

CHAPTER 8

DEVELOPMENT REVIEW PROCEDURES

Part 8: Historic Preservation

Article J – Archaeology Site

Sec. 13-8-56 Demolition, Excavating, Building and Development.

Any person performing demolition, excavating, building, or development requiring a permit from the City of Onalaska within a designated Archaeological District shall notify the City of Onalaska Inspection Department or its designee not less than two (2) full weeks prior to commencing activities disturbing more than twenty (20) square feet of soil to a depth of two (2) feet or greater except in the case of emergency excavations as approved by the City Engineer or the Land Use and Development Director. Such notice shall be in writing and shall include a description and location of the proposed work, the depth and area of the proposed soil disruption, and the proposed date and time of commencement of such work.

Sec. 13-8-57 Regulations.

Any person, persons or entity receiving a permit for demolition, excavating, building or development to be done in a designated Archaeological District that includes soil disturbance of more than twenty (20) square feet to a depth of two (2) feet or greater shall as a condition of such permit:

- (a) Provide an Archaeological Survey by a regional qualified archaeologist of the site affected by the permit or provide unlimited and uninhibited access by the regional qualified archaeologist to the site of any such demolition, excavating, building or development that includes disturbing more than twenty (20) square feet of soil to a depth of two (2) feet or greater for the two (2) week investigation period outlined in (2) below and during any period when excavation or soil disruption is taking place, and after archaeological artifacts are found, subject to reasonable safety requirements.
- (b) The regional qualified archaeologist shall have up two (2) consecutive weeks excluding holidays after the initial notification of the City Inspection Department to investigate the site. No additional work may be done by the permittee or permittee's agents during this period that would interfere with the archaeological investigation. If no significant archaeological resources are found by the regional archaeologist, work on demolition, excavating, building or development that includes disturbing more than twenty (20) square feet of soil to a depth of two (2) feet or greater may resume following permit issuance by the City and the parcel may be removed from the boundaries of the Archaeological District. If the regional archaeologist does not investigate the site following notification of the City Inspection Department of the presence of archaeological artifacts, human remains, or other clear evidence of historic or prehistoric activity, work may be resumed

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- following permit issuance by the City.
- (c) The permittee and any agents of permittee shall agree that any archaeological artifacts discovered will remain the property of the land owner upon whose land the artifacts were found unless the owner relinquishes ownership of the artifacts to the Mississippi Valley Archaeology Center as a public repository. The regional qualified archaeologist shall provide an itemized inventory report of all artifacts following such removal. Such artifacts may be held by the regional archaeologist for a reasonable period, not to exceed twelve (12) months, for study and identification, but shall be returned to the landowner at the end of such period unless the artifacts have been relinquished by the property owner to the Mississippi Valley Archaeology Center. Any human remains discovered shall be dealt with in accordance with applicable State and Federal Law.
 - (d) The requirements listed for permittees in an Archaeological District in Paragraphs 1, 2 and 3 shall also apply to all City of Onalaska Departments, utilities, contractors, and agents regardless of whether a permit is required for any proposed work in an Archaeological District, if the work will result in disrupting more than twenty (20) square feet of soil to a depth of two (2) feet or greater.
 - (e) The City may waive the requirement for archaeological investigation if significant proof of land disturbance has been provided by the owner, and the area in it's entirety to be affected by the proposed construction has been previously excavated to a depth of two (2) feet or greater.

Sec. 13-8-58 Penalties.

Any person violating any provision of this Chapter, except as otherwise provided in this Chapter, including those provisions of the Wis. Stats., Wis. Adm. Code or other materials which are incorporated herein by reference shall be subject to the penalties as outlined in Title 1, Chapter 2 of the Code of Ordinances.

Sec. 13-8-59 through Sec. 13-8-61

Reserved for Future Use.

Sec. 13-8-62 Tree Protection Policy

- (a) Introduction and Purpose
- (b) Definitions
- (c) Tree Preservation Requirements
- (d) Tree Replacement
- (e) Specimen Tree List
- (f) Penalty

(a) Introduction and Purpose

“The purpose of this ordinance is to provide for the preservation and replacement of trees as part of the City’s land development. This ordinance is intended to provide for the orderly preservation and planting of trees along lot lines, rear yards, and common open spaces. This ordinance is intended to control soil erosion, moderate storm water runoff, improve water quality, reduce the effects of air

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pollutants, enhance habitat for wildlife, reduce noise and glare in residential areas, enhance climate moderation, provide aesthetic and scenic amenities and increase City of Onalaska's property values.

Benefits derived from tree protection and planting include:

1. Improved control of soil erosion.
2. Moderation of storm water runoff and improved water quality.
3. Interception of airborne particulate and the reduction of some air pollutants.
4. Enhanced habitat for desirable wildlife.
5. Reduction of noise and glare.
6. Climate moderation.
7. Aesthetics and scenic amenity.
8. Increased property value.

