

**CITY OF LEXINGTON
WORKSHOP AGENDA
Thursday, February 20 2020
Immediately following Council meeting
City Hall**

1. Call to Order: Mayor Murphy

2. Roll Call: DeVries – Harris – Hughes - Winge

3. Discussion Items:

- A. Discuss Compliance Agreement with Minnesota Department of Health pp. 1-3
- B. Discuss Tree Maintenance Ordinance – Councilmember Hughes pp. 4-17
- C. Discuss Limiting Rental Housing in Lexington – Councilmember Hughes

4. Staff Input

5. Council Input

6. Adjourn



PROTECTING, MAINTAINING & IMPROVING THE HEALTH OF ALL MINNESOTANS

February 5, 2020

Lexington City Council
c/o Bill Petracek, City Administrator
Lexington City Hall
9180 Lexington Avenue
Lexington, Minnesota 55014

Dear Council Members:

Subject: **Compliance Agreement – Request for Signature, City of Lexington, Anoka County, PWSID 1020032**

Based on our earlier discussions and correspondence, enclosed are two copies of a Compliance Agreement (CA) for your review.

If you are in agreement with the conditions of the CA, please sign both copies and return them to this office within 30 days of the date of this letter. Both copies will then be signed and dated in our office, and a completed original will be returned to you for your records.

The CA establishes a formal, enforceable agreement between the city of Lexington and the Minnesota Department of Health (MDH) regarding the correction of water quality violations.

If you have any questions regarding this agreement, please contact Anna Schliep at 651/201-4667, or email anna.schliep@state.mn.us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'KRP', followed by a horizontal line.

Karla R. Peterson, P.E., Supervisor
Community Public Water Supply Unit
Environmental Health Division
625 North Robert Street
P.O. Box 64975
St. Paul, Minnesota 55164-0975

KRP:nkk

Enclosure

cc: Anna Schliep, MDH St. Paul
Cindy Swanson, MDH St. Paul
Brian Noma, MDH St. Paul
Anita Smith, MDH St. Paul

An equal opportunity employer

COMPLIANCE AGREEMENT

Contaminant: Gross Alpha

The City of Lexington Community Public Water System and the Minnesota Department of Health

This agreement, by and between Lexington, PWSID 1020032 (hereinafter "System"), and the Minnesota Department of Health (hereinafter "MDH") becomes effective on the date signed on behalf of the MDH.

I. Authorities and Findings

A. Pursuant to the Safe Drinking Water Act (SDWA), Minnesota Statutes 2011, sections 144.381 to 144.387, and Minnesota Rules, chapter 4720, the MDH enforces the National Primary Drinking Water Regulations. In Minnesota Rules, part 4720.0350, the MDH has adopted the federal National Primary Drinking Water Regulations, 40 CFR, part 141, by reference. 40 CFR, section 141.66, establishes the maximum contaminant levels (MCL) for Gross Alpha.

B. The System is in violation of the National Primary Drinking Water Regulations because the System's water supply exceeds the MCL of 15.4 picocuries per liter (pCi/L) for Gross Alpha, at Well #1. Through this Agreement, the parties seek to bring the System into compliance with the National Primary Drinking Water Regulations.

II. Corrective Actions

It is agreed between the System and MDH that until the corrective actions set forth below have been implemented and compliance with the MCL for Gross Alpha has been accomplished, the System shall meet the following conditions:

1. The System shall continue notifying the consuming public quarterly (as directed in the Notice of Violation letter – copy enclosed) of the Gross Alpha MCL exceedances. The System shall provide documentation quarterly to MDH that the notice has been distributed – within 10 days of distributing each notice. In addition, the System shall report the Gross Alpha MCL exceedances in the Consumer Confidence Report annually.
2. The System shall complete investigative sampling and feasibility study as follows:

Actions Required:	Complete no later than:
A. System will coordinate sampling with District Engineer (Brian Noma) to do timed samples at Well #1 collecting a start-up sample, a sample at 10 minutes, 20 minutes, and 30 minutes of run-time These results will help determine if radionuclide levels decrease as the well is pumped	Completed
B. Determine if Feasibility Study is needed based on results from required action "A"	June 30, 2020

