

**ORDINANCE NO. 2022-08
CITY OF MONTROSE
COUNTY OF WRIGHT
STATE OF MINNESOTA**

**AN ORDINANCE AMENDMENT TO CHAPTERS 1107.14 AND 1110.04 OF THE
SUBDIVISION ORDINANCE; AND 1020-4 OF THE ZONING ORDINANCE OF THE
CITY OF MONTROSE, RELATED TO TREE PRESERVATION AND REPLACEMENT**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE THAT THE
FOLLOWING CHAPTER AND SECTIONS OF THE ZONING ORDINANCE ARE
AMENDED AS FOLLOWS:**

Section 1. Chapter 1107.14. is amended to read as follows:

1107.14: TREE INVENTORY, PRESERVATION AND REPLACEMENT: The following requirements for protecting significant trees, as defined in Section 1101.02 of this Ordinance, shall be imposed upon all new subdivisions.

A. Tree Protection. For any Subdivision of four (4) or more lots, subdividers shall protect a minimum of fifty (50) percent of the existing tree crown cover on the property. Tree crown cover shall be measured from the most extensive covering based on either certificate of survey or aerial photos taken within the past 5 years, whichever shows the greater cover. As described in this Section, the remaining crown cover may be thinned to remove dead, diseased, or dying trees, trees which are invasive or undesirable as identified by the Minnesota Department of Natural Resources or the City of Montrose.

B. Tree Inventory/Preservation Plan. All subdividers shall submit a tree inventory/ preservation plan for review and approval as part of the development process. All tree plans shall be prepared by a licensed land surveyor and a forester or a landscape architect and include the following:

1. The extent of the tree crown cover, pre-development, based on the methods identified in Section 1107.14. A.
2. All required plantings, including:
 - a. All trees for landscaping, screening, or other requirements. Identify areas where existing trees are being proposed to meet requirements, and
 - b. If the development intends to remove greater than fifty (50) percent of the existing tree crown cover, the location and size of replacement trees.
3. The final tree design of all lots showing the tree cover intended for preservation and any required plantings.
4. A plan showing the following:
 - a. Total tree crown cover on site by square feet.
 - b. Total tree crown cover proposed for removal.
 - c. Total tree crown cover proposed for preservation.

- d. Calculation of the percentage proposed for removal.
- e. If the percentage for removal exceeds fifty (50) percent, the area of tree crown cover which exceeds the allowed removal.

C. Tree Preservation Plan Updates. Tree Preservation Plans may need to be updated throughout the construction of developments due to changes in the grading plans and other construction related events. Additionally, a finalized plan shall be submitted by the subdivider upon completion of a development to verify all requirements have been met. Tree Preservation Plan updates shall be provided as required by the City Administrator or representative thereof.

D. Protection During Development. The subdivider shall be responsible for all trees on a site until a certificate of occupancy is granted and for trees on the remainder of the property until all improvements are accepted. A tree protection plan shall be provided, as described below:

1. Installation of snow fencing or polyethylene laminar safety netting at the drip line or critical root zones of groups of trees to be saved.
2. Installation of signage at all tree protection areas that instruct workers to stay out.
3. Installation of erosion control measures.
4. Tree protection measures shall be kept in place and in good condition until all grading and construction activity has ceased.
5. Prevention of soil chemistry change due to concrete wash out and leakage or spillage of toxic materials such as fuels or paints.

E. Protection Timeline. Trees identified on the tree preservation plan shall be protected throughout the development and construction process. The City's enforcement of the tree preservation plan shall cease upon the issuance of a certificate of occupancy.

F. Replacement Rate.

1. Planned, unplanned and unauthorized tree removal shall be replaced on square foot of crown cover basis in accordance with the following rates:
 - a. Planned Removal Authorized by City. Trees planned for removal beyond the allowed fifty (50) percent shall be subject to a required replacement as defined by this section. For every 2,000 square feet of crown cover, or part thereof, planned to be lost beyond the allowed fifty (50) percent, cumulative replacement shall be required at a rate of one newly planted tree of no less than three (3) inches of diameter at breast height (DBH).
 - b. Unplanned Removal Authorized by City. In the event tree crown cover identified for preservation is identified for removal in conjunction with a permitted activity, cumulative replacement shall be one tree of no less than three (3) inches of diameter at breast height (DBH) for each 2,000 square feet of crown cover lost, or part thereof. The tree inventory shall be updated to reflect the change.
 - c. Unauthorized Removal. In the event a tree identified for preservation is removed without authorization, cumulative replacement shall be one tree of no less than six (6) inches of diameter at breast height (DBH) for each 2,000 square feet of crown cover lost,

or part thereof. Such trees shall be planted from the inventory of a state-licensed nursery via tree spade. The tree inventory shall be updated to reflect the change.

2. Replacement Type. Replacement trees shall be subject to the following requirements:

a. Deciduous Trees: Diameter not less than three (3) inches of diameter at breast height (measured at fifty-four (54) inches from natural grade).

b. Coniferous Trees: Not less than eight (8) feet in height.

c. Replacement trees shall be from the list of species identified in Section 1120-4.B of the Montrose Zoning Ordinance (Required Landscaping).

d. No more than twenty-five (25) percent of total replacement trees may be of the same species. No fewer than twenty-five (25) percent of total replacement trees may be of either coniferous or deciduous trees.

e. Replacement trees shall not be placed on easements or street rights-of-way. Prior to planting replacement trees, the subdivider shall submit for City review and approval, the locations of the replacement trees.