(b) Definitions

- A. "Critical Root Zone": The area of tree roots within the crown drip line. This zone is generally defined as a circle with a radius extending from a tree's trunk to a point no less than the furthest crown drip line. Disturbances within this zone will directly affect a tree's chance for survival.
- B. "Construction Area": Any area in which movement of earth, alteration of topography, soil compaction, disruption of vegetation, changes in soil chemistry, or any change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.
- C. "Developer": A person that constructs, subdivides or creates a land development.
- D. "Diameter-at-breast-height": A standard measure of tree size, and is a tree trunk diameter measured in inches at a height of 4½ feet above the ground. If a tree splits into multiple trunks below 4½ feet, the trunk is measured at its most narrow point beneath the split.
- E. "Drip Line": An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.
- F. "Forester": A person holding a Bachelor's degree in forestry from an accredited four-year college of forestry.
- G. "Landmark Tree": A tree designated because it is one of the largest or oldest of a species located in the city; it has a historic significance due to an association with a historic building, site, street, person, or event; or it is a defining landmark or significant outstanding feature of a neighborhood.
- H. "Landscape Architect": A person who practices architecture and is registered or licensed with the State of Wisconsin in accordance with §443 Wis. Stats.
- I. "Nurseryman": A person licensed by the State of Wisconsin as a Nurseryman.
- J. "Specimen Tree(s) or Stand": Any tree or grouping of trees which has been determined to be of high value because of its type, size, age, or other professional criteria, and has been so designated.

(c) Tree Preservation Requirements

The following process for preserving trees shall be required on Plat's, Commercial Sites and Certified Survey Maps (CSM's) over 5 acres in size.

- A. Developers are required to do the following:
 - 1) Prepare a Tree Preservation Plan
 - 2) Implement a Tree Preservation Plan prior to and during construction
 - 3) Comply with the City's Tree Replacement Requirements

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- B. The Tree Preservation Plan shall be submitted with preliminary plat, commercial sites and certified survey map plans in accordance with Chapter 14 (Subdivision Regulations) of the City's Code of Ordinances. The Tree Protection Plan will be reviewed and must be approved by City staff in conjunction with preliminary plat approval before construction may begin. An on-site tree protection pre-construction review will be conducted in conjunction with the erosion control review to best assess the design for the project taking into account specimen and landmark trees and ways to enhance the efforts of the developer to mitigate tree damage.
- C. The Developer shall be responsible for implementing the Tree Preservation Plan prior to and during site grading and plan development.
- D. Designated landmark trees are protected in all areas of all zones, on private as well as public property. Requests for removal of landmark trees will be denied unless one of the following findings is made:
 - 1) There is a public benefit, or a public health, safety, or welfare benefit, to the injury or removal that outweighs the protection of the specific tree (public benefit means a public purpose, service, or use which affects residents as a community and not merely as particular individuals); or
 - 2) The present condition of the tree is such that it is not reasonably likely to survive; or
 - 3) There is an objective feature of the tree that makes the tree not suitable for protection; or
 - 4) There would be a substantial hardship to a private property owner in the enjoyment and use of real property if the injury or removal is not permitted; or
 - 5) To not permit the injury or removal would constitute a taking of the underlying real property; or
 - 6) The project includes a landscape design plan that will result in a tree canopy coverage of greater significance than the tree canopy coverage being removed, within a reasonable time after completion of the project.
- E. Any person or agency may nominate a tree for landmark designation. The property owner will be notified within 30 days of a nomination affecting their property. The Historic Preservation Commission will make a recommendation to the City Council within 30 days of the notification of the property owner, and if no objection has been received in writing from the property owner, and upon City Council approval, the tree will be designated as a landmark. A covenant will be recorded with the office of the county recorder.
- F. Tree Preservation Plan shall include the following items:
 - 1) The name(s) and address(es) of property owners and developers.
 - 2) Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.
 - 3) Delineation of all areas to be graded and limits of land disturbance.
 - 4) Size, species and location of all specimen or landmark trees located within the area to be developed. Where conditions warrant generalization of the tree inventory due to density, such as a wooded site, the City will accept a plan where information is collected on randomly selected trees to obtain overall condition, size, and species characteristics of the area.
 - 5) Location of all specimen or landmark trees on all individual lots.
 - 6) Measures to protect specimen trees.
 - 7) Identification of all specimen trees proposed on the plan to be removed within the construction area.
 - 8) Size, species, and location of all replacement trees to be planted on the property in accordance with the Tree Replacement Requirements (d).
 - 9) Signature of person preparing the plan.