<p>C. The System shall monitor the Entry Point supplied by Well 1 every three months for Gross Alpha. The entry point samples shall be collected from the source of water after treatment. MDH will mail the sample kits to the system and the system will be responsible for shipping to the lab.</p>	<p>Quarter 2: June 30, 2020 Quarter 3: September 30, 2020 Quarter 4: December 31, 2020</p>
<p>D. Complete feasibility study (if needed) and provide a copy to MDH per letter from System dated 12-12-19. System will evaluate options including:</p> <ul style="list-style-type: none"> a. Blending and Flow-Weighted Averaging with water from Blaine under multiple scenarios (i.e. 50/50 blend) b. Adding water treatment at Well #1 to reduce radionuclide levels. c. Using only water from Blaine and setting Well #1 to emergency status. 	<p>December 31, 2020</p>
<p>E. Provide MDH with actions and timetable to return to compliance based on results of the feasibility study. These actions will be used to create a new compliance agreement.</p>	<p>December 21, 2020</p>
<p>F. Sign and return new compliance agreement</p>	<p>January 31, 2021</p>

3. The System shall provide confirmation to the MDH Community Public Water Supply Unit at 651-201-4700 that the corrective actions required in Conditions 1 and 2 are being accomplished. The required information must be provided to MDH within 15 days after each completion deadline listed.

III. Further Agreements

1. If the System fails to comply with any term or condition of this Compliance Agreement, the MDH may take enforcement actions authorized in Minnesota Statutes, sections 144.99 and 144.991, or any other applicable law, including, where appropriate, the assessment of monetary penalties. By entering into this Compliance Agreement, the System waives its opportunity to contest the violation of the Federal National Primary Drinking Water Regulations set forth in Part I above and shall not contest such violation in any proceeding to enforce this agreement.
2. This Compliance Agreement terminates when the System is in compliance with National Primary Drinking Water Regulations. The MDH will send written notification to the System when compliance is met.
3. This Compliance Agreement may not be modified or amended except in writing and any modifications or amendments must be signed by all the parties.

MINNESOTA DEPARTMENT OF HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

City of Lexington, MINNESOTA

Sandeep R. Burman, PG, Manager
Section of Drinking Water Protection

Bill Petracek, City Administrator
City of Lexington

Date _____

This agreement becomes effective on the date signed by the representative of the MDH.

Maplewood Tree Standards
Adopted - December 21, 2015
Revised – January 3, 2017

The City of Maplewood has developed tree standards to help achieve the goals of the City's Tree Ordinance and Living Streets Policy. The standards highlight important aspects of the requirements for tree preservation, removal, replacement, and shade tree pest management. The standards do not replace or supersede City ordinances.

1. Definitions. All definitions as outlined in the Tree Ordinance apply to the Tree Standards including the following additional definitions:

Critical Root Zone (CRZ) means an imaginary linear circle surrounding the tree trunk with a radius distance of one and one half (1-1/2) foot per one (1) inch of tree diameter (e.g., a sixteen (16) inch diameter tree has a CRZ with a radius of twenty four (24) feet).

Drip Line means the farthest distance around and away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of that tree.

Infestation includes actual, potential, incipient, emergent infestation, or infection by forest pests or shade tree pests.

Retaining Wall means a structure utilized to hold a slope in a position in which it would not naturally remain.

Slope means the inclination of the natural surface of the land from the horizontal; commonly described as a ratio of the length to the height.

Tree Replacement Schedule means the per caliper inch cost of replacement trees as set by resolution by the City Council from time to time.

Wilding Tree means a tree that was not grown in a nursery or been maintained by a nursery.

2. Tree preservation plan. A tree preservation plan is required for any project which requires a woodlot alteration, land use, grading, or building permit; excluding the exemptions and exceptions as outlined in the Tree Ordinance. A tree preservation plan shall reflect the applicant's best effort to determine the most feasible and practical layout of buildings, parking lots, driveways, streets, storage, and other physical features, so that the fewest significant and specimen trees are destroyed or damaged and to minimize the negative environmental impact to the site. The tree preservation plans shall include the following:
 - a. A tree inventory overlay on the site plans that shows size, species, general health, and location of all significant and specimen trees located within the property where significant and specimen tree removal is proposed. The tree inventory plan:

