quality of life and the general welfare of the city.

### **Sec. 10-120. Affected Areas.**

This Ordinance shall apply to the following areas or applications to the City:

- (a) Any subdivision, regardless of the particular zoning district.
- (b) Any planned unit development.

### **Sec. 10-121. Definitions.**

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

*Diameter.* The measurement of a tree's trunk measured at 4.5 feet above the ground.

*Drip line.* The farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of the tree.

*Forestry Specialist.* A landscape architect or forester who has been retained by the applicant.

*Lost significant trees* within subdivisions, planned unit developments, new construction permits, excavation and fill permits, or other land alteration permits, which were not identified to be lost within a tree preservation plan, shall be considered lost as a result of:

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- (a) Grade change or land alteration, whether temporary or permanent, of greater than one (1) foot; or
  - (b) measured vertically affecting sixty (60) percent of the tree's root zone; or
  - (c) Primary construction (i.e. sewer, water, storm sewer, gas, electric, telephone and cable television and trenching) resulting in the cutting of sixty (60) percent of the tree's roots at or within the root zone; or
  - (d) Mechanical injury to the trunk of a significant tree causing the loss of forty (40) percent of the circumference of the bark; or
  - (e) Compaction to ninety (90) percent of proctor to a depth of six (6) inches, or more, of sixty (60) percent or more of the surface of the soil within the tree's root zone.
- (Ord 1997-33, 5/16/00)

*Primary construction zones* within Subdivision or Planned Unit Development applications. All areas disturbed by construction of streets, sanitary sewer, water, storm sewer, gas, electric, telephone and cable television and trenching.

*Replacement Trees* must be at least two (2) caliper inches as defined by the American Standard for nursery stock (ANS 1-2-60) current edition for deciduous trees and at least six (6) feet high for coniferous trees. Replacement trees shall be of the following genus: maple, linden, honey locust, oak, ash, bass wood, birch, fir, spruce, pine and other trees native to Minnesota, or the City.

*Secondary construction zones* within Subdivision or Planned Unit Development applications. All area that is occupied by a structure, driveways, parking areas, areas above utility lines (including sanitary sewer, water, storm sewer, electric, cable television, natural gas, telephone and other similar utilities), Plus an additional portion of the lot which extends from the furthest projection of the structure thirty (30) feet surrounding the proposed building area. This shall also include areas extending ten (10) feet beyond all edges of the driveway and paved areas and five (5) feet beyond the edge of the utility line trench.

*Significant trees.* A healthy deciduous tree measuring six (6) inches in diameter or greater or a healthy coniferous tree measuring four (4) inches greater in diameter.

*Tree.* Means a woody plant which at maturity is thirteen (13) to twenty (20) feet or more in height and having a more or less definite crown.

*Tree preservation plan within Subdivision and Planned Unit Developments.* A plan certified by a forester or landscape architect, indicating all of the significant trees in the proposed development or subdivision. The tree preservation plan shall include the size, species and surveyed location of all significant trees within the area of development, primary or secondary construction zones. A tree replacement plan must also be submitted if the proposed tree loss exceeds the allowable percentage of tree loss.

*Tree preservation plan within Subdivisions and Planned Unit Developments for new home construction.* The applicant for new home construction must provide a site plan on a certified survey indicating the tree preservation plan originally submitted and approved during the subdivision or planned unit development process. Any additional tree loss not approved during the subdivision and planned unit development process must follow the replacement guidelines. Furthermore, security of \$1,000 will be held until the replacement trees have been planted and successfully survived for a period of one year from the date of planting. If no replacement trees are anticipated, the security will be reduced to \$500 and be remitted to the applicant upon successful completion of the final occupancy inspection which has verified the tree preservation plan has been followed. No deposit is required when there are no significant trees on the lot.

*Tree preservation plan within indicated "Wooded Areas" for new construction, excavation and fill permits or any other land alteration permits.* This applicant must provide a tree preservation plan certified by a forester, landscape architect indicating all of the significant trees in the proposed construction area. (For purposes of

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applying this definition, construction area shall include all areas to be disturbed by grading for excavation and fill permits and 30 feet surrounding the building pad area, 10 feet along driveways). The tree preservation plan shall include the size, species and location of all significant trees within the area and identify trees which would be removed. Replacement of the trees must adhere to the tree replacement guidelines set forth below. Single or individual lot development would not be required to submit this plan.

*Tree protection.* Snow fencing or erosion control fencing placed at the drip line of significant trees to be preserved. The tree protection measures shall remain in place until all primary grading activity is terminated and the forestry specialist has certified to the city that the tree preservation plan has been followed. Fencing must be placed on a lot by lot basis, as new structures are constructed. A tree survey will be submitted by a registered landscape architect, licensed forester or other professional approved by the City, to determine existing baseline canopy coverage. In addition, two trees will be planted in the boulevard per 100 feet of front footage on any subdivision. (Ord 1997-33, 5/16/00)

*Tree root zone.* The area under a significant tree which is at and within the drip line of the tree.

### **Sec. 10-122. Replacement Guidelines.**

*Tree replacement within Subdivisions and Planned Unit Developments.* Tree replacement shall be required if primary and secondary construction remove more than 30% of the significant trees. Every tree lost beyond 30%, shall require replacement at a rate of ½ inch for every 1 inch of tree loss. The applicant must supply a tree replacement plan which has been certified by a forestry specialist.

