

MINUTES
MAPLEWOOD CITY COUNCIL
7:00 p.m., Monday, December 21, 2015
Council Chambers, City Hall
Meeting No. 24-15

A. CALL TO ORDER

A meeting of the City Council was held in the City Hall Council Chambers and was called to order at 7:00 p.m. by Mayor Slawik.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Nora Slawik, Mayor	Present
Marylee Abrams, Councilmember	Present
Robert Cardinal, Councilmember	Present
Kathleen Juenemann, Councilmember	Present
Marvin Koppen, Councilmember	Present

D. APPROVAL OF AGENDA

The following items were added to the agenda:

N1	Natural Living Expo
N2	Recycle Your Holidays
N3	Christmas Tree Disposal
N4	Energize Maplewood
N5	Thanks for Service
N6	Maplewood Bruentrump Heritage Farm
N7	Rush Line

The following item was moved on the agenda.

Move L Visitor Presentation to after N Council Presentations.

Councilmember Juenemann moved to approve the agenda as amended.

Seconded by Councilmember Abrams Ayes – All

The motion passed.

E. APPROVAL OF MINUTES

1. Approval of December 14, 2015 City Council Meeting Minutes

Change L3, Diana Longrie, North St. Paul Resident to read Diana Longrie, Maplewood Resident.

Councilmember Juenemann moved to approve the December 14, 2015 City Council Meeting

Minutes as amended.

Seconded by Councilmember Koppen Ayes – All

The motion passed.

F. APPOINTMENTS AND PRESENTATIONS

1. Update on SPRWS by Board Representative Will Rossbach

Board Representative Will Rossbach gave the report and answered questions of the council. Fire Chief Lukin gave additional information.

2. Approval of Resolution for Commission Reappointment

Economic Development Coordinator Martin gave the staff report.

Councilmember Juenemann moved to approve the resolution to reappoint Alan Ige to the Planning Commission with a term expiration date of 12/31/2018; and request Commissioner Tripler to remain on the Commission until a replacement can be made.

RESOLUTION 15-12-1291

BE IT RESOLVED THAT THE CITY COUNCIL OF MAPLEWOOD, MINNESOTA:

Hereby appoints the following individual, who the Maplewood City Council has interviewed, to serve on the following commission:

Planning Commission

Allan Ige, term expires 12/31/2018

Seconded by Councilmember Abrams Ayes – All

The motion passed.

G. CONSENT AGENDA

Councilmember Abrams moved to approve consent agenda items G1-G8.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

1. Approval of Claims

Councilmember Abrams moved to approve the Approval of Claims.

ACCOUNTS PAYABLE:

\$ 151,810.30 Checks # 96412 thru # 96459

dated 12/15/15

\$ 517,712.27 Disbursements via debits to checking account
dated 12/07/15 thru 12/11/15

\$ 669,522.57 Total Accounts Payable

\$ 669,522.57 GRAND TOTAL

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

**2. Approval of a Conditional Use Permit Review, St. Paul Hmong Alliance Church,
1770 McMenemy Street**

Economic Development Coordinator Martin gave the staff report and answered questions of the council.

The following person spoke:

1. Toumoua Lee, Representative from the St. Paul Hmong Alliance Church

Councilmember Abrams moved to approve to extend the approval of the conditional use permit for the St. Paul Hmong Alliance Church and review again in one year.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

**3. Approval of a Conditional Use Permit Review, Bruentrup Heritage Farm, 2170
County Road D East**

Councilmember Abrams moved to approve to review the conditional use permit for Bruentrup Heritage Farm located at 2170 County Road D again only if a problem arises or a major change is proposed.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

4. Approval of a Conditional Use Permit Review, U-Haul, 2250 White Bear Avenue

Councilmember Abrams moved to approve the conditional use permit for 2250 White Bear Avenue again in one year.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

5. Approval of a Conditional Use Permit Review, Plaza 3000 Shopping Center, 3000 White Bear Avenue

Economic Development Coordinator Martin gave the staff report and answered questions of the council.

The following person spoke:

1. Tom Schuette, Property Manager for Plaza 3000

Councilmember Abrams moved to approve to review the conditional use permit for Plaza 3000 again in one year to ensure all trash containers on site are properly screened as per city code.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

6. Approval to Purchase Microsoft Licenses

Councilmember Abrams moved to approve to purchase Microsoft licenses in the amount of \$45,860 from SHI.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

7. Approval to Purchase Additional Council Chambers Audio/Visual Equipment

Councilmember Abrams moved to approve to purchase Council Chambers hardware improvements not to exceed \$25,000 from Alpha Video.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

8. Consider Amendment to City Manager Contract

Councilmember Abrams moved to approve the First Amendment to Employment Agreement between the City of Maplewood and City Manager Melinda Coleman.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

H. PUBLIC HEARING

1. **Consider Amendments to the Tree Ordinance and Environmental Chapters – Second Reading**
 - a. **Approval of Ordinance Regulating Trees in the City of Maplewood**
 - b. **Approval of Tree Standards**
 - c. **Approval of Ordinance Reconfiguring the City’s Environmental Chapters**

Environmental Planner Finwall gave the staff report and answered questions of the council.