- 1) Shall be drawn at the same scale as the other site plan submittals and shall coincide with required engineering documents such as topography maps, wetland information, grading plans, road locations, and building locations;
 - 2) Shall include trees growing in clump form. These trees will be considered individual trees and each stem/trunk is measured as individual trees.
 - 3) Include the location of groups of standing dead or diseased significant and specimen trees.
 - 4) Include the outer boundaries of all contiguous wooded areas, with a general description of trees not meeting the significant and specimen tree size threshold and any indication of the presence of epidemic tree diseases.
 - 5) Include significant and specimen trees (species and diameter) identified in both graphic and tabular form.
 - 6) Include locations of the proposed buildings, structures, or impervious surfaces.
 - 7) Include delineation of all limits of land disturbance, clearing, grading, and trenching.
- b. A list of total diameter inches of all healthy significant and specimen trees inventoried.
 - c. The total diameter inches of healthy significant and specimen trees removed.
 - d. Location of trees protected and the proposed measures for protection including delineation of tree protection fencing, tree protection signs, location for material storage, parking, debris storage, and wash out area for redi-mix trucks.
 - e. Protection measures for replacement trees being planted in areas with high deer population.
 - f. The name(s), telephone number(s), and address(es) of the person(s) responsible for tree preservation during the course of the development project.
 - g. Size, species, number, and location of all replacement trees and woody shrubs proposed to be planted on the property, planted on city property, or amounts to be paid into the city's tree fund in accordance with the tree removal, mitigation, and replacement section of the tree ordinance.
 - h. All tree preservation plans shall be prepared by a forestry or horticultural professional whose qualifications are approved by the EEDD Director.
 - i. The tree preservation plan shall be reviewed by the EEDD Director for compliance with this ordinance. Reasons for denial shall be noted on the tree preservation plan, or otherwise stated in writing.

3. Safeguarding preserved trees. The following measures will be taken to ensure survival of trees scheduled to be preserved:
- a. Layout of the project site utility and grading plans shall accommodate the tree preservation areas. Utilities are recommended to be placed along corridors between tree preservation areas and use of common trenches or tunnel installation if possible.
 - b. Custom grading, retaining walls, or tree wells to maintain existing grade for preserved trees can be used.
 - c. Prior to issuance of a grading or building permit the EEDD Director may require one or all of the following measures for safeguarding preserved trees:
 - 1) Tree protective areas shall be located at a minimum of the CRZ of trees or drip line, whichever is greater, whenever possible. Saving groups or stands of trees is encouraged over protecting individual trees scattered throughout the site.
 - 2) Suitable tree protection fencing in active areas includes use of orange polyethylene laminar safety fencing or woven polyethylene fabric (silt fencing). Fencing shall be self-supportive. Tree protection fencing shall be maintained and repaired by the applicant for the duration of construction.
 - 3) Use of passive forms of tree protection may be allowed, i.e., tree protection fencing consisting of continuous rope or flagging (heavy mil plastic four (4) inches or wider).
 - 4) Active tree protection areas with "Tree Save Area" signs posted and readable from at least ten (10) feet away.
 - 5) Minimize tree wounding by felling or removing trees away from trees remaining on site.
 - 6) Construction site activities such as parking, material storage, concrete washout, placement of holes, etc., shall be arranged so as not to encroach on tree protection areas.
 - 7) Measures such as deep mulching may be required in some situations.
 - 8) Identify and prevent oak wilt infection. Treat all known oak wilt infected areas with current accepted guidelines including root cutting and removal of infected trees. If pruning oaks is required between April 1 and July 1 fresh wounds shall be covered with nontoxic tree wound sealant or latex paint.
 - d. No construction work shall begin until tree protection fencing has been installed, inspected, and approved by the EEDD Director. Once EEDD

Director approves tree protection fencing or devices it shall not be altered or removed without EEDD Director approval.

4. Post construction tree care mitigation. The city may require post construction tree care mitigation for trees protected to include:
 - a. Tree root aeration, fertilization, and/or irrigation systems.
 - b. Therapeutic pruning.
 - c. Mitigate soil compaction by the following:
 - 1) Mulch drive lanes with eight (8) to ten (10) inches of woodchips.
 - 2) Soil fracturing with deep tillage or other similar methods.
 - 3) Inclusion of organic matter to existing soil.
 - 4) Core aeration.

