



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
May 10, 2011 – 7 PM**

Planning Commission will hold a work session on May 10, 2011. Work sessions are informal. Public may attend.

Work sessions are informal meetings where the Commission and staff can discuss topics but no formal action is taken from these meetings. Work sessions are open to the public in accordance with public meeting laws.

Planning Commission Work Session agenda items:

1. Trees on Private Property update and discussion
 - a. Goals and Objectives
 - b. Alternatives
 - c. Dessert and Discussion Follow-up

Next Meeting:

May 24, 2011 – Work Session – Continued Code Clean-Up

**WORK SESSION
AGENDA ITEM a.**



Home of the Tualatin River National Wildlife Refuge

MEMORANDUM

City of Sherwood
22580 SW Pine St
Sherwood, OR 97140
Tel: 503-625-5522
Fax: 503-625-3524
www.sherwoodoregon.gov

Mayor
Keith Mays

Council President
Dave Grant

Councillors
Lisa Anderson
Randy Benson
Bill Burtchfield
Mick Lange
Mark Linton

City Manager
Jim Paterson

DATE: May 3, 2011
TO: Planning Commission
FROM: Zoe Monahan, Assistant Planner
SUBJECT: Goals and Objectives

The Planning Commission received the proposed goals and objectives at the March 8, 2011 Planning Commission Meeting. The goals and objectives that were originally proposed were developed using the *ISA Guidelines for Developing and Evaluating Tree Ordinances* as a starting point. It listed many possible goals and provisions for community forest programs which include program goals pertaining to trees on private property, overall tree health and diversity, street trees as well as facilitation of tree related conflict between citizens. The goals and objectives have been updated to reflect the Planning Commission discussion from that meeting, prior to asking the commission to finalize the goals and objectives.

As we start to develop the proposed language it is important to have the goals and objectives in order to ensure that the revisions are meeting the goals and objectives. They have been discussed in the past however the Planning Commission has not yet given their final approval. The goals and objectives were presented at the "dessert and discussion" and staff will provide a summary of feedback received at the May 10, 2011 meeting.

Attachment: Draft Goals and Objectives

Tree Code Update: Goals and Objectives
Part of the Code Clean-up Project

Goal 1: Establish and maintain the maximum quality tree cover.

Objective: Encourage the preservation of natural habitat for wildlife.

Objective: Encourage the preservation of established tree stands during development.

Goal 2: Maintain trees in a healthy condition through good cultural practices.

Objective: Conserve woodland resources during development.

Objective: Provide clear tree maintenance guidelines for citizens and developers.

Objective: Establish clear guidelines for safely removing trees that are unhealthy or posing a threat to life or property.

Goal 3: Establish and maintain an ideal level of tree diversity in age and species.

Objective: Establish clear planting requirements.

Objective: Conserve woodland resources during development.

Goal 4: Foster community support for the local urban forestry program and encourage good tree management on privately-owned properties

Objective: Provide clear tree maintenance guidelines for citizens and developers.

Objective: Establish a committee to review the tree standards periodically

Goal 5: Establish clear, fair and easily implemented code changes that meet Sherwood's current values.

Objective: Establish regulations that provide clear and diverse options to citizens and developers.

Objective: Create code changes that are consistent with the community's values on trees.

Goal 6: Revise or maintain tree standards that meet the values of the community and provide clear and reasonable standards that seek to preserve trees that are valued by the community without causing unnecessary hardships for developers

Objective: Promote retaining natural tree groves without penalizing developers who develop heavily wooded lots.

**WORK SESSION
AGENDA ITEM b.**



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DATE: May 3, 2011
TO: Planning Commission
FROM: Zoe Monahan, Assistant Planner
SUBJECT: Tree Mitigation and Removal discussion

Mayor
Keith Mays
Council President
Dave Grant

Councilors
Linda Henderson
Robyn Folsom
Bill Butterfield
Matt Langer
David Luman

City Manager
Jim Patterson

There are many mitigation and removal options to consider as the Tree Code review moves forward. The Planning Commission discussed options for tree mitigation and removal at the March 8, 2011 Planning Commission meeting. At that meeting the following concepts were discussed:

- o Density transfer to allow stands of trees to be retained
- o Maintenance of existing trees and vegetation (in lieu of some or all mitigation)
- o Set standards based on the purpose of the land (i.e. have different mitigation requirements for residential vs. commercial/ industrial land)
- o Create incentives for commercial and industrial uses



2009 Top Ten Selection



2007 18th Best Place to Live

The Planning Commission also suggested that we consider tree removal standards for development vary by zone. The commission thought that there would be merit in removal and mitigation requirements that reflect the intent or purpose of the zone. Additionally, we have heard that there is an interest in reviewing tree stands rather than individual trees. We have also heard that there is an interest in exploring maintenance of existing trees groves as a form of mitigation.



In order to help the Planning Commission evaluate options that can provide the flexibility, fairness and consistency that both developers and urban foresters have expressed an interest in, the Oregon Model Code and neighboring jurisdictions have been evaluated. At the May 10th work session we will look at Lake Oswego's code (the tree panel indicated they liked it because it was fair) and we will look at Beaverton's tiered tree plan and Tigard's current and proposed tree standards. This will start our discussion about tree mitigation and removal alternatives. The codes provide different perspectives that could help us to regulate trees in a way that best addresses our goals and objectives.

Additional materials will be presented to the May 10, 2011 work session.

**WORK SESSION
AGENDA ITEM c.**



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DATE: May 3, 2011
TO: Planning Commission
FROM: Zoe Monahan, Assistant Planner
SUBJECT: Dessert and Discussion: Trees

The Planning Department held a “Dessert and Discussion” event on May 2, 2011. The event was designed to provide an opportunity for homeowner’s association members and interested parties to mingle and discuss their thoughts about trees. We explained where we are at in the tree code update. We wanted to get their thoughts, as community leaders, to help us shape the tree code language.

In order to gather information we asked a series of questions for small groups to discuss. Then, we asked the participants to fill out a questionnaire to get their individual input. A detailed summary of the event along with the results of the questionnaire will be provided at the Planning Commission meeting on May 10, 2011. This information and the Planning Commission’s direction at the May 10, 2011 meeting will help staff to develop draft “Trees on Private Property” code language.

Participants were asked to help us engage others in their HOA and Neighborhoods to inform the community about the project and to get addition feedback. We will follow up with more information on the responses from this level of outreach at the May 24, 2011 Planning Commission meeting.



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DATE: May 10, 2011
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SUBJECT: Tree Mitigation and Removal discussion

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There are many mitigation and removal options to consider as the Tree Code review moves forward. The Planning Commission discussed options for tree mitigation and removal at the March 8, 2011 Planning Commission meeting. At that meeting the following concepts were discussed:

- o Density transfer to allow stands of trees to be retained
- o Maintenance of existing trees and vegetation (in lieu of some or all mitigation)
 - o Set standards based on the purpose of the land (i.e. have different mitigation requirements for residential vs. commercial/ industrial land)
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2009 Top Ten Selection



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The Planning Commission also suggested considering tree removal standards for development to vary by zone. The Commission thought that there would be merit in removal and mitigation requirements that reflect the intent or purpose of the zone.

In order to help the Planning Commission evaluate options that can provide the flexibility, fairness and consistency that both developers and foresters have expressed an interest in, the Oregon Model Code and neighboring jurisdictions have been evaluated. In this memo, we highlight three specific codes with very different procedures:

- Strict but consistent (Example: Lake Oswego)
- Flexible and incentive based (Example: Tigard)

- Tiered with increasing review when specific threshold are reached (Example: Beaverton)

Lake Oswego

The Tree Panelists from the February 8, 2011 tree panel discussion expressed how much they like Lake Oswego's code because it is fair. They mentioned that it is strict however it is consistent. They appreciate knowing that the code will be the same every time that they develop in Lake Oswego. In staffs review of their tree standards we believe it would be very hard to administer this given tree permits are required to remove anything defined as a tree from any property. The process varies based on the size, location and condition of the tree. There is also a process to review the tree removal that is part of a development proposal as well as required verification permit in order to remove the trees for development. The trees that are removed must be mitigated for per the conditions of approval from the original development permit.

City of Tigard

Tigard's current tree removal code and Tigard's revised urban forestry plan have been reviewed in more detail to provide examples of incentive for tree retention. Tigard's tree codes were reviewed because of the flexibility of the regulations and similar standards could be implemented in Sherwood.

The City of Tigard's current standards offer incentives for tree retention. Tigard's mitigation requirements vary based on the percentage of trees that are retained during development. As an added incentive they provide flexible standards that include: density bonus, lot size averaging, lot width and depth reduction, as well as commercial, industrial or civic use (institutional Public) parking and landscaping reduction. Tigard's incentive standards are options that could be considered for residential, commercial and industrial developments as they are applicable.

Tigard's tree code aims to assist in tree preservation by providing flexible standards to developers. The standards have to be requested during the land use process. The proposed language includes lot size averaging and setback reductions for retaining trees. The required off street parking and landscaping can be reduced in commercial/industrial/civic use (institutional public) "for each 2% of effective tree canopy cover provided by trees incorporated into the development plan." The

reduction is allowed up to 20%. Finally, the sidewalk location can be flexible in order to preserve trees.