*Tree replacement within Subdivisions and Planned Unit Developments for new home construction.* Significant tree loss occurring beyond the indicated tree preservation plan as submitted during the Subdivision or Planned Unit Development process shall require tree replacement at a rate of one (1) inch for every inch of tree lost. If during construction, a tree is lost (unplanned), as described in the definition section, the replacement rate increases to two (2) inches for every inch of tree lost.

### **Sec. 10-123. Reforestation Guidelines.**

*Reforestation.* In the event of a subdivision or PUD in an area where there are less than 15 trees per acre, reforestation will occur to achieve this ratio. The following criteria will be used to determine reforestation:

- (a) Trees must be from the approved list of desirable species,
- (b) No more than 1/3 of the trees may be from any one tree genus,
- (c) Not less than 20% of the trees shall be conifers,
- (d) Tree replacement sizes will be followed and
- (e) Trees shall be used that are appropriate to the soil conditions found on site.
- (f) Two trees (consistent with tree replacement standards and included as part of the overall calculation for reforestation) will be planted in the boulevard per 100 feet of frontage in any subdivision.

### **Sec. 10-124. Security for Tree Replacement and Reforestation.**

*Security within Subdivisions or Planned Unit Developments.* A letter of credit, cash, or escrow will be provided by the applicant, in favor of the City, in an amount of 150% of the tree replacement estimate. If the project requires securities for other improvements, this amount will be held in the same security. If a Subdivision or Planned Unit Development does not require replacement, a \$10,000 security will be held until certification of the forestry specialist has been submitted indicating the tree preservation plans have been followed.

*Security within Subdivisions or Planned Unit Developments for new home construction.* Security, in the form of

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a letter of credit, cash, or escrow will be provided by the applicant, in favor of the City, in the amount of \$1,000 (charged with the building permit fees) will be held until the replacement trees have been planted and successfully survived for a period of one year from the date of planting. If no replacement trees are anticipated, the security will be reduced to \$500 and be remitted to the applicant upon successful completion of the final occupancy inspection which has verified the tree preservation plan has been followed. (The deposits are not deemed to be in lieu of tree replacement.)

*Security for new construction, excavation and fill permits, or other land alteration activities, not within a Subdivision or Planned Unit Development.* Security, in the form of a letter of credit, cash, or escrow will be provided by the applicant, in favor of the City, in the amount of \$1,000 (charged with the building permit fees) will be held until the replacement trees have been planted. If no trees are planned to be replaced, but significant trees are located on the construction area, the security will be reduced to \$300. At the point of final inspection for new construction or an inspection after the permit work has been completed, and has complied with the tree preservation plans, the deposits will be returned to the applicant.

**Sec. 10-125. Remedies for issues with the Tree Preservation Ordinance.**

If disputes arise as a result of this applying this ordinance, the City Council may gather information regarding the situation and determine the best remedy for the dispute.  
(Ord 1997-33, 5/16/00)

**Sec. 10-126 – 10-129. Reserved.**

**ARTICLE VII. OPEN BURNING PROHIBITED**

**Sec. 10-130. Purpose.**

It shall be unlawful for any person to start or allow to burn, any open fire on any property within the city without first having obtained a “burn permit” from the Lower St. Croix Valley Fire Protection District, except for supervised recreational or cooking fires contained within approved fire rings, pits or barbecue grills.

**Sec. 10-131. Definitions.**

“Recreational fires” are defined as being three feet in diameter at the base with flame height not exceeding 3 feet and is fueled only by natural wood with logs 3 inches in diameter or larger. Fires fueled by other materials, including but not limited to treated or painted wood, plastic, rubber, leaves, grass, trimmings or any garden or yard vegetation, regardless of size, are not recreational fires.

**Sec. 10-132. Recreational fires.**

- (a) Recreational fires must be:
  - (1) Constantly attended by a person until the fire is totally extinguished.
  - (2) Shall not be conducted within 15 feet of a structure or combustible material.
  - (3) Take place on the owner’s property and shall be a minimum of 5 feet from property lines.
  
- (b) A means of quickly extinguishing the fire must be readily available for immediate use. Acceptable on-site fire extinguishing means include at least one of the following:
  - (1) Portable fire extinguisher with a minimum 4-A rating.
  - (2) A shovel with readily available dirt or sand.
  - (3) A hooked up and operational garden hose, or a water barrel.

**Sec. 10-133. Burning Ban.**

When a burning ban has been issued by the Commissioner of the Minnesota Department of Natural Resources or other authorized unit of government, the city reserves the right to suspend all recreational fires for the duration of the ban.

## ENVIRONMENT

### **Sec. 10-134. Extinguishing fires.**

A fire must be extinguished if it is smoldering or becomes a nuisance (i.e., annoys, causes injuries, or endangers health, safety, comfort, or repose of the public) to others or if not under supervision.

### **Sec. 10-135. Responsibility.**

Recreational fires on property of multi-family residences or on rental property are the responsibility of property management or association. When applicable residents must adhere to property management/association rules/regulations and these guidelines.

### **Sec. 10-136. Public Nuisance.**

Failure to comply with this ordinance constitutes a public nuisance and, in addition, is subject to a fine equal to the costs of Fire Department actions needed to ensure compliance and safeguard life and property.  
(Ord. 01-2010, 2/16/10)