Mayor Slawik opened the public hearing. The following people spoke:

1. John Wykoff, Maplewood Resident
2. Bob Zick, North St. Paul Resident
3. Mark Bradley, Maplewood Resident

Mayor Slawik closed the public hearing.

Councilmember Koppen moved to approve an ordinance regulating trees in the City of Maplewood.

Ordinance 961
An Ordinance Regulating Trees in the City of Maplewood

The Maplewood City Council approves changes to the Code of Ordinances pertaining to the regulations of trees. This ordinance amends and reconfigures Chapter 38 (Trees), Chapter 12 (Buildings and Building Regulations), and Chapter 18 (Environment) as follows:

Section 1: This section deletes Chapter 38 (Trees) and adds new regulations pertaining to trees to Chapter 18 (Environment), Article V (Environment and Natural Resources), Division 3 (Trees) as outlined below.

Article V. Environment and Natural Resources

Division 3. Trees

Sec. 1. 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 ordinance 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 storm water 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.

Sec. 2. Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this ordinance.

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

Caliper inch is a measurement used for nursery stock and in this ordinance refers to replacement trees. It is the unit of measurement for defining the diameter of the tree trunk measured six (6) inches above the soil surface for tree trunks four (4) diameter inches or less and measured twelve (12) inches above the soil surface for tree trunks greater than four (4) diameter inches.

Certified Arborist is 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 twelve (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 fifteen (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 (4.5) feet above ground. To determine diameter, measure the circumference of the tree trunk at four and one-half (4.5) 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 are 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 sixty (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 sixty (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 fifteen (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 (6) inches in diameter for hardwood deciduous trees, eight (8) inches in diameter for conifer trees, twelve (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 is a tree of any species that is twenty-eight (28) inches in diameter or greater, except invasive species. Specimen trees must have a life expectancy of greater than ten (10) 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 ordinance and a proposed re-forestation landscape plan. The plan shall be developed by a forestry or horticultural professional whose qualifications are approved by the EEDD Director.

Tree Standards is a separate document authorized through this ordinance 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 (1/4) acre on a vacant lot, which includes significant and/or specimen tree(s).

Sec. 3. 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 ordinance.

Sec. 4. Woodlot Alteration.

1. 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 ordinance. 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.
2. 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 fifteen (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 fifteen (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.

Sec. 5. Tree Preservation Plan.

A tree preservation plan as defined in this ordinance 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 ordinance 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 ordinance.
 - 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 ordinance. 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:
 - a) Sensitivity to disease.
 - b) Life span.

- c) Nuisance characteristics.
- d) Sensitivity to site grading.
- e) Potential for transplanting.
- f) Need for thinning a woodlot.
- g) Effects on the functioning of a development.
- h) Fragmentation of wooded area and effects on wildlife corridors.
- i) The public health, safety, and welfare.
- j) Effect on wetlands and/or watershed.
- k) 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 (2) 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 twenty percent (20%) of the total significant or specimen tree diameter inches on the property is removed, the applicant shall replace one (1) tree per significant and specimen tree removed. Tree replacement shall be a minimum of two (2.0) caliper inches in size.

If twenty percent (20%) 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.

Sec. 6. Diseased and Hazardous Trees.

1. 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, Minnesota Statutes, sections 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.

2. 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 Minnesota Statute, section 89.001.

3. Public nuisances.

Public nuisances relating to trees are outlined in the Tree Standards.

4. Inspection.

- a. 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.
 - b. 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.
5. Abatement of shade tree pest nuisances.
- a. The EEDD Director or city forester shall notify in writing the owner of record or occupant of the premises 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 (10) days from the date of mailing.
 - b. 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 ordinance 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 thirty (30) days, the city shall assess the costs to the property.
6. High-cost abatement.

If the cost of abating a nuisance from a shade tree pest will exceed five thousand dollars (\$5,000) 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.

7. Emergency abatement.

Nothing in this ordinance 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.

Sec. 7. Enforcement.

The city shall be responsible for the enforcement of this ordinance. Any person who fails to comply with or violates any section of this ordinance 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.

Section 2: This section revises Chapter 12 (Buildings and Building Regulations), Article VI (Contractors and Subcontractors) to update licensing requirements for tree service companies (additions are underlined).

Sec. 12-207. General types of work.

Before any person shall engage in the business of doing or performing the following types of work in the city he or she shall first obtain a license or register to do so as provided in this ordinance:

1.
14. Tree service (pruning, removal, treatment, or care).
15.

Sec. 12-218. Tree service company licenses.

1. No person for hire shall fell, cut, or trim any tree in the city, or engage in the business of so doing, without a license. This shall apply only to the felling, cutting, or trimming of trees, limbs, and branches which are two (2) inches or more in diameter at the point of cutting or severance.
2. All licensees performing work under this chapter shall comply with the American National Standards Institute (ANSI) Standard A300, parts 1 through 9. Effective within one (1) year from the date of the adoption of these amendments, any new or renewal license applications shall require that the licensee employ or contract with an individual who possesses current certification as an arborist from the International Society of Arboriculture (ISA) or an individual that holds a post-secondary degree in urban forestry, arboriculture, or an equivalent area of study as approved by the EEDD Director.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

Councilmember Koppen moved to approve the City of Maplewood tree standards.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

Councilmember Koppen moved to approve an ordinance reconfiguring the City's environmental chapters.