City of Beaverton

Beaverton's Tree Plan section of the code has different thresholds to determine what level of review is required for tree removal. First, they allow the removal of up to four community trees or up to 10% of the community trees on site whichever is greater in a calendar year. There is also an exemption that allows properties one-half acre or less with a detached home to remove any amount of community trees. This is similar to our requirement that allows up to 5 trees to be removed per acre per year however we limit the size of the trees. If the Planning Commission were to select a requirement similar to Beaverton's code then Sherwood's current standard could remain the same for some zones while allowing property owners in other zones the ability to remove any trees on their property.

If trees exceed the threshold discussed above then a tree plan is required. There are tree plans one, two and three which require more review as the tree plan level increases. They specifically list what would fall under each tree plan as well as the process and the approval criteria. The City of Beaverton's tree plan model is a good example of clearly defining the process and when there should be additional review for different types of situations.

The City of Beaverton requires tree mitigation for a percentage of significant trees or trees within significant groves that are removed. The mitigation for significant trees or landscape trees can be done with a 1 for 1 DBH requirement or a fee in lieu. Trees that are removed through a land use review should be mitigated for per the mitigation standards above however, if the applicant can show that the site cannot accommodate the mitigation trees then they are not required.

Other Considerations

Certainly, we can pick out elements of several jurisdictions standards to develop standards that best meet our needs. Beaverton's standards as well as Tigard's could fit.

Coniferous vs. Deciduous Trees

The Planning Commission could consider different replacement standards for coniferous and deciduous trees. An option would be to

require that the property owner is required to replace the trees with a percentage of the type (coniferous or deciduous) of trees that were removed, assuming that the appropriate percentage were planted originally. These trees provide different benefits and different habitats for animals and birds. The trees also have differing root structures and growth rate. These factors should be considered when planting trees and perhaps it should be considered

Tree Stands vs. Individual Trees

We have heard that there is value in retaining existing tree stands over individual trees. Often, there can be a focus on specific trees that if not considered as a whole (part of the stand) may result in higher risk of damage if retained. This debate over individual trees can be time consuming and frustrating for developers. If there is only one tree worth saving in a tree stand then the tree that is saved maybe at a higher risk of wind damage, etc. It might be worth considering having more incentives and flexibility for preserving stands, with a higher degree of scrutiny to the root structure of remaining trees if fewer are retained (to ensure the tree will not be vulnerable to damage).

We could consider standards that provide incentives for saving a large percentage of an existing tree stand by reducing or eliminating the need to mitigate. This would be a benefit since the preservation of a large tree stand will provide more value to the community, aesthetically and environmentally, than replanting individual trees around the development. For example; a developer could save 75% of an existing tree stand onsite for the residents or tenants of the development and they would not have to mitigate for the 25% of the stand that was removed, provided that the integrity of the tree stand is preserved (i.e. the trees along the perimeter of the tree stand are retained for the most part.)

Maintenance as Mitigation

There have been situations when there have been groves of trees that are in need of maintenance. By removing invasive species or providing extra care, the trees could become healthier or reduce the need for some of the existing trees to be removed. A threshold for maintenance as a form of mitigation would need to be established as well as a limit on the amount of mitigation that can be used toward the total required mitigation. As an example; we could allow that the maintenance for an existing tree stand be counted toward 25% of the total required mitigation or the maintenance of trees to count as ¼ mitigation (example: if you have ten (10) total trees and remove five (5), and you

improve the health of the remaining five (5) by pruning, removing invasive, etc. you can count these trees as 1.25 in mitigation thereby reducing the total number of trees you need to plant or pay a fee-in-lieu for mitigation.

Tree Canopy

We have heard a lot about the value of the tree canopy. We also heard at the dessert and discussion that there is an interest in retaining and increasing our tree canopy. They agreed that there should be a balance between the canopy cover and the ability to remove trees on private property. The overall tree canopy cover has an impact on the community since it provides shade, air quality and aesthetics. The community has expressed an interest in the listed aspects that tree canopy's provide. We might want to consider requiring that developers provide or retain a specific percentage of tree canopies. This percentage could vary based on the zone. The developer could preserve existing trees and/or plant new trees or pay the fee in lieu for the remaining percentage, to meet the requirement. This would provide an incentive for developers to retain existing mature trees to avoid the cost of planting new trees.

Inch for Inch vs. Tree for Tree

It is recommended that the city consider changing the current inch for inch mitigation standard to tree for tree. As we heard from the urban foresters, the inch for inch standards provides more canopy cover than the existing trees and the addition of the increased number of trees can lead to unhealthy replacement trees. There are also additional tree removal costs to the property owner over time due to the extra trees that are planted as mitigation. It is recommended that we explore moving toward a tree for tree replacement standard.

Zoning

The Planning Commission had also expressed an interest in looking at different standards for different zones based on the intent of the zone. Below is a list of zoning types and the intent of that zone as described in the development code.

Residential: Provide for varying densities of housing.

Institutional Public: "Provides for major institutional and governmental activities such as schools, public parks, churches, government offices, utility structures, hospitals, correctional facilities and other similar public and quasi-public uses."

Commercial: "Provides areas for general retail and service uses."

Industrial: "Provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials."

The city can explore different requirements for removal and mitigation based on the zone in order to ensure a proper balance between trees and the ability to develop.

ATTACHMENTS:

City of Lake Oswego

City of Tigard current Tree code standards

City of Beaverton Tree Plan

City of Tigard proposed Urban Forestry standards

Attachment A: City of Lake Oswego

Chapter 55 TREES

Article 55.02 Tree Removal.

Section 55.02.010 Purpose.

The purpose of this chapter is to regulate the removal of trees and prescribe preventative protection measures to avoid damage to trees during site development in order to preserve the wooded character of the City of Lake Oswego and to protect trees as a natural resource of the City.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12-20-94)

(Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.020 Definitions.

Arborist means a person who has met the criteria for certification from the International Society of Arboriculture and maintains his or her accreditation.

Caliper Inch refers to a manner of expressing the diameter inches of a tree as calculated by measuring the tree's circumference and dividing by Pi (approximately 3.14159). Specially calibrated "diameter tapes" or "calipers" are used to determine caliper inches.

City Manager means the City Manager or the City Manager's designee.

Dead Tree means a tree is lifeless. Such evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.

Diameter at breast height or DBH means the diameter of the trunk, at its maximum cross section, measured 54 inches (4 1/2 feet) above mean ground level at the base of the trunk.

Dripline means an imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.

Person means any individual or legal entity.

Removal means to cut down a tree or remove all or 50% or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline and/or die. "Removal" includes but is not limited to topping, damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees.

Single family dwelling for the purpose of this chapter means any of the following: a detached home, a townhouse or rowhouse, a zero-lot line dwelling, duplex, or a condominium unit where the tree cutting permit relates to a tree located in the private yard of such a unit.

Topping means the severe cutting back of a tree's limbs to stubs 3 inches or larger in diameter within the tree's crown to such a degree so as to remove the natural canopy and disfigure the tree.

Tree means any woody plant having a trunk 5 caliper inches or larger in diameter at breast height (DBH). If a tree splits into multiple trunks above ground, but below 4.5 feet, the trunk is measured at its most narrow point beneath the split, and is considered one tree. If the tree splits into multiple trunks below ground, each trunk shall be considered one tree. For the purposes of this Chapter, English laurel, photinia, arborvitae, poison oak, and English ivy shall not be considered a "tree".

Tree Cutting Permit means written authorization from the City for a tree removal to proceed as described in an application, such authorization having been given in accordance with this chapter.

Tree Protection Zone means the area reserved around a tree or group of trees in which no grading, access, stockpiling or other construction activity shall occur as determined by the City manager to be appropriate based on review of the tree and site conditions.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 1631, Sec. 1; 07-20-76. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12-20-94)

(Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.030 Prohibited Activities.

1. No person shall remove a tree without first obtaining a tree cutting permit from the City pursuant to this Chapter.

2. No person shall top a tree without first obtaining a topping permit from the City pursuant to this Chapter.

3. No person who is required to install or maintain tree protection measures per LOC Article 55.08 shall do any development activities including, but not limited to clearing, grading, excavation or demolition work on a property or site which requires ministerial, minor or major development approval without approved tree protection measures properly installed and maintained pursuant to this Chapter.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12-20-94)

(Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.035 Tree Removal in Conjunction with Major or Minor Development Permit.

1. If a Major or Minor Development Permit applied for pursuant to LOC Article 50.79 would require or result in tree removal and/or a tree cutting permit as defined in this Chapter, compliance with LOC 55.02.080 shall be a criterion of approval of such development permit. Tree removals in conjunction with a Major or Minor Development Permit shall be considered in conjunction with such permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed Major or Minor Development pursuant to LOC Articles 50.82 and 50.84. The required Notice for Major or Minor Developments that would require or result in tree removals shall include a site plan indicating the location of any trees proposed for removal on the subject site. The proposed trees shall also be flagged with yellow flagging tape on site. Such flagging shall be maintained until a final decision on the proposal is rendered. The remaining, notice, hearing and appeal procedures in LOC Chapter 55 shall not apply to tree removals considered in conjunction with a Major or Minor Development request. Subsequent tree removals that have not been reviewed through either Major or Minor Development procedures shall be reviewed as provided in this Chapter.