5. Tree mitigation. Once the total caliper inches for replacement trees are determined, the applicant shall mitigate loss of significant and specimen trees by planting replacement trees in appropriate areas on the property in accordance with the tree removal, mitigation, and replacement section of the tree ordinance. After putting as many trees as feasible on the site, if the replacement requirement is still not met, the EEDD Director can approve tree replacement steps as outlined below prior to issuance of a grading or building permit:
 - a. Planting replacement trees on city property under the direction of the EEDD Director.
 - b. Mulched beds of native or drought tolerant shrubs that are not required as part of foundation, screening, stormwater planting requirements, or other city-required plantings will qualify towards tree replacement at a rate of .5 caliper inches per number three (#3) shrub.
 - c. Alternative forms of mitigation can be approved by the EEDD Director. Examples of alternative mitigation includes buckthorn removal and management. Buckthorn removal and management will qualify the applicant for reducing the number of replacement trees or the payment into the city's tree fund with a dollar for dollar credit.
 - d. Paying the city a sum per caliper inch in accordance with the tree replacement schedule set forth in the city fee schedule. Payment shall be deposited into an account designated specifically for tree planting on public property or providing financial assistance for properties that want to voluntarily plant trees. The maximum tree reimbursement required for a single family house is \$10,000 if the following apply:
 - a. The lot is two (2) acres or less.

b. The lot is an existing vacant lot or a lot approved through the City's minor subdivision process.

6. Tree replacement requirements. The applicant shall follow tree replacement requirements as outlined below:

- a. Three-year replacement period: The applicant shall maintain replacement trees for three (3) years after planting. If any tree requires replacement during this three (3) year period, the replacement period shall start at the date the replacement tree was planted. Trees required to be planted pursuant to any other provision of the city ordinances are not included in this and shall be replaced according to such ordinance.
- b. Species requirements: Where ten (10) or more replacement trees are required, not more than thirty (30) percent shall be of the same type of tree without the written approval of the EEDD Director. Tree species native to the Maplewood area are preferred. The following plant species are potentially invasive and should be avoided in city plantings and on development projects.

Norway maple	<i>Acer platanoides</i>
Amur maple	<i>Acer ginnala</i>
Siberian elm	<i>Ulmus pumila</i>
Common buckthorn	<i>Rhamnus cathartica</i>
Glossy buckthorn	<i>Rhamnus frangula</i>
Black locust	<i>Robinia pseudoacacia</i>
Siberian pea shrub	<i>Caragana arborescens</i>

If elm trees are planted on city projects they should be cultivars resistant to Dutch Elm Disease. Ash trees should not be planted.

- c. Sources of trees: Replacement trees shall consist of certified nursery stock as defined by current Minnesota Statutes and shall be hardy for USDA plant hardiness zones 2, 3, or 4 (hardiness rated trees) or other trees including wilding trees, so long as such wilding trees comply with the following standards and are approved by the EEDD Director. All replacement trees shall be healthy and free from insect or disease infestation. A wilding tree measured in caliper inches shall not exceed the maximum height as shown on the table below:

Caliper Inches	Maximum Height (Feet)
2-3	18
3-4	20
4-5	24

The lowest branch of a wilding tree shall not be at a height above the surface of the ground more than one-half (1/2) the total height of the tree (e.g., a fourteen (14) foot tree shall have a branch within seven (7) feet of the surface of the surrounding ground).

- d. Tree replacement size: Replacement trees shall be no less than two (2) caliper inches deciduous or six (6) foot height conifer tree unless pre-approved by the EEDD Director. Use the following table to convert conifer trees to caliper inches:

Conifer Tree Height (Feet)	Caliper Inches
6	2.0
7	2.5
8	3.0
9	3.5
10	4.0
11	4.5
12	5.0

- e. Other required replacement trees: Trees required to be planted pursuant to any other provision of city ordinances shall comply with tree size specification of such ordinance.

7. Tree replacement escrow. The applicant shall post tree replacement escrow with the city, such as a tree replacement cash deposit or letter of credit. The tree replacement escrow will be equal to a sum per caliper inch in accordance with the tree replacement schedule set forth in the city fee schedule. The escrow will be held by the city until successful completion of final planting inspection and assurance that the trees are covered by at least a one (1) year warranty for replacement. In areas where trees are planted in an area with heavy deer population or other tree hazards not normally covered under a warranty, the city may hold the escrow for longer to ensure viability of trees. Once the escrow is reimbursed to the applicant, it is still the applicant's responsibility to maintain the replacement trees for three years after planting as outlined in the three-year replacement period section above. It shall be the applicant's responsibility to call for final escrow reimbursement inspection. Tree replacement escrow does not include other escrows required pursuant to any other provision of city ordinances or city directive.

