

Tree Protection Ordinance

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The Why..

- Comprehensive Plan Policy 1.3.6: **Develop a Tree Protection Ordinance**, a Tree Diversity Plan, and a tree canopy of 30% of the urban service area.
- Existing trees contribute social and ecosystem services by enhancing property values, alleviating air and water pollution, conserving energy, providing noise and visual buffers, provide wildlife habitat, and promote health and safety of all current residents as well as future generations.

Rural Residential Development Criteria

D. Woodland Cover

A Forestry Management Plan, approved by the City Forester, is required for improvements placed on wooded or partially wooded sites.

- Improvements are sited to have a minimal disruption to significant tree(s), and/or the critical root radius of significant tree(s).

E. Heritage Tree Protection

Heritage trees and their critical root radius shall be fully protected and remain undisturbed by establishing a protected root zone.

How old is that Oak?

Marlin Bowles Morton Arboretum

Inches DBH	Bur/Swamp white oak	Red oak	Shagbark Hickory	White Oak
10	66	76	102	84
12	79	89	116	100
14	91	102	129	115
16	104	115	142	129
18	117	128	155	144
20	129	141	167	159
22	142	154	179	173
24	154	161	190	187
26	167	179	202	201
28	179	191	212	215
30	192	203	223	229
31	204	215	234	243
34	219	230	246	260
35	229	239	254	271
37	242	251	264	285
39	254	263	274	298

The What....

- The proposed additional to Sec 24-4 (Preliminary plat requirements) requires existing desirable trees to be included in the site plans. This creates a mechanism to discuss tree retention on developing parcels in the City of Fitchburg.
- The proposed additions to Sec. 54.50 (Parks, Recreation, and Forestry) provide the necessary definitions for clarification.

Underlined sections show new language

Chapter 24 – LAND DIVISION

Sec. 24-4. - Preliminary plat.

(b) *Plat data.* All preliminary plats shall show the following:

(17) Location, size, and type of Desirable Trees (Desirable Tree as defined in sec. 54-50) that meet or exceed a Diameter at Breast Height (D.B.H, as defined in sec. 54-50) of 6 inches as surveyed by a Certified Arborist (Certified Arborist as defined in sec. 54-50).

(18) Tree Preservation Plan (Tree Preservation Plan as detailed in sec. 54-50) for review by the City of Fitchburg Plan Commission with written input from the City Forester.

Underlined sections show new language

Chapter 54 - PARKS, RECREATION AND FORESTRY

ARTICLE III. - TREES AND SHRUBBERY

Sec. 54-50. - Definitions.

Certified Arborist means a “Certified Arborist” as a tree professional certified by the International Society of Arboriculture or a “Consulting Arborist” as a member of the American Society of Consulting Arborists.

D.B.H. (Diameter at Breast Height) means a tree trunk circumference measured at 4.5 feet above the ground. For multi-trunked trees, the circumference is the two largest trunks combined.

Desirable Tree means the following tree species: white oak (*Quercus alba*), red oak (*Quercus rubra*), black oak (*Quercus velutina*), bur oak (*Quercus macrocarpa*), chinkapin oak (*Quercus muehlenbergii*), pin oak (*Quercus palustris*), northern pin oak (*Quercus ellipsoidalis*), swamp white oak (*Quercus bicolor*), shagbark hickory (*Carya ovata*), bitternut hickory (*Carya cordiformis*), hackberry (*Celtis occidentalis*), white pine (*Pinus strobus*), sugar maple (*Acer saccharum*), honey locust (*Gleditsia triacanthos*), and American basswood (*Tilia americana*)

Tree Preservation Plan means a document prepared with the specific items listed below describing the strategy for preserving desirable trees.

- 1) A Tree Preservation Plan shall include the following items:
 - a) The name(s) and address(es) of property owners and developers.
 - b) Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.
 - c) Delineation of all areas to be graded and limits of land disturbance.
 - d) Size, species, and location of all Desirable 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.
 - e) Location of all Desirable trees on all individual lots.
 - f) Measures to protect Desirable trees in accordance with the City of Fitchburg Tree Protection Guidelines.
 - g) Identification of all specimen trees proposed on the plan to be removed within the construction area.
 - h) Signature of person preparing the plan.

The How...

- As part of the preliminary platting process and / or rezone process desirable trees will be included on the site plans.
- A tree preservation plan will be submitted for any trees to be preserved.

The Process...