2. Once a final decision has been rendered on the Major or Minor Development Permit, trees that have been approved for removal as part of that decision shall be subject to the verification permit process. Applications for verifications shall be made on the application forms as prescribed by the City Manager and be accompanied by an application fee as established by resolution of the City Council. The purpose of the verification process is to ensure that the trees

approved for removal are properly identified for removal in the field and that the trees that were not approved for removal are not inadvertently removed. Removal of trees in violation of such land use approval will be considered a violation of this Chapter. The criteria contained in LOC 55.02.080 shall not apply to verification applications for tree cutting permits.

3. If a tree proposed to be removed has been specifically required to be preserved or protected as a condition of approval of a land use action pursuant to the Lake Oswego Community Development Code, the tree removal application shall be processed as a modification to that land use action and shall be reviewed subject to the criteria of LOC 55.02.080 by the body responsible for reviewing such land use actions. Such modification procedure shall not be required in cases of an emergency as provided in LOC 55.02.042(3), or when the tree is dead as provided in LOC 55.02.080(1) or is a hazard as provided in LOC 55.02.080(2).

(Ord. No. 2097, Enacted, 12-20-94)

(Ord. 2316, Amended, 03/05/2002, Prior Text; Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.040 Repealed. Ord. No. 2059, 06-16-92.

Section 55.02.041 Repealed. Ord. No. 2221, 01-18-00.

Section 55.02.042 Permit Classifications and Review Procedures.

A person who desires to remove a tree shall first apply for and receive one of the following tree cutting permits before tree removal occurs:

1. Type I Permit is required for:
 - a. A property that is located in a residential zone and is occupied by a single family dwelling;
 - b. Removal of up to two trees, 10 inch caliper or less per tree at DBH within a calendar year; and
 - c. A tree that is not:
 - i. Protected by a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code;
 - ii. Located within an area or parcel that has been placed on the Historic Landmark Designation List pursuant to LOC Chapter 58;
 - iii. A Heritage Tree per LOC Article 55.06;
 - iv. Located within an RC or RP sensitive land overlay district;
 - v. Located within the Willamette River Greenway (WRG) overlay district;
 - vi. Located within the 25 foot Oswego Lake Special Setback;
 - vii. Located on property owned by the City of Lake Oswego or dedicated to the public, including parks, open space and public rights-of-way.

Type I permits shall be issued without further review upon application and demonstration by the applicant that the request qualifies as a Type I permit pursuant to this subsection.

2. Type II Permit:
 - a. A Type II permit is required prior to any tree removal application that does not qualify in issuance as a Type I permit, Dead Tree Removal Permit, Hazard Tree Removal Permit, Emergency Permit, Verification Permit, or Topping Permit as described in this section.

b. Type II permits shall be reviewed and approved by the City Manager pursuant to LOC 55.02.080 (Approval Criteria) and 55.02.082 (Notice Requirements).

3. Dead Tree Removal Permit:

a. The City shall issue a tree cutting permit for a dead tree, except as provided by subsection (3)(b) of this section, if the applicant demonstrates that a tree is dead and warrants removal.

b. In order to provide for wildlife habitat and natural processes, the City Manager may require the retention of a dead tree. Dead trees shall not be removed if located in wetlands, RC Protection Areas (LOC 50.16.055), stream corridors, parks or open space areas required to be preserved as a condition of development approval, unless the tree presents a potential hazard to persons or property.

4. Hazard Tree Removal Permit: The City shall issue a tree cutting permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.

a. A hazard tree is a tree that is cracked, split, leaning or physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within a public right of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

b. The City may require the applicant to submit an arborist's report confirming the hazard potential of the tree along with an analysis of alternative methods to alleviate the hazard without removal, and submit a completed hazard evaluation form as provided by the City.

5. Emergency Permit:

a. If the condition of a tree presents an immediate danger of collapse, and represents a clear and present hazard to persons or property, an emergency tree cutting permit may be issued and the payment of a fee may be waived. For the purposes of this subsection, "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the non-emergency process. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment.

b. Emergency tree cutting permits must be approved by the City Manager. If an emergency situation arises at a time when the City Manager is unavailable, and such emergency creates a significant likelihood that the tree will topple or otherwise fail before such official becomes available, the owner of the tree shall, if practical and reasonable, first notify the City Tree Hotline phone number and state the address where the tree is being removed, the company performing the removal, along with the property owner's name, address, and telephone number. The owner shall photograph the tree showing emergency conditions and then may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days of such removal, the owner of the tree shall apply for a retroactive emergency tree cutting permit and shall submit with the application, evidence to demonstrate the emergency nature of the tree.

c. The city may require the application to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse. The person or entity performing the removal shall not be eligible to provide this review. If the evidence shows that the tree did not satisfy the emergency tree removal standards set forth in this chapter, the application shall be denied and the owner of the tree shall be subject to penalties pursuant to LOC 55.02.130 and the mitigation requirements of LOC 55.02.084.

6. Verification Permit:

a. If a site has received development approval through a Major or Minor Development Process, then a Verification Permit shall be issued for those trees approved for removal through

that process. To obtain a verification permit, an applicant must clearly identify in the field the trees to be removed by tying yellow tagging tape around each tree and submitting a site plan indicating the location of the requested trees. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application. The City Manager will then verify that the requested trees match the site plan approved through the Major or Minor Development Process. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC 55.02.084. Such mitigation requirements shall be a condition of approval of the original development permit.

b. Any tree not approved for removal through the original Major or Minor Development review process shall not be approved as part of the verification permit process, unless the subject tree is located within an approved building footprint, public/private utility or improvement area, and no feasible alternative exists to preserve the tree. In such cases, the City may allow the tree to be removed without a Type II tree cutting permit process; however, the mitigation requirements of LOC 55.02.084 shall still apply.

c. Verification permits shall be issued upon application and demonstration by the applicant that the request complies with this section. Verification permits shall not be issued prior to the issuance of a building permit for the subject property without prior authorization by the City Manager.

7. Topping Permit:

a. A topping permit may be issued only if the following apply:

i. A utility, public agency, or other person who routinely tops trees in furtherance of public safety, may apply for a topping permit pursuant to this section based upon an arborist or forester report establishing a methodology for topping in compliance with this subsection.

ii. Trees under utility wires may be topped only where other pruning practices are impractical.

b. The City, in granting approval for tree removal in an open space or undeveloped area, may allow a tree to be topped to a designated height in order to maintain a “snag” for wildlife habitat.

c. A tree cutting permit obtained for tree removal shall not authorize topping unless said tree cutting permit specifically authorizes such action.

(Ord. No. 2097, Enacted, 12/20/94)

(Ord. 2316, Amended, 03/05/2002, Prior Text; Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.045 Repealed. Ord. No. 2221, 01-18-00.

Section 55.02.050 Application for Permits.

1. An application for a tree cutting permit shall be made upon forms prescribed by the City. The application for a tree cutting permit shall contain:

a. The number, size, species and location of the trees proposed to be cut on a site plan of the property;

b. The anticipated date of removal;

c. A statement of the reason for removal;

d. Information concerning any proposed landscaping or planting of any new trees to replace the trees to be removed; and

e. Any other information reasonably required by the City.

2. The applicant shall have the burden of proving that his or her application complies with the criteria for approval of the applicable class of permit.

3. Misrepresentation of any fact necessary for the City's determination for granting a tree cutting permit shall invalidate the permit. The City may at any time, including after a removal has occurred, independently verify facts related to a tree removal request and, if found to be false or misleading, may invalidate the permit and process the removal as a violation. Such misrepresentation may relate to matters including, without limitation, tree size, location, health or hazard condition, and owner's authorized signature.

(Ord. No. 1429, Sec. 1, 05-18-71. Ord. No. 1631, Sec. 2; 07-20-76. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12/20/94)(Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.060 Fees.

An application for a tree cutting permit shall be accompanied by a filing fee as established by resolution of the City Council.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 2059, Sec. 1; 06-16-92.)

(Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.061 Repealed. Ord. No. 2097, 12-20-94.

Section 55.02.065 Repealed. Ord. No. 2221, 01-18-00.

Section 55.02.067 Repealed. Ord. No. 2097, 12-20-94.

Section 55.02.070 Repealed. Ord. No. 2059, 06-16-92.

Section 55.02.071 Repealed. Ord. No. 2097, 12-20-94.

Section 55.02.075 Repealed. Ord. No. 2221, 01-18-00.

Section 55.02.080 Criteria for Issuance of Type II Tree Cutting Permits.

An applicant for a Type II tree cutting permit shall demonstrate that the following criteria are satisfied. The City Manager may require an arborist's report to substantiate the criteria for a permit.

1. The tree is proposed for removal for landscaping purposes or in order to construct development approved or allowed pursuant to the Lake Oswego Code or other applicable development regulations. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application;

2. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and

3. Removal of the tree will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood. The City may grant an exception to this criterion

when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. In making this determination, the City may consider alternative site plans or placement of structures or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Lake Oswego Code.