8. Public nuisances. The following may be declared nuisances whenever they are found within the city:

- a. Any living or standing elm tree (*Ulmus spp.*) or part thereof infected to any degree with the Dutch elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau or which harbors the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh).
- b. Any dead elm tree or part thereof including logs, branches, stumps, firewood, or other material from which the bark has not been removed. Proper disposal of removed bark includes chipping or burning.
- c. Any living, standing, or dead oak tree (*Quercus spp.*) or part thereof infected to any degree with the oak wilt fungus *Cercospora fagacearum* (Bretz) Hunt. Also, any living, standing, or dead oak tree that, due to its proximity to an oak infected with oak wilt, possesses a threat of

transmission of the oak wilt fungus to other oak trees through interconnected root systems.

- d. Any living, standing, or dead ash tree (*Fraxinus* spp.) or part thereof with infestation of emerald ash borer (*Agrilus planipennis*).
 - e. Other shade trees or parts thereof infested with shade tree pests that are epidemic.
 - f. Hazardous trees.
9. Abatement of shade tree pest nuisances.
- a. The abatement measures required may include removal of an infested tree or wood to control the airborne spread of epidemic shade tree pests. If the city forester or EEDD Director finds that Dutch elm disease or oak wilt threatens to cross property boundaries, the city forester or EEDD Director may require root graft disruption to prevent the spread of the disease through roots.
 - b. For hazardous tree abatement may include removal of branches or the whole tree or other control measures that are widely accepted to abate the nuisance.
 - c. If the owner served fails to abate the shade tree pest nuisance, the city will abate the shade tree pest nuisance per Section 18-37 of city code. The cost of abatement shall be in accordance with the abatement schedule set forth in the city fee schedule.
10. High cost abatement.
- a. The owner may request a high cost abatement matter referred to the city council for a hearing as outlined below:
 - 1) The owner or occupant shall notify the EEDD Director within twenty (20) days of the date on the abatement notification letter, provide an estimate from a certified arborist, and provide in writing a request for exemptions and the reasons for exemption.
 - 2) The EEDD Director will notify the owner of the date, time, and location of the hearing at least three (3) days in advance of the hearing.
 - 3) The owner shall be given the opportunity to present evidence at the hearing.
 - 4) The city council may modify the abatement notice or extend the time by which abatement shall be completed.

DIVISION 3. - TREES

Sec. 18-241. - Findings and purpose.

The city desires to protect the trees and woodlands in the City of Maplewood. Trees and woodlands provide numerous environmental, economic, and scenic benefits. They help filter air pollutants, absorb stormwater runoff, provide wildlife habitat, moderate temperatures, reduce cooling costs, increase property values, provide scenic beauty, provide sound and visual buffers, and provide screening for privacy. It is therefore the city's intent to protect, preserve, and enhance the trees and woodlands of Maplewood and to encourage a resourceful and prudent approach to development in the city thereby promoting and protecting public health, safety, and welfare of the citizens of Maplewood. The purpose of this division is to establish tree preservation and protection regulations to assure the continuance of significant and specimen trees and woodlands for present and future generations which:

- (1) Preserve the natural character of neighborhoods (in developed and undeveloped areas).
- (2) Ensure the health and wellbeing of Maplewood's urban forest.
- (3) Protect the health and safety of residents.
- (4) Protect water quality and minimize stormwater runoff.
- (5) Help prevent erosion or flooding.
- (6) Assure orderly development within wooded areas to minimize tree loss and environmental degradation.
- (7) Establish a minimum standard for tree preservation and mitigation of environmental impacts resulting from tree removal.
- (8) Ensure the city's urban forest has a good age distribution, from young trees through large old specimen trees.
- (9) Promote the planting of trees as outlined in the city's Living Streets Policy.

(Ord. No. 962, § 4, 12-21-2015)

Sec. 18-242. - Definitions.

The following words, terms and phrases, as used in this division, shall have the meanings ascribed to them in this section:

Applicant means developer, builder, contractor, or owner who applies for a woodlot alteration, land use, grading, or building permit.

Caliper inch means a measurement used for nursery stock and in this division refers to replacement trees. It is the unit of measurement for defining the diameter of the tree trunk measured six inches above the soil surface for tree trunks four diameter inches or less and measured 12 inches above the soil surface for tree trunks greater than four diameter inches.