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- G. Measures proposed to protect specimen and landmark trees shall include, but are not limited to:
- 1) Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed outside the drip line, or radius determined by the City, of specimen or landmark trees to be preserved.
 - 2) Installation of retaining walls or tree wells to preserve trees.
 - 3) Placement of utilities in common trenches outside of the drip line of specimen or historic trees or the use of tunneling installation.
 - 4) Use of tree root aeration, fertilization, and/or irrigation systems.
 - 5) Prevention of changes in soil chemistry due to concrete washout and leakage or spillage of toxic materials such as fuels or paints.
 - 6) Therapeutic pruning
- H. Specimen tree removal shall be in accordance with the City-approved tree preservation plan. The plan shall remove no more than 80% of the total number of specimen trees on developable land (below 30% slope) which were existing prior to submission of the preliminary plat or CSM's as a result of the following construction activities:
- 1) Site grading.
 - 2) Installation of public utilities, including sanitary sewer, storm sewer, water, natural gas, electrical service, and cable TV.
 - 3) Construction of public streets.
 - 4) Construction/grading of drainage ways.
 - 5) Filling of any area.
 - 6) Any other activity within the construction area.

Where practical difficulties or practical hardships result from strict compliance with the provisions of this paragraph, City staff may permit the removal of up to an additional 5% of the specimen trees without requiring a variance approved by City Council. In addition, where extraordinary topographic circumstances exist or preferred drainage alternatives, as designed by the developer and approved by the City, warrant the removal of trees above the 20% tree preservation requirement, the City Plan Commission may permit the developer to replant trees at a rate of 1 inch DBH for every 4 inches removed in order to satisfy the amount reduced. The City reserves the right to require additional preservation based on the unique characteristics of each site. Areas above 30% slope shall not be clear-cut and may only be selectively cut based on the recommendations of a forester.

- I. Trees specifically managed for harvest, planted in rows, are exempt from this chapter.
- J. All sites shall be staked, as depicted in the approved grading plan, before grading is to commence. The City shall inspect the construction site prior to the beginning of the grading. No encroaching, grading, trenching, filling, compaction, or change in soil chemistry shall occur within the fenced areas protecting the root zone of the trees to be saved.
- K. After grading, construction, and restoration has been completed, a forester, nurseryman, or landscape architect retained by the developer, shall:
- 1) Certify in writing to the City that the Tree Preservation Plan was followed.
 - 2) Certify in writing to the City that the tree protection measures were installed.
 - 3) Indicate which specimen and landmark trees remain and which have been destroyed or damaged.
 - 4) Submit a plan for City review identifying where replacement trees, if required, will be integrated into the approved landscape plan, or another plan, as required by the City.

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(d) Tree Replacement Requirements

Developers will be required to replace all specimen trees that were indicated on the Tree Preservation Plan to be saved, but which were ultimately destroyed or damaged. If a specimen tree dies of natural causes within 1 year of the completion of grading or land disturbance activity, the developer shall be required to replace with 1 inch DBH for every 4 inches removed.

These replacement trees shall be in conjunction with any other landscape requirements of the City.

- A. Replacement trees shall be of a species similar to the trees that were lost or removed.
- B. Replacement trees will be required to be planted within one year after the completion of grading or land disturbance activity.
- C. Replacement trees shall consist of stock from a state licensed grower/distributor.
- D. Replacement trees shall be planted on the subject property in appropriate soil types and in a space large enough to accommodate the natural growth of the planted species. If a site cannot accommodate the required replacement trees, those remaining to be planted shall be located on other property owned by the developer within the City, or on property owned by the City.
- E. The developer shall be responsible to restore any replacement tree that is not alive and healthy, one (1) year after the date that the last replacement tree has been planted.

(e) Specimen Tree List

Any tree in fair or better condition that equals or exceeds the following diameter-at-breast height:

Concolor Fir	18"	Hackberry	18"
Hemlock	18"	Hawthorns	18"
Red Pine	18"	All Hickories	18"
White Pine	18"	Ironwood	6"
White Spruce	18"	Honey Locust	18"
Tamarack	18"	Red Maple	18"
White Ash	18"	Silver Maple	18"
Green Ash	18"	Sugar Maple	18"
Basswood	18"	Mulberries	18"
Paper Birch	18"	All Oaks	18"
Buckeye	18"	Tulip Poplar	18"
Butternut	18"	Redbud	6"
Black Cherry	18"	Serviceberry	6"
Kentucky Coffeetree	18"	American Sycamore	18"
Eastern Cottonwood	18"	Black Walnut	18"
All Elms	18"		

(f) Assessments and Penalties

- A. The City of Onalaska may impose a special charge in accordance with §66.0627 Wis. Stats. should the owner of any lands fail to comply with the provisions of this ordinance.
- B. Violations of this ordinance may also be subject the violator to forfeitures along with court costs, stop work orders, or reparation.