4. Removal of the tree is not for the sole purpose of providing or enhancing views.

5. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC 55.02.084. Such mitigation requirements shall be a condition of approval of the permit.

(Ord. No. 2097, Amended, 12/20/94)

(Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.082 Staff Decision and Notice Requirements for Type II Permits.

1. An applicant for a Type II tree cutting permit shall:

a. Complete a written notice form to be mailed by the City via regular mail to the neighborhood association whose boundaries include the proposed tree removal site;

b. Complete a written certification that the property will be posted and the trees will be marked pursuant to this section;

c. Within 24 hours of applying for a tree cutting permit, post a public notice sign of a pending tree cutting permit as provided by the City on the subject property in a location which is clearly visible and readable to vehicles traveling on a public street and to pedestrians walking or biking by the property. The public notice sign shall state that a tree cutting permit is pending for trees on the property marked by yellow plastic tagging tape, include the date of posting and the pending permit number as assigned by the City Manager, and state that city staff will consider any comments on the pending permit that are received within fourteen days of the date of posting;

d. Mark each tree proposed to be removed by tying or attaching a yellow plastic tagging tape to the tree at 4.5 feet above mean ground level at the base of the trunk, on the same day that the property is posted; and

e. Maintain the posting and marking for fourteen consecutive days.

2. Within two business days of the close of the fourteen day comment period, city staff shall make a tentative decision approving the permit or shall deny the permit.

3. If a permit is tentatively approved, staff shall immediately post a yellow sign stating the tentative approval and also stating the method and deadline for requesting the hearing pursuant to LOC 55.02.085. The applicant shall maintain the posting of this sign, together with the tree marking, for at least 14 consecutive days. If no request for a hearing is received meeting the requirements of LOC 55.02.085, the approval of the permit shall be final.

4. If the applicant appeals the denial of a permit, or appeals conditions imposed on a tentatively approved permit, city staff shall immediately post a red sign stating the appeal, and the time and date of the appeal hearing. The applicant shall maintain the posting of this sign and the tree marking, until the date of the hearing.

5. Failure to install or maintain the required notice and marking may result in denial or delay in issuance of the permit or revocation of an approved permit.

(Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2221, Add, 01/18/2000)

Section 55.02.084 Mitigation Required.

With the exception of dead trees, hazard trees and trees that are 10 inch or less in diameter removed from developed single family lots, an applicant shall provide mitigation for any tree approved for removal. The mitigation requirement shall be satisfied as follows:

1. Replanting on site. The applicant shall plant either a minimum 2-inch caliper deciduous tree or a 6-8 foot tall evergreen tree for each tree removed. The tree shall be planted according to the specifications in the City Tree Planting and Maintenance Guidelines as approved by the City Council.
2. Replanting off site. If in the City's determination there is insufficient available space on the subject property, the replanting required in subsection (1) shall occur on other property in the applicant's ownership or control within the City, in an open space tract that is part of the same subdivision, or in a City owned or dedicated open space or park. Such mitigation planting is subject to the approval of the authorized property owners. If planting on City owned or dedicated property, the City may specify the species and size of the tree. Nothing in this section shall be construed as an obligation of the City to allow trees to be planted on City owned or dedicated property.
3. Payment in lieu of planting. If in the City's determination no feasible alternative exists to plant the required mitigation, the applicant shall pay into the tree fund an amount as established by resolution of the City Council.

(Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2221, Add, 01/18/2000)

Section 55.02.085 Request for Public Hearing on a Type II Tree Cutting Permit.

1. Any person may request a hearing on a Type II tree cutting permit by filing a written Request for Hearing, along with the applicable hearing fee as established by resolution of the City Council with the City Recorder, within fourteen days of the date the notice of tentative decision was posted pursuant to LOC 55.02.082. Failure to file within the fourteen day period shall preclude such a request.
2. An applicant for a tree cutting permit may appeal denial of a permit or conditions imposed on an approved permit by filing a written notice of intent to appeal, along with the applicable filing fee as established by resolution of the City Council, with the City Recorder within fourteen days of the date of decision on the permit.
3. Requests for hearing and appeals shall be heard by the Community Forestry Commission if the tree removal is proposed only for landscaping purposes as authorized by LOC 55.02.080(1). Requests for hearing and appeals on any tree removal proposed in order to construct development as authorized by LOC 55.02.080(1) shall be heard by the Development Review Commission. The appropriate Commission (referred to herein as "the hearings body") shall hold a public hearing on the request or appeal. The City shall send written notice of the hearing to the applicant, the person requesting the hearing if different from the applicant, and to the recognized Neighborhood Association for the area in which the subject property is located. The written notice shall be sent at least ten days in advance of the hearing.
4. The hearings body shall hear testimony from the applicant, followed by those in favor of the application, those opposed to the application (beginning with the person who requested the hearing if different from the applicant), and concluding with rebuttal by the applicant. Any person may testify before the hearings body. Following the close of the public testimony, the hearings body shall determine, based upon the evidence and testimony in the record, whether or not the application complies with the criteria contained in LOC 55.02.080. The findings, conclusions, and order shall contain the hearings body's reasons for approving, denying or modifying the permit.
5. A decision of the hearings body shall not become final for ten days from the date of adoption of written findings. Any person who appeared before the hearings body either orally or in writing may appeal the decision of the hearings body to the City Council by filing a written notice of intent to appeal,

along with an appeal fee as established by resolution of the Council, with the City Recorder within ten days of the date of adoption of the hearings body's written findings, conclusions and order. The findings, conclusions, and order and minutes of the hearings body's meeting, along with any written staff reports or testimony shall be forwarded to the City Council. Written notice of the appeal hearing shall be sent at least ten days in advance of the Council hearing to those persons who appeared before the hearings body. The hearing before the City Council shall be on the record established before the hearings body and only persons who appeared before the hearings body orally or in writing may testify. The appellant shall testify first, followed by persons in favor of the appeal, persons in opposition to the appeal (beginning with the applicant if different from the appellant), and concluding with rebuttal by the appellant. The Council's hearing and decision shall otherwise comply with subsection (4) of this section. The decision of the Council shall be final.

(Ord. No. 2097, Enacted, 12/20/94)

(Ord. 2458, Amended, 05/16/2006, Prior Text; Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.090 Repealed. Ord. No. 1807; 09-15-81.

Section 55.02.092 Expiration of Tree Cutting Permits.

A properly issued tree cutting permit shall remain valid for no more than 60 days from the date of issuance or date of final decision by a hearing body, if applicable. A 60 day extension shall be automatically granted by the City Manager if requested in writing before the expiration of the permit. No additional extensions beyond the first extension shall be granted. Permits that have lapsed are deemed void. Trees removed after a tree cutting permit has expired shall be considered a violation of this Chapter.

(Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2221, Add, 01/18/2000)

Section 55.02.094 Conditions of Approval for Tree Cutting Permits.

1. The City may impose conditions of approval on any tree cutting permit if the condition is reasonably related to preventing, eliminating or mitigating a negative impact or potential impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal.
2. Conditions of approval may include, but are not limited to:
 - a. Cutting a tree or stump flush with the grade instead of grinding or fully removing a stump;
 - b. Requiring modifications in the location, design or intensity of a development or activities on a site or to require or prohibit certain construction methods;
 - c. Requiring vegetation not requiring a tree removal permit to remain in place or be planted.
 - d. Requiring the removal of injurious vegetation (English Ivy) from other trees on the property.

(Ord. 2221, Add, 01/18/2000)

Section 55.02.100 Repealed. Ord. No. 1807, 09-15-81.

Section 55.02.110 Repealed. Ord. No. 1807, 09-15-81.

Section 55.02.120 Repealed. Ord. No. 1807, 09-15-81.

Section 55.02.125 Evidence of Violation.

1. If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is 7 caliper inches or more in diameter shall be considered prima facie evidence of a violation of this chapter.

2. Removal of the stump of a tree removed without a tree cutting permit prior to the determination provided in subsection 1 of this section is a violation of this chapter.

3. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.

4. Tree removal or topping caused by natural weather conditions shall not be deemed a violation of this chapter and shall be exempt from all penalties set forth in LOC 55.02.130.

(Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12/20/94)

(Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.130 Penalties.

1. Civil Violation. A violation of any provision of this chapter, or the breach of any condition of a permit granted under this chapter shall be a civil violation as defined by LOC 34.04.105, enforceable pursuant to LOC Article 34.04. The unlawful removal of each individual tree shall be a separate offense hereunder. Failure to comply with the provisions of this chapter or a condition of approval shall be a separate offense each day the failure to comply continues. The violation shall be punishable by a fine set forth by the municipal court and the enforcement fee and restoration requirements as set forth in LOC 55.02.130(3) and (4).

2. Nuisance Abatement. The removal of a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to LOC Article 34.08.

3. Enforcement Fee. A person who removes a tree without first obtaining a tree cutting permit from the City pursuant to this Chapter, removes a tree in violation of an approved tree cutting permit, or violates a condition of an approved tree cutting permit shall pay an enforcement fee to the City in an amount as established by resolution of the City Council.