Certified arborist means an arborist with up-to-date certification by the International Society of Arborists.

City forester means a forester who is employed by the city or appropriate agent or independent contractor designated by the city manager.

Conifer tree means a woody plant that is a member of the division Pinophyta and at maturity is at least 12 feet or more in height. Conifers are cone bearing and most in our climate keep their leaves (also called needles) year-round. Tamarack (also called larch) is the one conifer in our climate that drops its needles in the fall.

Control includes measures to prevent, slow the spread, suppress, eradicate, or destroy a shade tree disease or pests.

Deciduous tree means a woody plant, which sheds leaves annually, having a defined crown and at maturity is at least 15 feet or more in height.

Diameter is a measurement used for trees in the landscape. It is the diameter of a tree trunk as measured at a height of four and one-half feet above ground. To determine diameter, measure the circumference of the tree trunk at four and one-half feet above ground and divide by 3.14.

Environmental and economic development department (EEDD) director means the EEDD director or an employee of the city who manages city-wide environmental programs, or appropriate agent designated by the city manager.

Hardwood deciduous tree means all deciduous tree species except those listed as softwood deciduous trees below.

Hazard tree means a tree that has structural defects that may cause the tree or tree part to fail, and the city forester determines that such failure could cause property damage or personal injury.

Invasive species means species that are not native to Minnesota and cause economic or environmental harm or harm to human health.

Major home addition means an addition on a single- or double-dwelling lot of which the addition or accessory building is more than a 60-percent increase in the footprint of the single- or double-dwelling structure on said lot.

Minor home addition means an addition on a single- or double-dwelling lot of which the addition or accessory building is less than a 60-percent increase in the footprint of the single- or double-dwelling structure on said lot.

Native prairie means a landscape or planting that consists predominantly of grasses, flowers, and sedges that are native to Minnesota prairie ecosystems.

Shade tree means a woody perennial that at maturity is at least 15 feet in height and grown primarily for aesthetic or environmental purposes.

Shade tree pest means any vertebrate or invertebrate animal, plant pathogen, or plant that is determined by the city council to be harmful, injurious, or destructive to shade trees or community forests.

Significant tree means a healthy tree measuring a minimum of six inches in diameter for hardwood deciduous trees, eight inches in diameter for conifer trees, 12 inches in diameter for softwood deciduous trees, and specimen tree. Buckthorn or other noxious woody plants or trees as determined by the EEDD director are not considered a significant tree species at any diameter.

Softwood deciduous tree means the following tree species: box elder, cottonwood, elm, poplar/aspens, silver maple, and willow.

Specimen tree means a tree of any species that is 28 inches in diameter or greater, except invasive species. Specimen trees must have a life expectancy of greater than ten years, have a relatively sound and solid trunk with no extensive decay or hollow, and have no major insects, pathological problem, or defects. Specimen trees are valued for their size and their legacy.

Structure means anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures.

Tree preservation plan is a plan that shows all trees in the area to be developed or within the property. The plan shall include all significant and specimen trees to be preserved and measures taken to preserve them. The plan will also include calculations to determine the number of replacement trees as required by the tree removal, mitigation, and replacement section of this division and a proposed reforestation landscape plan. The plan shall be developed by a forestry or horticultural professional whose qualifications are approved by the EEDD director.

Tree standards mean a separate document authorized through this division to help achieve the goals of the city's tree ordinance and living streets policy. The standards highlight important aspects of the requirements for tree preservation, removal, replacement, and shade tree pest management. The standards do not replace or supersede city ordinances.

Utility means electric, telephone, cable television, water, sanitary or storm sewer, solid waste, gas or similar service operations.

Wetland as defined in the city's wetland ordinance.

Woodlot means a treed area of at least one-quarter acre on a vacant lot, which includes significant and/or specimen tree(s).

(Ord. No. 962, § 4, 12-21-2015)

Sec. 18-243. - Standards.

The EEDD director and city forester shall have the authority to develop tree standards concerning the management of trees. These standards shall not be contrary to this division.

(Ord. No. 962, § 4, 12-21-2015)

Sec. 18-244. - Woodlot alteration.