Ordinance 962
An Ordinance Reconfiguring the City's Environmental Chapters

The Maplewood City Council approves changes to the Code of Ordinances pertaining to environmental chapters. This ordinance amends and reconfigures Chapter 38 (Trees), Chapter 12 (Buildings and Building Regulations), and Chapter 18 (Environment) as follows:

Section 1. This section reflects the new Chapter 18 (Environment) outline.

Chapter 18 (ENVIRONMENT)

Article I. In General

Article II. Nuisances

Article III. Erosion and Sedimentation Control

Article IV. Air Pollution Control

(Article V through VIII are moved to the new Article V [Environment and Natural Resources])

Article V. Environment and Natural Resources

(Div. 1-8 are moved from other areas of the Code including Chapters 12, 18 and 38)

Division 1. Generally

Division 2. Wetlands and Streams

Division 3. Trees

Division 4. Stormwater Management

Division 5. Renewable Energy

Division 6. Flood Plain Overlay District

Division 7. Slopes

Division 8. Mississippi Critical Area

Section 2. This section removes Chapter 38 (Trees) in its entirety. Portions of Article 2 (Shade Tree Disease Control) have been moved to Chapter 18 (Environment) and revised as noted in Section 4 below.

Section 3. This section removes Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area) in its entirety. Portions of this Article have been moved to Chapter 18 (Environment) as noted in Section 4 below.

Section 4. This section revises Chapter 18 (Environment) to include:

1. A new outline and reordering of Articles and Divisions within Chapter 18;
2. Revisions to Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area), Sections 12-247 and 12-248 (Purpose and Applicability) to include moving to Chapter 18, Article V, Division 1 (Generally).
3. Revisions to Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area), Sections 12-310 through 12-336 (Wetland and Streams) to include moving to Chapter 18, Division 2 (Wetlands and Streams).
4. Revisions to Chapter 18 (Environment), Article V (Environmental Preservation and Protection of Trees and Woodlands) to include moving to Chapter 18, Article V, Division 3 (Trees) and revising the language.
5. Revisions to Chapter 18 (Environment), article VII (Stormwater Management) to include moving to Chapter 18, Article V, Division 4 (Stormwater Management).
6. Revisions to Chapter 18 (Environment), Article VIII (Renewable Energy Systems) to include moving to Chapter 18, Article V, Division 5 (Renewable Energy).
7. Revisions to Chapter 18 (Environment), Article VI (Floodplain Ordinance) to include moving to Chapter 18, Article V, Division 6 (Flood Plain Overlay District).
8. Revisions to Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area), portions of Section 12-249 (Definitions), all of Section 12-308 (Slopes), and all of Section 12-309 (Erosion

- Control and Soils) to include moving to Chapter 18, Article V, Division 7 (Slopes and Erosion Control).**
- 9. Revisions to Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area), portions of Section 12-249 (Definitions), all of Section 12-307 (Scope) to include moving to Chapter 13, Article V, Division 8 (Mississippi Critical Area and Slopes).**

Chapter 18

ENVIRONMENT

Article I. In General

Sec. 18-1 - 18-25. Reserved.

Article II. Nuisances

Division 1. Generally

Sec. 18-26 Unlawful to cause, create or commit.
Sec. 18-27 Common law and statutory nuisances adopted by reference.
Sec. 18-28 Unlawful to permit; cellars, drains cesspools or sewers.
Sec. 18-29 Rental agents to disclose name of owner or principal to city manager upon request.
Sec. 18-30 Public nuisances generally.
Sec. 18-31 Nuisances affecting health, safety, comfort or repose.
Sec. 18-32 Nuisances affecting morals and decency.
Sec. 18-33 Nuisances affecting peace and safety.
Sec. 18-34 Enforcement of article generally.
Sec. 18-35 Continuing violations.
Sec. 18-36 Notice to abate.
Sec. 18-37 Abatement by council.
Sec. 18-38 Abatement on premises.
Sec. 18-39 Violations of article.
Sec. 18-40 Loitering.
Sec. 18-41 - 18-65. Reserved.

Division 2. Abandoned Motor Vehicles

Sec. 18-66 Purpose.
Sec. 18-67 Definitions.
Sec. 18-68 Violation.
Sec. 18-69 Taking into custody and impoundment.
Sec. 18-70 Certain vehicles declared nuisances; abatement; removal.
Sec. 18-71 Immediate sale of certain vehicles.
Sec. 18-72 Additional remedies.
Sec. 18-73 Police reports.
Sec. 18-74 Notice to owner and lien holders.
Sec. 18-75 Reclamation by owner or lien holder; preservation of lien rights.
Sec. 18-76 Sale of vehicle.
Sec. 18-77 Designation of pound keeper.
Sec. 18-78 Bond of pound keeper.

- Sec. 18-79 Insurance of pound keeper.
- Sec. 18-80 Towing and storage charges generally.
- Sec. 18-81 Release of vehicle and service fee before vehicle towed away.
- Sec. 18-82 Abatement of towing and storage charges.
- Sec. 18-83 Release of vehicles.
- Sec. 18-84 Release form.
- Sec. 18-85 Police records.
- Sec. 18-86 - 18-110. Reserved.