4. Restoration.

a. A person who removes a tree without first obtaining a Type II, dead tree, or hazard tree cutting permit from the City pursuant to this Chapter, removes a tree in violation of an approved Type II, dead tree, or hazard tree cutting permit, or violates a condition of such a permit shall pay into the City's Tree Fund a standard fee per caliper inch for the total number of caliper inches of the tree removed in violation of this Chapter in an amount as established by resolution of the City Council.

b. The City may require the person to pay into the City's Tree Fund an increased fee per caliper inch for the total number of caliper inches of the tree removed in violation of this Chapter in an amount as established by resolution of the City Council or the value of the tree as determined by an arborist in accordance with the methods set forth in the "Guide for Plant Appraisal" an official publication of the International Society of Arboriculture, whichever is greater, if any of the following apply:

- i. The person has committed a previous violation of a provision of this Chapter, or
- ii. Tree protection measures as required by LOC Article 55.08 were not installed or maintained,

or

- iii. The tree removed was any of the following:
 - (A) 36 caliper inches in diameter or greater,

(B) a heritage tree, per LOC Article 55.06,
(C) expressly protected or required to be preserved as a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code,
(D) located within the Willamette River Greenway per LOC Article 50.15,
(E) part of a Resource Conservation (RC) or Resource Protection (RP) area, per LOC Article 50.16,
(F) located on public right of way, City owned or dedicated property, a public or private open space area or conservation easement.

5. Injunction. Upon request of the City Manager or direction from Council, the City Attorney may institute appropriate action in any court to enjoin the removal of trees in violation of this chapter.

6. Loss of City Privileges.

a. A person hired to perform tree removal within the City, upon request shall provide evidence to the City Manager that he or she possess a valid license to conduct business in Lake Oswego. The person is subject to business license revocation pursuant to LOC 20.02.085 if the person violates any provision of this Chapter.

b. Any arborist, builder, landscaper, contractor, or tree service that has performed any tree removal in violation of this chapter or submitted a falsified report for the criteria required in this chapter, shall not be considered a responsible bidder for any City contracts for a period of two years from the date of violation or report.

7. Arborist Report and Required Treatment. Upon request by the City, a person who violates any provision of this chapter shall submit a report prepared by an arborist to evaluate the damage to a tree and/or make recommendations to remedy the violation. The City upon evaluating these recommendations may, at the City's discretion, require that the recommended measures be implemented.

8. Cumulative Remedies. The rights, remedies, and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 1880, Sec. 1; 02-07-84. Ord. No. 2059, Sec. 1, 06-16-92. Ord. No. 2097, Amended, 12-0-94.)

(Ord. 2316, Amended, 03/05/2002, Prior Text; Ord. 2260, Amended, 09/05/2000, Prior Text; Ord. 2231, Amended, 03/21/2000, Editorial correction - Paragraph 1 - word "tree removal" changed to "violation", Prior Text; Ord. 2221, Amended, 01/18/2000, Prior Text)

Section 55.02.135 Repealed. Ord. No. 2221, 01-18-00.

Article 55.06 Heritage Trees.

Section 55.06.010 Purpose; Definition.

1. The purpose of LOC Article 55.06 is to recognize, foster appreciation and provide for voluntary protection of Heritage Trees.

2. For the purpose of this Article, a "Heritage Tree" is a tree or stand of trees that is of landmark importance due to age, size, species, horticultural quality or historic importance.

(Ord. No. 2159, Enacted, 11/04/97)

Section 55.06.020 Nomination.

1. Any person may nominate a particular tree or trees as a Heritage Tree. If the proposed Heritage Tree is located on property other than City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted by the property owner or accompanied

by the property owner's written consent. If the proposed Heritage Tree is located on City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted to the City Manager or County Administrator, as appropriate; if the nomination is consented to by the City or County, the City Manager or County Administrator shall submit the nomination to the Natural Resources Advisory Board (NRAB) pursuant to LOC 55.06.030.

2. Nomination shall be made on such form as required by the City Manager. The nomination form shall include a narrative explaining why the tree qualifies for Heritage Tree status pursuant to the description in LOC 55.06.010 and the written consent of the property owner as described in subsection (1) of this section.

(Ord. No. 2159, Enacted, 11/04/97)

(Ord. 2289, Amended, 06/05/2001, Prior Text)

Section 55.06.030 Review Process.

1. The NRAB shall review all Heritage Trees nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (unless the nominated tree is located on public right-of-way under City or County jurisdiction, in which event notice shall be given to the respective City Manager or County Administrator) and the Chair of any recognized neighborhood association in which the tree is located.

2. Staff shall prepare a report for the NRAB analyzing whether the tree complies with the requirements for designation.

3. After considering the staff report and any testimony by interested persons, the NRAB shall vote on the nomination. The NRAB may designate a tree as a Heritage Tree if the Board determines that the following criteria are met:

a. The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance; and

b. The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard;

4. Following approval of the nomination by the NRAB:

a. If the tree is located on private property, the designation shall be complete upon the Property Owner's execution of a covenant running with the land suitable for recordation by the City. The covenant shall describe the subject property, generally describe the location of the heritage tree, and covenant that the tree is protected as a "Heritage Tree" by the City of Lake Oswego and is therefore subject to special protection as provided in LOC Chapter 55.

b. If the tree is located on public right-of-way, the designation shall be complete upon the Staff's listing of the tree on the City Heritage Tree records.

5. If the tree is located on the public right-of-way, the City or County, as appropriate, shall condition any future Property Owner-requested vacation of the public right-of-way upon the execution of a covenant in accordance with section (4) above, which shall be recorded by the City upon the vacation of the right-of-way.

(Ord. No. 2159, Enacted, 11/04/97).

(Ord. 2289, Amended, 06/05/2001, Prior Text)

Section 55.06.040 Protection of Heritage Trees.

1. Unless the tree qualifies for a dead or hazard tree removal permit, a permit to remove a designated Heritage Tree shall be processed as a Type II Tree Removal Permit subject to the criteria contained in LOC 55.02.080, as modified by subsection (2) of this section.

2. If an application to remove a Heritage Tree is sought pursuant to LOC 55.02.080 the applicant shall demonstrate that the burden imposed on the property owner, or, if the tree is located within the public right-of-way under City or County jurisdiction, then the burden imposed on the respective City or County by the continued presence of the tree outweighs the public benefit provided by the tree in order to comply with 55.02.080 (3). For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner, or if appropriate, the City or County:

- a. View obstruction;
- b. Routine pruning, leaf raking and other maintenance activities; and
- c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.

3. Unless the permit is to remove a dead or hazard tree pursuant to LOC 55.02.042 (3) or (4), the applicant to remove a heritage tree shall be required to mitigate for the loss of the tree pursuant to LOC 55.02.084.

4. Any person who removes a Heritage Tree in violation of LOC Article 55.06 shall be subject to the penalties provided in LOC 55.02.130. In addition, the violator shall be subject to double the enforcement fee established pursuant to LOC 55.02.130(3).

(Ord. No. 2159, Enacted, 11/04/97)

(Ord. 2289, Amended, 06/05/2001, Prior Text; Ord. 2260, Amended, 09/05/2000, Prior Text)

Section 55.06.050 Recognition of Heritage Trees.

1. A Heritage Tree plaque shall be designed and may be furnished by the City to the property owner, or if the tree is in the public right-of-way, to the appropriate City or County official, of a designated Heritage Tree. The City may charge a fee to cover the costs of the providing the plaque. The plaque shall be posted at a location at or near the tree and, if feasible, visible from a public right-of-way.

2. The Planning Department shall maintain a list and map of designated Heritage Trees.

(Ord. No. 2159, Enacted, 11/04/97)

(Ord. 2289, Amended, 06/05/2001, Prior Text)

Section 55.06.060 Removal of Heritage Tree Designation.

A Heritage Tree shall be removed from designation if it dies or is removed pursuant to LOC 55.06.040. If removed from private property, the City shall record a document extinguishing the covenant.

(Ord. No. 2159, Enacted, 11/04/97)

(Ord. 2289, Amended, 06/05/2001, Prior Text)

Article 55.08 Tree Protection.

Section 55.08.010 Applicability.

This article is applicable to any ministerial, minor, or major development.

(Ord. 2221, Add, 01/18/2000)

Section 55.08.020 Tree Protection Plan Required.

1. A Tree Protection Plan approved by the City Manager shall be required prior to conducting any development activities including, but not limited to clearing, grading, excavation, or demolition work on a property or site, which requires ministerial, minor, or major development approval.

2. In order to obtain approval of a Tree Protection Plan; an applicant shall submit a plan to the City, which clearly depicts all trees to be preserved on the site. The plan must be drawn to scale and include the following:

- a. Location, species, and diameter of each tree on site and within 15 feet of the site;
- b. Location of the drip line of each tree;
- c. Location of existing and proposed roads, water, sanitary and storm sewer, irrigation, and other utility lines/facilities and easements;
- d. Location of dry wells and soakage trenches;
- e. Location of proposed and existing structures;
- f. Grade change or cut and fill during or after construction;
- g. Existing and proposed impervious surfaces;
- h. Identification of a contact person and/or arborist who will be responsible for implementing and maintaining the approved tree protection plan; and
- i. Location and type of tree protection measures to be installed per LOC 55.08.030.