- (a) *Woodlot alteration permit.* A woodlot alteration permit application shall be submitted to the EEDD director for review prior to removal of any significant or specimen living trees on a woodlot that is not reviewed by another land use, grading, or building permit. The applicant shall submit a tree plan and any other information needed to determine compliance with this division. Specific requirements shall be stated on an application form in the office of the EEDD director. An application fee shall be established yearly by the city council by resolution. Failure to submit a woodlot alteration permit application and gain subsequent approval prior to removal of significant and specimen trees will result in the total tree replacement for the property as outlined in the tree removal, mitigation, and replacement section to assume that all trees removed were significant and specimen trees.
- (b) *Woodlot alteration permit appeal process.* If the woodlot alteration permit is denied by the EEDD director, the applicant may appeal the EEDD director's decision. The appeal shall be submitted in writing, along with the reasons for the appeal, and received by the city in writing within 15 days of the EEDD director's written decision to deny the permit. The environmental and natural resources commission will review the appeal at its next available commission meeting. If the environmental and economic development commission denies the appeal, the applicant may appeal the environmental and economic development commission's decision. The appeal shall be submitted in writing, along with the reasons for the appeal, and received by the city within 15 days of the environmental and natural resources commission's decision. The city council will review the appeal at its next available city council meeting for final decision of the appeal.

(Ord. No. 962, § 4, 12-21-2015)

Sec. 18-245. - Tree preservation plan.

A tree preservation plan as defined in this division and outlined in the tree standards shall reflect the applicant's best effort to determine the most feasible and practical layout of buildings, parking lots, driveways, streets, storage, and other physical features, so that the fewest significant and specimen trees are destroyed or damaged and to minimize the negative environmental impact to the site.

- (1) *Tree preservation plan applicability.*

- a. This section shall apply to any applicant that requests a woodlot alteration, land use, grading, or building permit, including a building permits for major home additions. This includes all sites of new or redevelopment that contain significant and specimen trees or woodlots. Platting and adding new roadway and right-of-way are subject to this division.
 - b. The following are exceptions and are exempt from the requirements of the tree preservation plan:
 - 1. Minor home additions, general home improvements, and construction of accessory buildings (i.e., garage, shed).
 - 2. Tree removal related to public improvement projects to existing roadways, sewers, parks, and utility/infrastructure work or repair.
 - 3. Emergency removal of a tree(s) to protect public health.
 - 4. Tree removal related to public improvement projects to restore or enhance woodlands, savannas, or prairies.
 - 5. Commercial tree nursery and landscape operations.
 - 6. Removal of dead or dying trees, unless those trees were planted as part of tree replacement in which case they shall be replaced based on the approved plan.
 - 7. Removal of nonnative trees that the city deems invasive species.
- (2) *Tree preservation and safeguarding tree measures.*
- a. All developments within the city shall be designed to preserve significant and specimen trees and woodlots, where such preservation would not adversely affect the public health, safety, or welfare of Maplewood citizens. The city may prohibit removal of all or a part of a woodlot or significant and specimen trees subject to the limitations as defined in this division. This decision shall be based on, but not limited to, the following criteria:
 - 1. Size of trees.
 - 2. Size of lot.
 - 3. Species, health, and attractiveness of the trees, including:
 - i. Sensitivity to disease.
 - ii. Life span.
 - iii. Nuisance characteristics.
 - iv. Sensitivity to site grading.
 - v. Potential for transplanting.
 - vi. Need for thinning a woodlot.
 - vii. Effects on the functioning of a development.
 - viii. Fragmentation of wooded area and effects on wildlife corridors.
 - ix. The public health, safety, and welfare.
 - x. Effect on wetlands and/or watershed.
 - xi. Native prairie or oak savanna habitat.
 - b. If any significant or specimen tree designated as preserved (protected) in the approved tree preservation plan is cut, damaged, or encroached upon by grading equipment or during the construction process without city authorization and if it is determined by the EEDD director or city forester that the damaged tree(s) will not survive, the said damaged tree(s) shall be removed by the applicant at their expense and replacement tree(s) required

at a rate of two times the tree replacement outlined in the tree removal, mitigation, and replacement section below.

(3) *Tree removal, mitigation, and replacement.*

- a. *Tree removal calculation:* If less than 20 percent of the total significant or specimen tree diameter inches on the property is removed, the applicant shall replace one tree per significant and specimen tree removed. Tree replacement shall be a minimum of two caliper inches in size.