Division 3. Noise Control

- Sec. 18-111 Prohibition generally; exception.
- Sec. 18-112 Construction activities.
- Sec. 18-113 Enforcement.
- Sec. 18-114 -18-140. Reserved.

Article III. Erosion and Sedimentation Control

- Sec. 18-115 Purpose.
- Sec. 18-116 Scope.
- Sec. 18-117 Erosion and sediment control plan.
- Sec. 18-118 Review of plan.
- Sec. 18-119 Modification of plan.
- Sec. 18-120 Escrow requirement.
- Sec. 18-121 Enforcement; penalty.
- Sec. 18-122 -18-175. Reserved.

Article IV. Air Pollution Control

- Sec. 18-176 Short title.
- Sec. 18-177 State regulations adopted.
- Sec. 18-178 Approval required starting fire.
- Sec. 18-179 Penalties for violations.
- Sec. 18-180 -18-XXX. Reserved.

Article V. Environment and Natural Resources

Division 1. Generally.

Move Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area), Sections 12-247 and 12-248 (Purpose and Applicability) to this Division. Language as follows:

Purpose.

The purpose of this article is to protect significant natural features which:

1. Preserve the natural character of neighborhoods.
2. Protect the health and safety of residents.

3. Protect water quality.
4. Prevent erosion or flooding.
5. Manage the Mississippi River Corridor Critical Area in accordance with the Critical Areas Act of 1973, Minn. Stats. § 116G.01 et seq. the Minnesota Policy Act of 1973; and the governor's critical area designation order, Executive Order 130, dated November 23, 1976.

Applicability.

1. This article shall apply to any person or use that would alter a significant natural feature.
2. Public and semipublic projects, such as streets, utilities and parks, whether built by a public agency or private developer, shall be subject to this article, except that the city council may waive these requirements where there would be a greater public need for the project than to meet the requirements of this article. A public hearing shall be held before declaring such a waiver. The property owners within 350 feet of the site shall be notified at least ten days before the hearing.

Division 2. Wetlands and Streams.

Move Chapter 12, Article VII, Sections 12-310 to 12-336 (Wetlands and Streams) to Chapter 18, Division 2 (Wetlands and Streams) to this Division in its entirety.

Division 3. Trees

Revisions to Chapter 18, Article V (Tree Protection) to include moving to Chapter 18, Article V (Environmental Protection and Natural Resources), Division 3 (Trees) and revising the language as shown below. Also, revisions to Chapter 38 (Trees), Article II (Shade Tree Disease Control) to include moving to Chapter 18, Article V, Division 3 (Trees) and revising the language as shown below.

Sec. 1. 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 ordinance 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 storm water 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.

Sec. 2. Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this ordinance.

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

Caliper inch is a measurement used for nursery stock and in this ordinance refers to replacement trees. It is the unit of measurement for defining the diameter of the tree trunk measured six (6) inches above the soil surface for tree trunks four (4) diameter inches or less and measured twelve (12) inches above the soil surface for tree trunks greater than four (4) diameter inches.

Certified Arborist is 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 twelve (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 fifteen (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 (4.5) feet above ground. To determine diameter,

measure the circumference of the tree trunk at four and one-half (4.5) 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 are 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 sixty (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 sixty (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 fifteen (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 (6) inches in diameter for hardwood deciduous trees, eight (8) inches in diameter for conifer trees, twelve (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/aspen, silver maple, and willow.

Specimen Tree is a tree of any species that is twenty-eight (28) inches in diameter or greater, except invasive species. Specimen trees must have a life expectancy of greater than ten (10) 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 ordinance and a proposed re-forestation landscape plan. The plan shall be developed by a forestry or horticultural professional whose qualifications are approved by the EEDD Director.

Tree Standards is a separate document authorized through this ordinance 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 (1/4) acre on a vacant lot, which includes significant and/or specimen tree(s).

Sec. 3. 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 ordinance.

Sec. 4. Woodlot Alteration.

1. 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 ordinance. 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.
2. 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 fifteen (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 fifteen (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.

Sec. 5. Tree Preservation Plan.

A tree preservation plan as defined in this ordinance 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 ordinance 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 ordinance.
 - b. The following are exceptions and are exempt from the requirements of the tree preservation plan:
 - 8) Minor home additions, general home improvements, and construction of accessory buildings (i.e. garage, shed).
 - 9) Tree removal related to public improvement projects to existing roadways, sewers, parks, and utility/infrastructure work or repair.
 - 10) Emergency removal of a tree(s) to protect public health.
 - 11) Tree removal related to public improvement projects to restore or enhance woodlands, savannas, or prairies.
 - 12) Commercial tree nursery and landscape operations.
 - 13) 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.
 - 14) 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 ordinance. 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:
 - a) Sensitivity to disease.
 - b) Life span.
 - c) Nuisance characteristics.
 - d) Sensitivity to site grading.
 - e) Potential for transplanting.
 - f) Need for thinning a woodlot.
 - g) Effects on the functioning of a development.
 - h) Fragmentation of wooded area and effects on wildlife corridors.
 - i) The public health, safety, and welfare.
 - j) Effect on wetlands and/or watershed.
 - k) 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 (2) 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 twenty percent (20%) of the total significant or specimen tree diameter inches on the property is removed, the applicant shall replace one (1) tree per significant and specimen tree removed. Tree replacement shall be a minimum of two (2.0) caliper inches in size.

