

**City Council Agenda Item #14
Meeting of August 11, 2008**

Brief Description: Tree protection ordinance key points

Recommended Action: Review and approve tree protection ordinance key points

Background

The city of Minnetonka is experiencing increasing pressures from the subdivision of residential properties within established neighborhoods. In many cases, these developments are resulting in noticeable tree loss and perceived negative impact to neighborhood character. To address these sensitive issues, council directed staff to draft a tree protection ordinance, which would protect the community's natural resources while allowing for reasonable development.

Following numerous study sessions and planning commission hearings, council considered a draft Tree Protection Ordinance on July 14, 2008. Following extensive discussion, council directed staff to revisit various issues, incorporating the views expressed by individual council members.

Key Points

To help focus council discussion and direction, staff recommends consideration of the attached key points. Following adoption, staff will draft a Tree Protection Ordinance consistent with the points for consideration at the August 25th council meeting.

The recommended key points reflect the goal of preserving Minnetonka's highly-valued woodland areas by balancing the rights of property owners with tree protection during the subdivision process. The ordinance would not regulate tree removal on individual lots where no subdivision is proposed.

Submitted through:

John Gunyou, City Manager

Julie Wischnack, AICP, Community Development Director

Originated by:

Loren Gordon, AICP, City Planner

Jo Colleran, Natural Resources Manager

Susan Thomas, Principal Planner

Proposed Tree Protection Ordinance Key Points

The goal of the Tree Ordinance is to preserve Minnetonka's highly valued natural resources, ecosystems and viewsheds, while allowing reasonable development to take place, and not interfering with how existing homeowners use their property. The Tree Ordinance provides incentives for property owners who wish to subdivide areas that include woodlands and high priority trees to use Planned Unit Development (PUD), which allows the flexibility to both protect woodlands and property rights.

- 1) If either 25% of a woodland preservation area (at least a two acre ecosystem) or 35% of high priority trees (healthy and 15 inch minimum) would be impacted by a subdivision, one lot per acre would be allowed, but the property could be developed up to R-1 densities under PUD if steps are taken to preserve trees, such as:
 - a) Creative design, such as clustering homes, locating and sizing lots and building pads, setbacks, custom grading, retaining walls, buffers, and locating roads, utilities and driveways;
 - b) Preserving the continuity of woodland preservation areas by developing at the edges, rather than the core;
 - c) Evidence of good faith stewardship of the land and trees both before subdivision and after, including the use of conservation easements when appropriate; and
 - d) Maintaining the character of the existing landscape and neighborhood.
- 2) The rights of homeowners would continue to be respected:
 - a) Similar to the current ordinance for new development, trees can be removed without any mitigation within the footprint of a house plus 20 feet around it, and within driveways, parking areas and accessory buildings plus 10 feet around.
 - b) No tree restrictions would apply to homes after two years of occupancy.
- 3) Miscellaneous provisions:
 - a) To avoid unintended consequences, a five year look-back period would count any trees removed five years before development as if they were still in existence at the time of development.
 - b) The definition of high priority trees would not include smaller understory trees, but the ordinance would encourage buffers to be maintained when appropriate.
 - c) The penalty for removing a tree designated for preservation would be two inches of replacement trees for every inch of tree removed, and a possible fine of \$500 per inch, up to a maximum of \$5,000 per tree.