If 20 percent or more total significant and specimen tree diameter inches are removed, applicant shall mitigate all significant and specimen diameter inches using the tree mitigation/replacement schedule in accordance with the following formulas:

A = Total diameter inches of significant trees lost as a result of the land alteration (includes significant and specimen trees)

B = Total diameter inches of significant trees situated on the property (includes significant and specimen trees)

C = Tree replacement constant (1.5)

D = Total diameter inches of specimen trees saved *

E = Replacement trees (number of caliper inches)

$$[((A/B - 0.2) \times C) \times A] - [D/2] = E$$

* Applicant receives credit for each one (1) diameter inch of specimen tree saved at a rate of ½ (.5) diameter inches.

Example

A = 94

B = 234

C = 1.5

D = 28

E = 14 caliper inches

$$[((94 / 234 - 0.2) \times 1.5) \times 94] - [28/2] = 14 \text{ caliper inches}$$

The trees required to be replaced pursuant to this ordinance shall be in addition to any other trees required to be planted pursuant to any other provision of city code.

- b. *Tree mitigation:* Once the total caliper inches for replacement trees are determined, the applicant shall mitigate loss of significant and specimen trees by planting replacement trees in appropriate areas on the property in accordance with the tree replacement requirements as outlined in the tree standards and tree preservation plan. After putting as many trees as feasible on the site, if the replacement requirement is still not met, the EEDD director can approve tree replacement steps as outlined in the tree standards prior to issuance of a grading or building permit.
- c. *Tree replacement requirements:* The applicant shall follow tree replacement requirements as outlined in the tree standards.

- d. *Tree replacement escrow:* The applicant shall post tree replacement escrow with the city, such as a tree replacement cash deposit or letter of credit, as outlined in the tree standards.

(Ord. No. 962, § 4, 12-21-2015)

Sec. 18-246. - Diseased and hazardous trees.

- (a) *Findings and declaration of purpose.* The health of trees in the city is threatened by epidemic shade tree pests. Hazardous trees can cause property damage or personal injury. The loss of trees, ill health of trees, or presence of hazardous trees on public and private property depreciates the value of property within the city and impairs the safety and general welfare of the public. In addition to, and in accordance with, Minn. Stats. §§ 89.001, 89.01, and 89.51—.64, the provisions of this section are adopted as an effort to control and prevent the spread of these shade tree pests.
- (b) *Declaration of a shade tree pest.* The EEDD director or city forester may declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest as defined by Minn. Stats. § 89.001.
- (c) *Public nuisances.* Public nuisances relating to trees are outlined in the tree standards.
- (d) *Inspection.*
 - (1) The EEDD director and city forester shall have the ability and authority to inspect all premises and places within the city for public nuisances relating to trees. Inspection shall be of living or dead trees, parts of trees, stumps, and firewood.
 - (2) The EEDD director and city forester may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned under this ordinance.
- (e) *Abatement of shade tree pest nuisances.*
 - (1) The EEDD director or city forester shall notify in writing the owner of record or occupant of the premise that a public nuisance exists. The notice shall specify the measures to be taken to abate the nuisance and shall specify that the nuisance shall be abated within a reasonable amount of time, not less than ten days from the date of mailing.
 - (2) If the owner fails to comply with the removal or control measures specified for the hazard tree, infested tree, or wood on his/her property as outlined in this division and the tree standards, and within the time specified, the EEDD director or city forester may order the work done either by city employees or by contractor. The cost of this work shall be billed to the owner. If the bill is not paid within 30 days, the city shall assess the costs to the property.
- (f) *High-cost abatement.* If the cost of abating a nuisance from a shade tree pest will exceed \$5,000.00 in a given year or in two consecutive years, based on a reasonable, good faith estimate from a certified arborist, the owner or occupant may request the matter be referred to the city council for a hearing as outlined in the tree standards. This does not apply to hazardous trees.
- (g) *Emergency abatement.* Nothing in this division shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(Ord. No. 962, § 4, 12-21-2015)

Sec. 18-247. - Enforcement.

The city shall be responsible for the enforcement of this division. Any person who fails to comply with or violates any section of this division shall be deemed guilty of a misdemeanor and, upon conviction,

shall be subject to punishment in accordance with section 1-15. All land use, building, and grading permits shall be suspended until the applicant has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

The city reserves the right to inspect the site or property at any reasonable time for compliance with tree preservation requirements. If the city finds the site in violation, the city may issue a stop work order until conditions are corrected.

(Ord. No. 962, § 4, 12-21-2015)

Secs. 18-248—18-270. - Reserved.