If twenty percent (20%) 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.

Sec. 6. Diseased and Hazardous Trees.

1. 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, Minnesota Statutes, sections 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.

2. 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 Minnesota Statute, section 89.001.

3. Public nuisances.

Public nuisances relating to trees are outlined in the Tree Standards.

4. Inspection.

- a. 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.
- b. 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.

5. Abatement of shade tree pest nuisances.

- a. 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 (10) days from the date of mailing.
- b. 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 ordinance 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 thirty (30) days, the city shall assess the costs to the property.

6. High-cost abatement.

If the cost of abating a nuisance from a shade tree pest will exceed five thousand dollars (\$5,000) 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.

7. Emergency abatement.

Nothing in this ordinance 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.

Sec. 7. Enforcement.

The city shall be responsible for the enforcement of this ordinance. Any person who fails to comply with or violates any section of this ordinance 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.

Division 4. Stormwater Management.

Move Chapter 18, Article VII (Stormwater Management) to this Division in its entirety.

Division 5. Renewable Energy.

Move Chapter 18, Article VIII (Renewable Energy) to this Division in its entirety.

Division 6. Flood Plain Overlay District

Move Chapter 18 (Environment), Article VI (Floodplain Ordinance) to this Division in its entirety.

Division 7. Slopes and Erosion Control

Move Chapter 12, Article VII, Division VII, portions of Section 12-249 (Definitions), all of Section 12-308 (Slopes), and all of Section 12-309 (Erosion control and soils) to this Division. Language as follows:

Definitions.

Direct drainage means drainage into a protected water without an intervening pond or wetland.

Erosion means the general process by which soils are removed by flowing surface or subsurface water or wind.

Gross soil loss means the average annual total amount of soil material carried from one acre of land by erosion.

Pipeline means an underground line of pipe including associated pumps, valves, control devices and other structures utilized for conveying liquids, gases, sewage or other finely divided solids from one point to another.

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

Sediment means suspended matter carried by water, sewage or other liquids.

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.

Substation means any utility structure, other than lines, pipelines, poles or towers.

Terrace means a relatively level area bordered on one or more sides by a retaining wall.

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

Vegetation means all plant growth, especially trees, shrubs, mosses or grasses.

Water body means any lake, stream, pond, wetland or river.

Slopes

1. No development shall be permitted on existing slopes of 18 percent or greater which are in direct drainage to a protected water.
3. In areas not in direct drainage to a protected water, no development shall be allowed on existing slopes greater than 40 percent.
4. No development, whether or not in direct drainage to a protected water, shall be permitted on land having an existing slope in excess of 12 percent, unless the applicant proves the following conditions are met:
 - a. Controls and protections exist uphill from the proposed development such that there is no danger of structures or streets being struck by falling rock, mud, sediment from erosion, uprooted trees or other materials.
 - b. The proposed development presents no danger of falling rock, mud, sediment from erosion, uprooted trees or other materials to structures downhill.
 - c. The view of a developed slope within the critical area from the Mississippi River and opposite river bank is consistent with the natural appearance of the undeveloped slope, consistent with any state-registered historic areas nearby, compatible with the view from historic areas, and compatible with surrounding architectural features.
 - d. The city engineer may require the developer to provide a soils engineer to certify the stability of potentially unstable slopes.
4. The basic character of natural slopes of 25 percent or more in grade shall not be altered without approval from the city council. The council shall base its decision on the following:
 - a. The degree of alteration of the slope; and
 - b. The importance of the slope to the character of the area.
5. All new structures and roads shall be placed no closer than 40 feet from a bluffline. Exceptions shall be as follows:
 - a. Public recreation facilities, scenic overlooks, public observation platforms or public trail systems.
 - b. The construction of aboveground pumping stations.

- c. Other development, when the applicant can conclusively demonstrate that construction or final development will not negatively impact slopes with a grade of 18 percent or greater.
 - d. All other structures, other than buildings and roadway surfaces, but including retaining walls, shall meet the following design requirements:
 - 1) Retaining walls or terrace contours in excess of four feet in height shall have a fence.
 - 2) Construction materials shall be subject to community design review board approval.
6. The requirements of this section shall not apply in the following situations:
- a. Where a slope has been substantially altered by prior excavation or filling.
 - b. Where a slope is less than 200 feet in length (top to bottom) or 500 feet in width (side to side).
 - c. Where earth-sheltered homes are proposed.

Erosion control and soils.