3. Mitigation Alternatives. In the event removal limits are exceeded and required replacement cannot occur on-site, the subdivider may mitigate the tree loss via one (1) of the following alternatives as determined by the City:

a. Cash Payment. The subdivider may mitigate the tree loss via cash payment to the City. Such payment shall be as set forth by the City fee schedule. The cash payment shall be utilized for City forestry projects as determined by the City.

b. Off-Site Planting. At the discretion of the City, the subdivider may plant replacement trees upon either property located within the City which is either under the control of the subdivider or owned by the City of Montrose.

G. Prohibited Actions.

1. No soil disturbance shall occur within the subdivision until the tree protection, preservation, replacement, and/or reforestation plan(s) are approved, financial securities have been submitted and development agreement approved, and tree protection measures are in place on site.

2. Construction staging areas and areas for the storage of equipment and stockpiling of materials shall not be within tree protection areas.

3. Fill shall not be placed against tree trunks, under the drip line, or in critical root zones of trees to be saved.

4. Pruning of oak trees shall not take place from April 1st through July 15th. If wounding of oak trees occurs, a non-toxic tree wound dressing shall be applied immediately. Excavators shall have a non-toxic tree wound dressing with them on the development site.

H. Security for Tree Preservation and Replacement. To ensure tree preservation and replacement efforts are successful, the following shall be required:

1. At the time of the development agreement, subdividers shall provide a financial security to the City to guarantee the protection of the significant trees intended for preservation through the development and construction process. The financial security shall be in an amount determined by the City Council and adopted by ordinance for each lot and outlot that has at least one (1) significant tree to be protected. This security may be returned upon completion of a tree inspection by the City prior to the issuance of a certificate of occupancy.
2. Subdividers shall provide the City with a letter of credit, cash, or escrow, in favor of the City, in an amount of one hundred twenty-five (125) percent of the tree replacement/planting estimate.
3. All replacement, reforestation, and other required plantings shall be planted during an ideal planting season for a particular species, unless otherwise authorized by the City. The subdivider shall submit a useable inventory of trees planted during an applicable planting season.
4. All trees planted during a specified planting season shall be warranted through two complete growing seasons. The City shall inspect the trees listed in the subdivider's inventory from the previous year to ensure the health of the tree.
5. As trees are declared healthy by the City upon inspection, the subdivider may request reductions to the security amount provided adequate funds remain equal to one hundred twenty-five (125) percent of the cost to complete remaining work.

Section 2. Chapter 1110.04. is amended to read as follows:

1110.04: REQUIRED PRIVATE IMPROVEMENTS:

A. As part of the final plat, the following private improvements shall be required where applicable to a new subdivision:

1. Where public sewer and water facilities are not available for extension into the proposed subdivision, the City may issue a permit allowing the use of individual water and sewer systems in accordance with City and State regulations, as may be amended. Where connection to the municipal sanitary sewer system is not feasible, the subdivider or the purchasers of individual lots shall install on-site sewage disposal facilities meeting the requirements of the City, County, Minnesota State Board of Health and the Minnesota Pollution Control Agency.
2. Private Landscaping. For any single family or two-family parcel created under this Section, no fewer than two (2) new trees shall be planted per unit on each parcel. Said trees shall be no less than three (3) inches in diameter at breast height (DBH). For parcels created under this section for townhouses, multiple family residential, commercial, industrial, or institutional uses, the landscaping requirements shall be as listed in the Zoning Ordinance.

NOTE: These tree planting requirements are **IN ADDITION TO** any replacement tree planting required by the subdivision or development project.

Section 3. Chapter 1020-4.B. is amended to read as follows:

1020-4: REQUIRED LANDSCAPING

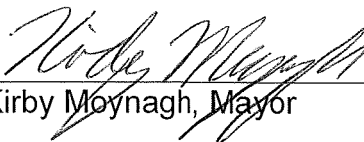
B. Design Standards and Criteria. All landscaping incorporated in the landscape plan shall conform to the following standards and criteria:

1. Types Of New Trees: Trees suitable for complying with this Chapter shall include those specified by the American Nursery Stock Standards as being suited for the local climate and soil conditions, which are not listed as invasive according to the Minnesota Department of Natural Resources List of Invasive Plants, which are resistant to common disease and insect infestations, and which meet the intent of the landscaping and tree planting sections of the Zoning and Subdivision Ordinances.
2. The following trees may be removed, thinned, or treated without penalty as they relate to tree preservation requirements, and such trees shall not be planted as a part of any required landscaping plan or tree replacement plan (exceptions may be made for varieties that have been developed specifically for disease and insect resistance at the discretion of the City):
 - a. Boxelder (*Acer negundo*)
 - b. Elm Species (including Chinese, Siberian, American)
 - c. Cottonwood, Aspen and other Poplar species
 - d. Silver Maple (*Acer saccharinum*)
 - e. Black Willow (*Salix nigra*)
 - f. Green Ash species (*Fraxinus* spp).

Section 4. This ordinance shall be published by summary publication, and the original kept on file with the City Clerk for public view.

Section 5. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED this 14th day of November 2022, by the City Council of the City of Montrose.


Kirby Moynagh, Mayor

Moved by:
Seconded by:

ATTEST:

Jessica Bonniwell
Jessica Bonniwell, City
Clerk/Administrator

Published: November 17, 2022
Zoning Ordinance Updated: November 17, 2022