3. For minor or major development, the Tree Preservation Plan shall be prepared by an arborist and shall include an inventory of all trees on site, their health or hazard condition, and recommendations for treatment for each tree.

(Ord. 2221, Add, 01/18/2000)

Section 55.08.030 Tree Protection Measures Required.

1. Except as otherwise determined by the City Manager, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and shall be removed only after completion of all construction activity, including landscaping and irrigation installation.

2. Chain link fencing, a minimum of 6 feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater, and at the boundary of any open space tracts or conservation easements that abut the parcel being developed.

3. The fencing shall be flush with the initial undisturbed grade.

4. Approved signs shall be attached to the chain link fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the City Manager and arborist for the project.

5. No construction activity shall occur within the tree protection zone, including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, or parked vehicles or equipment.

6. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.

7. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the City Manager.

(Ord. 2221, Add, 01/18/2000)

Section 55.08.040 Inspection.

The applicant shall not proceed with any construction activity, except installation of erosion control measures, until the City has inspected and approved the installation of the required tree protection measures and a building and/or grading permit has been issued by the City.

(Ord. 2221, Add, 01/18/2000)

Attachment B: City of Tigard

Chapter 18.790 TREE REMOVAL

Sections:

18.790.010 Purpose

18.790.020 Definitions

18.790.030 Tree Plan Requirement

18.790.040 Incentives for Tree Retention

18.790.050 Permit Applicability

18.790.060 Illegal Tree Removal

18.790.010 Purpose

A. Value of trees. After years of both natural growth and planting by residents, the City now benefits from a large number of trees. These trees of varied types add to the aesthetic beauty of the community, help clean the air, help control erosion, maintain water quality and provide noise barriers.

B. Purposes. The purposes of this chapter are to:

1. Encourage the preservation, planting and replacement of trees in the City;
2. Regulate the removal of trees on sensitive lands in the City to eliminate unnecessary removal of trees;
3. Provide for a tree plan for developing properties;
4. Protect sensitive lands from erosion;
5. Protect water quality;
6. Provide incentives for tree retention and protection; and
7. Regulate commercial forestry to control the removal of trees in an urban environment.

C. Recognize need for exceptions. The City recognizes that, notwithstanding these purposes, at the time of development it may be necessary to remove certain trees in order to accommodate structures, streets utilities, and other needed or required improvements within the development.

18.790.020 Definitions

A. Definitions. The following definitions apply to regulations governing the preservation and removal of trees contained in this chapter exclusively:

1. "Canopy cover" means the area above ground which is covered by the trunk and branches of the tree;
2. "Commercial forestry" means the removal of ten or more trees per acre per calendar year for sale. Tree removal undertaken by means of an approved tree removal plan under Section 18.790.030 is not considered commercial forestry under this definition;

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3. "Hazardous tree" means a tree which by reason of disease, infestation, age, or other condition presents a known and immediate hazard to persons or to public or private property;
4. "Pruning" means the cutting or trimming of a tree in a manner which is consistent with recognized tree maintenance practices;
5. "Removal" means the cutting or removing of 50 percent (50%) or more of a crown, trunk or root system of a tree, or any action which results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling. "Removal" shall not include pruning;
6. "Tree" means a standing woody plant, or group of such, having a trunk which is six inches or more in caliper size when measured four feet from ground level;
7. "Sensitive lands" means those lands described at Chapter 18.775 of the title.

B. General rule. Except where the context clearly indicates otherwise, words in the present tense shall include the future and words in the singular shall include the plural.

18.790.030 Tree Plan Requirement

A. Tree plan required. A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.

B. Plan requirements. The tree plan shall include the following:

1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;
2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:
 - a. Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;
 - b. Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;
 - c. Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;
 - d. Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.
3. Identification of all trees which are proposed to be removed;
4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

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C. Subsequent tree removal. Trees removed within the period of one year prior to a development application listed above will be inventoried as part of the tree plan above and will be replaced according to Section 18.790.060D.

18.790.040 Incentives for Tree Retention

A. Incentives. To assist in the preservation and retention of existing trees, the Director may apply one or more of the following incentives as part of development review approval and the provisions of a tree plan according to Section 18.790.030:

1. Density bonus. For each 2% of canopy cover provided by existing trees over 12 inches in caliper that are preserved and incorporated into a development plan, a 1% bonus may be applied to density computations of Chapter 18.715. No more than a 20% bonus may be granted for any one development. The percentage density bonus shall be applied to the number of dwelling units allowed in the underlying zone. This bonus is not applicable to trees preserved in areas of floodplain, slopes greater than 25%, drainageways, or wetlands that would otherwise be precluded from development;
2. Lot size averaging. To retain existing trees over 12 inches in caliper in the development plan for any land division under Chapter 18.400, lot size may be averaged to allow lots less than the minimum lot size allowed by the underlying zone as long as the average lot area for all lots and private open space is not less than that allowed by the underlying zone. No lot area shall be less than 80% of the minimum lot size allowed in the zone;
3. Lot width and depth. To retain existing trees over 12 inches in caliper in the development plan for any land division under Chapter 18.400, lot width and lot depth may be reduced up to 20% of that required by the underlying zone;
4. Commercial/industrial/civic use parking. For each 2% of canopy cover provided by existing trees over 12 inches in caliper that are preserved and incorporated into a development plan for commercial, industrial or civic uses listed in Section 18.765.080, Minimum and Maximum Off-Street Parking Requirements, a 1% reduction in the amount of required parking may be granted. No more than a 20% reduction in the required amount of parking may be granted for any one development;
5. Commercial/industrial/civic use landscaping. For each 2% of canopy cover provided by existing

trees over 12 inches in caliper that are preserved and incorporated into a development plan, a 1% reduction in the required amount of landscaping may be granted. No more than 20% of the required amount of landscaping may be reduced for any one development.

B. Subsequent removal of a tree. Any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

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C. Site development modifications granted as incentives. A modification to development requirements granted under this section shall not conflict with any other restriction on the use of the property, including but not limited to easements and conditions of development approval.

D. Design modifications of public improvements. The City Engineer may adjust design specifications of public improvements to accommodate tree retention where possible and where it would not interfere with safety or increase maintenance costs.

18.790.050 Permit Applicability

A. Removal permit required. Tree removal permits shall be required only for the removal of any tree which is located on or in a sensitive land area as defined by Chapter 18.775. The permit for removal of a tree shall be processed as a Type I procedure, as governed by Section 18.390.030, using the following approval criteria:

1. Removal of the tree must not have a measurable negative impact on erosion, soil stability, flow of surface waters or water quality as evidenced by an erosion control plan which precludes:

- a. Deposits of mud, dirt, sediment or similar material exceeding 1/2 cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge or as a result of the action of erosion;
- b. Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes where the flow of water is not filtered or captured on site using the techniques of Chapter 5 of the Washington County Unified Sewerage Agency Environmental Protection and Erosion Control rules.

2. Within stream or wetland corridors, as defined as 50 feet from the boundary of the stream or wetland, tree removal must maintain no less than a 75% canopy cover or no less than the existing canopy cover if the existing canopy cover is less than 75%.

B. Effective date of permit. A tree removal permit shall be effective for one and one-half years from the date of approval.

C. Extension. Upon written request by the applicant prior to the expiration of the existing permit, a tree removal permit shall be extended for a period of up to one year if the Director finds that the applicant is in compliance with all prior conditions of permit approval and that no material facts stated in the original application have changed.

D. Removal permit not required. A tree removal permit shall not be required for the removal of a tree which:

1. Obstructs visual clearance as defined in Chapter 18.795 of the title;
2. Is a hazardous tree;
3. Is a nuisance affecting public safety as defined in Chapter 7.40 of the Municipal Code;
4. Is used for Christmas tree production, or land registered with the Washington County Assessor's office as tax-deferred tree farm or small woodlands, but does not stand on sensitive lands.

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E. Prohibition of commercial forestry. Commercial forestry as defined by Section 18.790.020 A.2.,

excluding D.4. above, is not permitted.

18.790.060 Illegal Tree Removal

A. Violations. The following constitute a violation of this chapter:

1. Removal of a tree:

- a. Without a valid tree removal permit; or
- b. In noncompliance with any condition of approval of a tree removal permit; or
- c. In noncompliance with any condition of any City permit or development approval; or
- d. In noncompliance with any other section of this title.

2. Breach of a condition of any City permit or development approval, which results in damage to a tree or its root system.

B. Remedies. If the Director has reason to believe that a violation of this chapter has occurred, then he or she may do any or all of the following:

1. Require the owner of the land on which the tree was located to submit sufficient documentation, which may include a written statement from a qualified arborist or forester, showing that removal of the tree was permitted by this chapter;
2. Pursuant to Section 18.390.050., initiate a hearing on revocation of the tree removal permit and/or any other permit or approval for which this chapter was an approval standard;
3. Issue a stop order pursuant to Section 18.230 of this title;
4. Issue a citation pursuant to Chapter 1.16 of the Municipal Code;
5. Take any other action allowed by law.