- 1. All erosion control, stormwater runoff, utility and similar structures shall be designed to be maintained and operated without requiring the crossing or operation of heavy maintenance vehicles and equipment, such as bulldozers, trucks and backhoes, on slopes in excess of eight percent. This requirement may be waived by the city council where there is no other alternative.
- 2. Construction shall not be allowed where there are soil problems, including but not limited to soil-bearing strength, shrink/swell potential or excessive frost movement, unless effective soil correction measures or building construction methods are approved by the building official.
- 3. Development shall be accomplished only in such a manner that on-site gross soil loss levels shall not exceed five tons per acre per year during construction, but only two tons per acre per year when the site is adjacent to a water body, watercourse or storm sewer inlet, and one-half ton per acre per year after construction activities are completed.
- 4. A development shall be located to minimize the removal of vegetation and alteration of the natural topography.
- 5. Erosion protection measures shall make maximum use of natural, in-place vegetation, rather than the placing of new vegetation on the site.

Division 8. Mississippi Critical Area and Slopes.

Move Chapter 12 (Buildings and Building Regulations), Article VII (Environmental Protection and Critical Area), portions of Section 12-249 (Definitions), all of Section 12-307 (Scope) to this Division. Language as follows:

Definitions

Bluffline means a line delineating a top of a slope with direct drainage to a protected water, connecting the points at which the slope becomes less than 18 percent. More than one bluffline may be encountered proceeding landward from a protected water.

Critical area means the Mississippi River Corridor Area bounded by Carver Avenue, I-494 and the city limits.

Protected water, formerly referred to as "public waters," means any water defined in Minn. Stats. § 105.37, subd. 14.

Significant water body means a water body shown on the city drainage plan or a water body over one acre in area.

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

Significant natural feature means a significant water body, a large tree, a woodlot, a significant slope or a site of historical or archeological significance that has been recorded with the state.

Significant slope means a natural slope of 25 percent or more grade over an area at least 200 feet in length (top to bottom) and 500 feet in width (side to side).

Generally.

1. Under this article all plans and the conduct of all grading, landscaping, structure placement, and street routing shall be consistent with the city's comprehensive plan, and for development in the Mississippi River Corridor Critical Area, the Maplewood Critical Area Plan.
2. The proposed development shall not lessen existing public access to and along a protected water.
3. The proposed development shall be designed, constructed and maintained to avoid causing:
 - a. Erosion.
 - b. Pollution, contamination or siltation of water bodies or storm sewers.
 - c. Flooding.
 - d. Groundwater contamination.
 - e. Alteration of significant natural features.
4. Development shall not substantially diminish the scientific, historical, educational, recreational or aesthetic value of unique natural areas, plants and animals, which are registered with the state as such, and shall not substantially alter their reproductive cycles.
5. Views of protected waters from buildings or public streets shall not be impaired by the placement of advertising signs.

Seconded by Councilmember Juenemann

Ayes – All

The motion passed.

I. UNFINISHED BUSINESS

1. Update on Community Racial Equity Initiative

City Manager Coleman gave the staff report and answered questions of the council. Councilmember will let City Manager Coleman know if they are interested in participating. Coleman will notify the council of times and dates that have been established for the meetings.

No action required this item was presented for informational purposes.

J. NEW BUSINESS

1. Consider a Conditional Use Permit Amendment and Design Review, Maplewood Auto Mall, 2529 White Bear Avenue

Economic Development Coordinator Martin gave the staff report. Commissioner Kempe gave the reports from the Planning Commission and Community Design Review Board. Nick Sperides, applicant from Maplewood Auto Mall addressed the council to answer questions and give additional information.

Councilmember Koppen moved to approve the resolution approving a conditional use permit amendment for auto repair, auto detailing, auto rental, used auto sales, auto washing and expansion of a nonconforming parking lot at 2529 White Bear Avenue. Approval is based on the findings required by the code and subject to the following conditions:

1. All building expansion improvements for the Maplewood Auto Mall (Cooper Motors) shall follow the plans, date-stamped October 26, 2015. The applicant shall meet the requirements of the city engineer report, dated November 9, 2015 and the environmental planner report, dated November 10, 2015. The director of the environmental and economic development department may approve minor changes.
2. The property owner shall comply with the signage requirements of the city code and the auto center's sign criteria.
3. Fire protection systems (fire extinguishers and a sprinkler system) shall meet all requirements of the code. These systems shall be approved and installed before the applicant begins his business.
4. All vehicles on-site shall be operational.
5. Ensure that there is no illegal parking on the site including no parking on the grass and no stacking of vehicles (i.e., two vehicles to one stall).
6. Ensure that the entire site is cleared of trash including all illegally dumped material located within the drainage ditch behind the auto mall.