- March, 2021, TAC members presented the concept of a Tree Preservation Ordinance to Parks Commission
- June 17, 2021 TAC members met with City Attorney Valerie Zisman
- October, 2021 - January, 2022 TAC members met with Sonja Kruesel, Planning and Zoning Administrator several times
- April 6, 2022 TAC members met with the following department heads: Scott Endl (Parks), Misty Dodge (Finance), Deanna Schmidt (Planning and Zoning), and Valerie Zisman, City attorney
- May 7, 2022 - TAC members met with Mayor Richardson
- July 20, 2022 – TAC members met with Valerie Zisman, City Attorney
- November 16, 2022 TAC members met with Chad Brecklin, City Administrator
- December 1, 2022 TAC presented draft ordinance to Parks Commission
- January 17, 2023 TAC presented draft ordinance to Plan Commission
- January 23, 2023 TAC members met with Valerie Zisman, City Attorney
- February 13, 2023 TAC members presented draft ordinance to RCC

The When...

- The requirements of Sec. 24-4 are only triggered in the preliminary platting process. No other projects would be affected.

The Means...

- Review by City of Fitchburg Plan Commission
- Review by City of Fitchburg Urban Forester and Naturalist

Tree Preservation Ordinance FAQ's

Broad Questions:

1. What is the purpose of the Tree Preservation Ordinance? **We want to bring trees into the planning process for new developments. Currently the platting process doesn't include a survey of existing trees and we want to increase the information exchange at the beginning of the process. We hope this will help us reach our 30% canopy goals while also retaining some old growth trees that are impossible to replace quickly.**
2. Why are we working on this now? **The Fitchburg Comprehensive Plan from 2009 and from 2019 included a policy goal of developing a Tree Protection Ordinance (Policy 1.3.6). We believe this policy goal is central to the mission of the Tree Advisory Committee and that now is the time to work towards a greener community.**

Tree Preservation Ordinance FAQ's

Broad Questions:

3. What have we done so far? **Over the past couple of years we've met with committees, commissions, City employees, and elected officials to get as much input as possible for our proposed ordinance changes. We've also reached out to Fitchburg developers through city staff to get additional input on our proposal. Following the feedback we've made significant changes from the original idea to end up with something we believe balances the interests of stakeholders.**

4. What would the ordinance require? **Individuals seeking plat approval would be required to (a) obtain a tree survey from an arborist of trees that are 6 inches or greater diameter at breast height (DBH) and (b) provide their tree survey and proposed preservation plan to the Fitchburg Forester. The Fitchburg Forester will provide written comments on the preservation plan to the Plan Commission. There is no explicit approval or rejection of the plan, only the typical plat discussions that occur at Plan Commission meetings.**

Tree Preservation Ordinance FAQ's

Broad Questions:

5. Is there a requirement to preserve all desirable trees? **Not at all. The hope is that this will improve collaboration between developers and the city on retaining some of our rural character without serving as a significant road block to future community development. The ordinance is specifically drafted to avoid black and white restrictions that might serve as unintentional barriers to developers working in our community.**

Tree Preservation Ordinance FAQ's

Detail Questions:

1. How would the ordinance be triggered? **After discussions with City Staff and the various committees we decided to put the “trigger” for the ordinance in the plat process. City developments and other non-platting development steps (e.g. Certified Survey Map and Architectural Design Review) will not be affected by this ordinance.**
2. What effect will this have on non-developer property owners? **This ordinance will have no effect on citizen land owner’s ability to plant or remove trees on their property.**
3. How did we arrive at the 6 inch diameter at breast height (DBH)? **This is an industry standard measurement that is a rough approximation of the “viability” of the tree. Trees that make it to the 6 inch DBH are much more likely to have a healthy life at that location.**

Tree Preservation Ordinance FAQ's

Detail Questions:

5. Do we anticipate changing the list of desirable trees? **The list is a snapshot of what trees are currently good fits for the climate, resistant to local diseases/pests, and visually desirable in the community. If there is a significant shift we would seek to update the ordinance in the future, but changes of that type are not frequent and we don't anticipate changes being necessary on a regular basis. Listing individual trees was also a strong recommendation of the City's attorney as a way to make the requirements very clear for developers.**

6. How expensive will this new requirement be for developers? **We anticipate it adding a small cost to the survey portion of developments. This cost will be partially offset but reductions in the removal costs for larger/older trees and other potential benefits working with the city on the plat approval process.**

Tree Protection Ordinances in Wisconsin...

- **City of Mequon** - *“It shall be unlawful to remove, injure, destroy, or undertake any procedure that may cause the death or substantial destruction of any specimen tree located anywhere on any land in the City of Mequon without the express written permission of the City Planning Commission.”*
- **Town of Dunn** – Ordinance NO. 20-03 – *“ Construction of new buildings and structures shall not cause Heritage Trees to be removed without written permission of the Tree Board and shall not significantly infringe upon the root system of Heritage Trees to an extent that is likely to damage the tree or jeopardize its survival.”*
- **City of Onalaska** – Ordinance NO. 13-8-62 – *“Where possible, trees should be preserved along lot lines, rears of homes, and common open space. Design consideration should be made to foster tree preservation and future homebuyer.”*







July, 2022

September,
2022