7. Ensure that trash dumpsters are placed inside enclosures at all times.
8. Ensure that the site is in compliance with the city's temporary sign ordinance including obtaining a sign permit for all temporary signs over 12 square feet and only allowing one temporary sign per business located within the center.
9. Ensure that all landscaped areas are maintained including removing all weeds from the landscaped area around the base of the center's pylon sign.
10. There shall be no parting-out of vehicles outside the building and left in the parking lot.
11. Auto salvage businesses are prohibited from operating at this site.
12. The parking lot shall be kept clear of junk and dirt.
13. All service work that is needed on vehicles shall be completed inside a proper service garage. All garage doors shall be closed anytime vehicle repair work is in progress.
14. There shall be an after-hours contact person on record with the city's emergency dispatcher.
15. If the building occupancy changes, the property owner shall comply with all applicable code requirements relative to the new building use. A building permit may then be required.
16. Verify that the parking on-site does not obstruct fire department access for their trucks.
17. All tenants at the Maplewood Auto Center must adhere to the parking plan, dated November 17, 2015, as submitted by the property owner to city staff. A parking plan needs to be filed with city staff at all times indicating the property is meeting the minimum parking requirements and how the spaces are allocated to each tenant. A new parking plan shall be filed any time a suite changes use or the building is physically altered in any way. A new plan shall be filed with the city reflecting the expansion of the existing parking lot.
18. Parking in the center of the canopy, adjacent to the 2529 building, shall be for inventory only. A no customer parking sign shall be posted.
19. The city council shall review this permit in one year.
20. The property owner shall provide city staff a plan for trash removal or design plans for a new enclosed structure for the 2529 building, subject to the city's design review process.
21. The property owner or manager is responsible for compliance of all conditions listed in this permit. If any tenant is found out of compliance the city will notify the property owner or manager in order to rectify the situation.
22. The expanded nonconforming parking lot shall maintain its existing setback.

Resolution
CONDITIONAL USE PERMIT RESOLUTION

WHEREAS, this permit for the Maplewood Auto Mall allows auto repair, auto detailing, auto rental, used auto sales, auto washing and the expansion of a nonconforming parking lot.

WHEREAS, this permit applies to property located at 2529 White Bear Avenue. The legal description is:

Lot I, Block 1, Maple Ridge Mall, according to the recorded plat thereof, Ramsey County, Minnesota, together with that part of Lot 2, said Block I, lying north of the westerly extension of the south line of said Lot 1.

Which lies easterly and northerly of a line described as beginning at the northwest corner of said Lot 1; thence on an assumed bearing of South 89 degrees 25 minutes 17 seconds West, along the north line of said Lot 2, a distance of 136.21 feet to the point of beginning of the line to be described; thence South 0 degrees 42 minutes 53 seconds East 163.86 feet; thence North 89 degrees 14 minutes 53 seconds East 299.59 feet to the easterly line of said Lot I and said line there terminating. (PIN 11-29-22-22-0043)

WHEREAS, the history of this conditional use permit is as follows:

1. On November 17, 2015, the planning commission held a public hearing and recommended that the city council approve this permit. The city staff published a notice in the paper and sent notices to the surrounding property owners. The planning commission gave everyone at the hearing a chance to speak and present written statements. The planning also considered reports and recommendations of the city staff.
2. On December 21, 2015, the city council reviewed this proposal. The council also considered reports and recommendations of the city staff and planning commission.

NOW, THEREFORE, BE IT RESOLVED that the city council approves the above-described conditional use permit based on the building and site plans. The city approved this permit because:

1. The use would be located, designed, maintained, constructed and operated to be in conformity with the City's Comprehensive Plan and this Code.
2. The use would not change the existing or planned character of the surrounding area.
3. The use would not depreciate property values.
4. The use would not involve any activity, process, materials, equipment or methods of operation that would be dangerous, hazardous, detrimental, disturbing or cause a nuisance to any person or property, because of excessive noise, glare, smoke, dust, odor, fumes, water or air pollution, drainage, water run-off, vibration, general unsightliness, electrical interference or other nuisances.
5. The use would not exceed the design standards of any affected street.
6. The use would be served by adequate public facilities and services, including streets, police and fire protection, drainage structures, water and sewer systems, schools and parks.

7. The use would not create excessive additional costs for public facilities or services.
8. The use would maximize the preservation of and incorporate the site's natural and scenic features into the development design.
9. The use would cause no more than minimal adverse environmental effects.

Approval is subject to the following conditions:

1. All building expansion improvements for the Maplewood Auto Mall (Cooper Motors) ~~used auto sales business~~ shall follow the plans, date-stamped October 26, 2015 approved by the city. The applicant shall meet the requirements of the city engineer report, dated November 9, 2015 and the environmental planner report, dated November 10, 2015. The director of ~~community development~~ the environmental and economic development department may approve minor changes.
2. The property owner shall comply with the signage requirements of the city code and the auto center's sign criteria.
3. Fire protection systems (fire extinguishers and a sprinkler system) shall meet all requirements of the code. These systems shall be approved and installed before the applicant begins his business.
4. All vehicles on-site shall be operational.
5. Ensure that there is no illegal parking on the site including no parking on the grass and no stacking of vehicles (i.e., two vehicles to one stall).
6. Ensure that the entire site is cleared of trash including all illegally dumped material located within the drainage ditch behind the auto mall.
7. Ensure that trash dumpsters are placed inside enclosures at all times.
8. Ensure that the site is in compliance with the city's temporary sign ordinance including obtaining a sign permit for all temporary signs over 12 square feet and only allowing one temporary sign per business located within the center.
9. Ensure that all landscaped areas are maintained including removing all weeds from the landscaped area around the base of the center's pylon sign.
10. There shall be no parting-out of vehicles outside the building and left in the parking lot.
11. Auto salvage businesses are prohibited from operating at this site.
12. The parking lot shall be kept clear of junk and dirt.
13. All service work that is needed on vehicles shall be completed inside a proper service garage. All garage doors shall be closed anytime vehicle repair work is in progress.

14. There shall be an after-hours contact person on record with the city's emergency dispatcher.
15. If the building occupancy changes, the property owner shall comply with all applicable code requirements relative to the new building use. A building permit may then be required.
16. Verify that the parking on-site does not obstruct fire department access for their trucks.
17. All tenants at the Maplewood Auto Center must adhere to the parking plan, dated ~~July 8, 2013~~ November 17, 2015, as submitted by the property owner to city staff. A parking plan needs to be filed with city staff at all times indicating the property is meeting the minimum parking requirements and how the spaces are allocated to each tenant. A new parking plan shall be filed any time a suite changes use or the building is physically altered in any way. A new plan shall be filed with the city reflecting the expansion of the existing parking lot.
18. Parking in the center of the canopy, adjacent to the 2529 building, shall be for inventory only. A no customer parking sign shall be posted.
19. The city council shall review this permit in one year.
20. The property owner shall provide city staff a plan for trash removal or design plans for a new enclosed structure for the 2529 building, subject to the city's design review process.
21. The property owner or manager is responsible for compliance of all conditions listed in this permit. If any tenant is found out of compliance the city will notify the property owner or manager in order to rectify the situation.
22. The expanded nonconforming parking lot shall maintain its existing setback.

Councilmember Koppen moved to approve the design plans date-stamped October 26, 2015 for the building addition and expansion of the nonconforming parking lot for the site located at 2529 White Bear Avenue. Approval is subject to the following conditions:

1. Approval of design plans is good for two years. If the applicant has not begun construction within two years, this design review shall be repeated. Staff may approve minor changes.
2. The applicant's proposed addition to the parking lot shall not be any closer to the north property line than the setback established by the existing parking lot.
3. The building materials and colors used for the building addition shall match the materials and colors for the existing building.
4. The additional parking spaces shall be striped per ordinance requirements.
5. Prior to issuance of a grading or building permit, the applicant must submit a cash escrow or an irrevocable letter of credit for all required exterior improvements. The amount shall be 125 percent of the cost of the work.

6. Satisfy the requirements set forth in the staff report authored by staff engineer Jon Jarosch, dated November 9, 2015.
7. Satisfy the requirements set forth in the staff report authored by environmental planner Shann Finwall, dated November 10, 2015.

Seconded by Councilmember Juenemann Ayes – All

The motion passed.

2. Consider Approval of City Attorney Contract

City Manager Coleman gave the staff report.

Councilmember Cardinal moved to approve that City Manager Coleman be authorized to enter into a contract with H. Alan Kantrud to serve as the Maplewood City Attorney – Civil Services from January 1, 2016 thru December 31, 2018.

Seconded by Councilmember Koppen Ayes – All

The motion passed.

K. AWARD OF BIDS

None

L. ADMINISTRATIVE PRESENTATIONS

1. Council Calendar Update

City Manager Coleman gave the update to the council calendar.

M. COUNCIL PRESENTATIONS

1. Natural Living Expo

Councilmember Juenemann reported on the Natural Living Expo that took place on Saturday, December 5, 2015 at the Maplewood Community Center.

2. Recycle Your Holidays

Councilmember Juenemann informed citizens that Maplewood is part of the recycling used holiday lights. Receptacles will be available at City Hall, Maplewood Community Center and 1902 Building.

3. Christmas Tree Disposal

Councilmember Juenemann informed residents that Republic Services will be offering free Christmas tree disposal the first two weeks of January. It is requested that your trees be put alongside of your trash bin for pickup.

4. Energize Maplewood

Councilmember Juenemann reported that the Energize Maplewood challenge is starting up January 1, 2016 through May 31, 2016. Additional information will be available on the City's website.

5. Thanks for Service

This item was reported on at the end of Council Presentations.

6. Maplewood Bruentrump Heritage Farm

Councilmember Cardinal reported on press release regarding the Maplewood Bruentrump Heritage Farm receiving the 2015 Best of Maplewood Award.

Councilmember Cardinal wished Bryan Smith and Tou Xiong the very best in serving on the City Council.

Councilmember Cardinal thanked Marv Koppen for serving on the council and added it was a pleasure to serve with him. He added that it was pleasure serving with Mayor Slawik and Councilmembers Abrams and Juenemann.

7. Rush Line

Mayor Slawik reported on the Rush Line Meetings she attended; one with developers and the other meeting regarding where the Line is coming out of St. Paul to Maplewood.

Mayor Slawik reported on the Kid City event that took place on Saturday, December 19, 2015 at the Maplewood Mall.

Mayor Slawik wished everyone a safe and happy holiday.

Councilmember Juenemann thanked Councilmember Cardinal, Councilmember Koppen and their families for their years of service to the City of Maplewood.

Councilmember Abrams thanked Councilmember Cardinal and Councilmember Koppen for their service to the City of Maplewood.

N. VISITOR PRESENTATION – This item was heard after M Visitor Presentations.

1. John Wykoff, Maplewood Resident
2. Bob Zick, North St. Paul Resident
3. Mark Bradley, Maplewood Resident

O. ADJOURNMENT

Mayor Slawik adjourned the meeting at 9:01 p.m.