C. Fines. Notwithstanding any other provision of this title, any party found to be in violation of this chapter pursuant to Section 1.16 of the Municipal Code shall be subject to a civil penalty of up to \$500 and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:

1. Replacement of unlawfully removed or damaged trees in accordance with Section D below; and
2. Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.

D. Guidelines for replacement. Replacement of a tree shall take place according to the following guidelines:

1. A replacement tree shall be a substantially similar species taking into consideration site characteristics;

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2. If a replacement tree of the species of the tree removed or damaged is not reasonably available, the Director may allow replacement with a different species of equivalent natural resource value;
3. If a replacement tree of the size cut is not reasonably available on the local market or would not be viable, the Director shall require replacement with more than one tree in accordance with the following formula: The number of replacement trees required shall be determined by dividing the estimated caliper size of the tree removed or damaged by the caliper size of the largest reasonably available replacement trees. If this number of trees cannot be viably located on the subject property, the Director may require one or more replacement trees to be planted on other property within the City, either public property or, with the consent of the owner, private property;
4. The planting of a replacement tree shall take place in a manner reasonably calculated to allow growth to maturity.

E. In lieu-of payment. In lieu of tree replacement under Section D above, a party may, with the consent of the Director, elect to compensate the City for its costs in performing such tree replacement.

F. Exclusivity. The remedies set out in this section shall not be exclusive.■

Attachment C: City of Beaverton

40.90. TREE PLAN [ORD 4348; April 2005]

40.90.05. Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, trees within Significant Groves and Significant Natural Resource Areas (SNRAs)), and Community Trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein and implements the SNRA, Significant Grove, Significant Individual Tree, and Historic Tree designations as noted or mapped in Comprehensive Plan Volume III.

40.90.10. Applicability.

Different types of resources require different levels of protection. No Tree Plan is required for the following actions:

1. Removal of up to four (4) Community Trees, or up to 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period. Properties one-half acre or less in size developed with a detached dwelling may remove any number of Community Trees.
2. Removal and pruning of any hazardous, dead, or diseased tree when the tree is identified as such by a certified arborist or by the City Arborist and the removal is required by the City.
3. In the event of an emergency requiring tree removal or pruning prior to the City Arborist's determination, if evidence justifies the emergency removal after the fact, then no tree plan is required for removal.
4. Minor pruning, as defined in Chapter 90.
5. Pruning of trees consistent with the Vision Clearance requirements of the Engineering Design Manual.[ORD 4397; July 2006]
6. Pruning of trees by the utility provider for above ground utility power lines following acceptable arboricultural standards and practices.

40.90.10.

7. Pruning of trees to maintain the minimum 8 foot clearance above a sidewalk.
8. Removal or pruning of the following nuisance tree species anywhere in the city: Lombardy Poplar (*Populus nigra*), and birch (*Betula sp.*).

9. Removal and pruning of the following nuisance tree species in Significant Groves and SNRAs: Norway maple (*Acer platanoides*), Tree-of-Heaven (*Ailanthus altissima*), Golden Chain Tree (*Laburnum watereri*), and English or Common Hawthorne (*Crataegus monogyna*).
10. Removal of a tree or nonnative vegetation listed as a Nuisance or Prohibited Plant on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.
11. Within SNRAs and Significant Groves, planting of native vegetation listed on the Metro's Native Plant List or in Clean Water Services' Design and Construction Standards when planted with non-mechanized hand held equipment.
12. Public street and sidewalk improvements within SNRAs or Significant Groves that meet A. or B. and C:
 - A. Improvements within an existing public vehicular right-of-way; or
 - B. Improvements to a public vehicular right-of-way in order to meet functional classification standards, such as widening or half-street improvements; and
 - C. The proposed improvements do not exceed the minimum width standards of the Engineering Design Manual.
13. Trails within SNRAs and Significant Groves meeting all of the following:
 - A. Construction must take place between May 1 and October 30 with hand held equipment;
 - B. Trail widths must not exceed 30 inches and trail grade must not exceed 20 percent;
 - C. Trail construction must leave no scars greater than three inches in diameter on live parts of native plants; and
 - D. Trails must be placed outside the top of bank of any stream, river, or pond, and
 - E. Trails must be 100% pervious.

40.90.10.

14. Street Trees are covered by the Beaverton Municipal Code and Section 60.15.15.3.G.
15. Landscape Trees are covered by Section 40.20 Design Review and Section 60.60 Trees and Vegetation.
16. Enhancement activities conducted by a public agency for the sole purpose of improving the ecological health of forest and water resources.
17. Removal of a tree(s) by the City of Beaverton or Clean Water Services that is within five (5) feet of a section of existing sanitary or storm sewer line that is in need of emergency repair and/or maintenance within a SNRA when no reasonable alternative exists. [ORD 4397; July 2006]

40.90.15. Application.

There are four (4) Tree Plan applications which are as follows: Tree Plan One, Tree Plan Two, Tree Plan Three, and Commercial Timber Harvest.

1. **Tree Plan One.**

A. Threshold. An application for Tree Plan One shall be required when none of the actions listed in Section 40.90.10 apply and one or more of the following thresholds apply:

1. Major pruning of Protected Trees once within a one year period.
2. Mechanized removal of non-native or invasive vegetation and clearing and grubbing of vegetation within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
3. Mechanized re-planting of trees and shrubs, or both, or restoration planting within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.

40.90.15.1.A.

4. Trails greater than 30 inches in width, or trail grade exceeding 20 percent, trail surfaces less than 100% pervious surface, or any combination thereof within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services that do not result in tree removal.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Tree Plan One. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Tree Plan One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan One application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
4. If applicable, pruning is necessary to improve tree health or to eliminate conflicts with vehicles or structures which includes, but is not limited to, underground utilities and street improvements.
5. If applicable, the removal of vegetation or clearing and grubbing is necessary to accommodate physical development in the area in which the removal is proposed.

6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.90.15.1.

- D. Submission Requirements. An application for a Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan One application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Tree Plan One proposal shall not be extended.

40.90.15.

2. Tree Plan Two

- A. Threshold. An application for Tree Plan Two shall be required when none of the actions listed in Section 40.90.10 apply, none of the thresholds listed in Section 40.90.15.1 apply, and one or more of the following thresholds apply:
 1. Removal of five (5) or more Community Trees, or more than 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period, except as allowed in 40.90.10.1.
 2. Multiple Use Zoning District: Removal of up to and including 85% of the total DBH of non-exempt surveyed tree(s) within a SNRA or Significant Grove area that is found on the project site.
 3. Commercial, Residential, or Industrial Zoning District: Removal of up to and including 75% of the total DBH of non-exempt surveyed tree(s) within a SNRA or Significant Grove area that is found on the project site.
 4. Removal of a Significant Individual Tree(s).

- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Tree Plan Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.90.15.2.C.

3. If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
4. If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.
5. If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.
6. If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.
7. If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees to eliminate conflicts with structures or vehicles.
8. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.
9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.
10. The proposal is consistent with all applicable provisions of Section 60.60 Trees and Vegetation and Section 60.67 Significant Natural Resources.

40.90.15.2.C.

11. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.
12. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; September 2006] [ORD 4462; December 2007]

- D. Submission Requirements. An application for a Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Two application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Tree Plan Two proposal shall not be extended.

40.90.15.

3. Tree Plan Three

- A. Threshold. An application for Tree Plan Three shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 or Section 40.90.15.2 apply and one or more of the following thresholds apply:
 1. Multiple Use Zoning Districts: Removal of greater than 85% of the total DBH of non-exempt surveyed trees within a SNRA or Significant Grove area that is found on the project site.
 2. Residential, Commercial, and Industrial Zoning Districts: Removal of greater than 75% of the total DBH of non-exempt surveyed trees within a SNRA or Significant Grove area that is found on the project site.

3. Removal of individual Historic Trees.
 4. Commercial timber harvest of trees which fail to meet the approval criterion specified in Section 40.90.15.4.C.4.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Tree Plan Three. The decision making authority shall be the Planning Commission. [ORD 4532; March 2010]
- C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.90.15.3.C.

3. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.
4. If applicable, removal is necessary to enhance the health of the grove or adjacent tree(s) to reduce maintenance, or to eliminate conflicts with structures or vehicles.
5. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, removal is the minimum necessary to accommodate physical development because no reasonable alternative exists for the development at another location on the site and variances to setback provisions of the Development Code will not allow the tree(s) to be saved or will cause other undesirable circumstances on the site or adjacent properties.
7. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site.
8. If applicable, removal is necessary to accomplish a public purpose, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.

9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.
10. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.

40.90.15.3.C.

11. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.
12. The proposal is consistent with all applicable provisions of Section 60.60 Trees and Vegetation and Section 60.67 Significant Natural Resources.
13. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.
14. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

[ORD 4404; September 2006]

- D. Submission Requirements. An application for a Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), any other information identified through a Pre-Application Conference, and by a report from a qualified professional.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Three application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).

40.90.15.3.

- F. Compliance with Approval. All conditions imposed on an approved Tree Plan Three shall be implemented prior to the removal, pruning, or planting of tree unless otherwise noted in the approval. Compliance with the conditions of

approval shall be met as long as the tree exist unless otherwise specified or until modified through a City approval process.

- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Previous approval of Tree Plan Three proposal shall not be extended.

40.90.15.

4. Commercial Timber Harvest.

- A. Threshold. An application for Commercial Timber Harvest shall be required when none of the actions listed in Section 40.90.10 apply and following threshold applies:
 - 1. Commercial harvest of timber on Tax Lot Identification Nos. 1S132CC11300, 1S132CD09000, and 1S132CD09100.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Commercial Timber Harvest. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Commercial Timber Harvest application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirement for a Commercial Timber Harvest application.
 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 - 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 - 4. The harvest of timber will leave no less than ten (10) living, healthy, and upright trees per acre each of which measure at least ten (10) inches in diameter at four (4) feet above grade.
 - 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.90.15.4.

- D. Submission Requirements. An application for a Commercial Timber Harvest shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Commercial Timber Harvest application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.60.
- F. Expiration of a Decision. Refer to Section 50.90.
- G. Extension of a Decision. Previous approval of Commercial Timber Harvest proposal shall not be extended.

60.60.20.1.

- ~~B. Within the protected root zone of each tree, the following development shall not be permitted:~~
- ~~1. Construction or placement of new buildings.~~
 - ~~2. Grade change or cut and fill, except where hand excavation is approved with the submittal of an arborist's report, as part of application approval.~~
 - ~~3. New impervious surfaces.~~
 - ~~4. Trenching for utilities, irrigation, or drainage.~~
 - ~~5. Staging or storage of any kind.~~
 - ~~6. Vehicle maneuvering or parking~~

60.60.25. Mitigation Requirements

1. The following standards shall apply to mitigation for the removal of Significant Individual Trees or trees within Significant Groves or SNRAs.
 - A. All mitigation tree planting shall take place in conformance with accepted arboricultural practices and shall be spaced a minimum of ten (10) feet apart.
 - B. As of May 19, 2005, all trees planted for the purpose of tree removal mitigation shall be maintained in accordance with the approved mitigation plan. Monitoring of mitigation planting shall be the ongoing responsibility of the property owner where mitigation trees are located, unless otherwise approved through Development Review. Monitoring shall take place for a period of two (2) years. Trees that die shall be replaced in accordance with the tree replacement standards of this section.
 - C. As of May 19, 2005, all trees planted for the purpose of tree removal mitigation shall be set aside in a conservation easement or a separate tract and shall be designated as "Mitigation Trees" and recorded with a deed restriction identifying the trees as "Mitigation Trees".

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- D. Each Mitigation Tree planted shall be insured through a performance security, equal to 110 percent of the cost of the landscaping, filed with the City for a period of two (2) years to ensure establishment of the mitigation planting.
 - E. Street trees shall not be counted as providing mitigation of a SNRA or Significant Grove.
 - F. Transplanting trees within the project site is not subject to mitigation. However, a performance security is required for transplanted tree(s) to insure that the tree(s) will be replaced if the tree(s) is dead or dying at the end of two (2) years.
2. Mitigation for the removal of trees from Significant Groves or SNRAs shall be required as follows:
- A. Calculate the total DBH of the trees to be removed. Denote both deciduous and coniferous trees in separate tables; however, both tables will result in the sum total of the DBH to be removed.
 - B. If the total DBH of trees to be removed is less than or equal to 50% of the total DBH of surveyed trees on the site, then no mitigation is required for the trees to be removed.
 - C. If the total DBH of trees to be removed is greater than 50% of the total DBH of surveyed trees on site, then mitigation is required for the amount of DBH to be removed that exceeds 50% of the total DBH of surveyed trees on site.
- For example, if 75 inches is the total amount of DBH to be removed from a site and 60 inches of DBH represents 50% of the total surveyed DBH, then 15 inches of DBH is the total required amount of mitigation.
3. In addition to the requirements listed in Section 60.60.25.1 Mitigation Requirements, the following mitigation requirements shall apply for the removal of trees from Significant Groves or SNRAs.
- A. Dead or dying trees within a Significant Grove or SNRA shall be fallen when required for safety. Such tree falling shall not require mitigation. However, the fallen log should remain in the Significant Grove or SNRA, to serve as habitat for wildlife, unless the tree has been diagnosed with a disease and the log must be removed from the area to protect the remaining trees.

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- B. All trees planted for mitigation must meet the following minimum requirements:
1. Deciduous trees shall be replaced with native deciduous trees that are no less than two caliper inches (2") in diameter.
 2. Coniferous trees shall be replaced with native coniferous trees that are no less than three feet (3') in height and no more than four feet (4') in height. A three foot (3') mitigation tree shall equate to 2" DBH and four foot (4') mitigation tree will equate to 3" DBH.
 3. The total linear DBH measurement of the trees to be removed shall be mitigated with the necessary number of trees at least two caliper inches (2") in diameter.

4. Significant Grove or SNRA On-Site Mitigation, 2:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 75% of the surveyed non-exempt DBH, if all mitigation tree planting is to occur on-site, the ratio for planting shall be on a 2:1 basis.

For example, if 20 inches of DBH is the total amount of required mitigation, if all the mitigation planting occurs on the site where the removal is to occur, then only 10 inches of DBH is required to be planted.

- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 85% of the surveyed non-exempt DBH, if all mitigation tree planting is to occur on-site, the ratio for planting shall be on a 2:1 basis.

For example, if 20 inches DBH is the total amount of required mitigation, if all the mitigation planting occurs on the site where the removal is to occur, then only 10 inches of DBH is required to be planted.

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60.60.25.

5. Significant Grove or SNRA Off-Site Mitigation, 1:1 Planting Ratio.
 - A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 75% of the surveyed non-exempt DBH, if mitigation tree planting is to occur off-site, the ratio for planting shall be on a 1:1 basis.
 - B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 85% of the surveyed non-exempt DBH in Multiple Use zones, if mitigation tree planting is to occur off-site, the ratio for planting shall be on a 1:1 basis.
6. Significant Grove or SNRA Tree Plan 3 Mitigation, 1:1 Planting Ratio.
 - A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 75% and up to and including 100% of the surveyed non-exempt DBH, all of the required mitigation tree planting shall be on a 1:1 basis whether planted on-site or off-site.
 - B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 85% and up to and including 100% of the surveyed non-exempt DBH, all of the required mitigation tree planting shall be on a 1:1 basis whether planted on-site or off-site.
7. In-Lieu Fee. If the total caliper inch on-site- or off-site tree planting mitigation does not equal the DBH inch removal or if no tree planting mitigation is proposed, the remaining or total caliper inch tree planting mitigation shall be provided as a fee in-lieu payment. The in-lieu fee shall be specified in the Community Development In-Lieu Fee schedule. Fee revenues shall be deposited in the City's Tree Mitigation Fund.

SPECIAL REQUIREMENTS

Trees and Vegetation

60.60.25.7.

The following two tables illustrate how required mitigation will be calculated:

Mitigation Example for Mixed Use Zones – SAMPLE SITE*	
DBH of Surveyed Trees	1318.00
DBH Proposed for Removal (MAXIMUM removal allowed is 85% Surveyed Tree DBH)	1120.00
Mitigation Threshold (50% Surveyed Tree DBH)	659.00
DBH to be Mitigated (85% DBH Removal – 50% DBH Threshold = 25% Surveyed DBH)	461.00
On Site Mitigation (50% of the DBH to be mitigated)	230.50
Off Site OR Partial Off Site Mitigation (100% of the DBH to be mitigated)	461.00

**Please note: This "Sample Site" is fictional and is only meant to be a representation of how the regulations of Section 60.60 Trees and Vegetation could be applied to a site.*

Mitigation Example for All Other Zones – SITE SAMPLE*	
DBH of Surveyed Trees	1318.00
DBH Proposed for Removal (MAXIMUM removal allowed is 75% Surveyed Tree DBH)	988.00
Mitigation Threshold (50% Surveyed Tree DBH)	659.00
DBH to be Mitigated (75% DBH Removal – 50% DBH Threshold = 25% Surveyed DBH)	329.00
On Site Mitigation (50% of the DBH to be mitigated)	164.50
Off Site OR Partial Off Site Mitigation (100% of the DBH to be mitigated)	329.00

**Please note: This "Sample Site" is fictional and is only meant to be a representation of how the regulations of Section 60.60 Trees and Vegetation could be applied to a site.*

8. In addition to the standards in Mitigation Standards 1, the following standards shall apply to mitigation for the removal of a Significant Individual Tree:
 - A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
 - B. Mitigation for the removal of a Significant Individual Tree shall be the required replacement of each tree on based on the total linear DBH measurement. Replacement of trees shall be as follows:

**Replacement Table for
Significant Deciduous Trees**

Caliper-inches removed	Minimum total caliper-inches of replacement trees
6-12"	4"
13-18"	6"
19-24"	8"
Over 25"	9"

Minimum replacement tree size is 2 caliper-inches for deciduous trees.

60.60.25.8.B.

**Replacement Table for
Significant Coniferous Trees**

Caliper-inches removed	Minimum number of replacement Trees
6-12"	1
13-24"	2
Over 25"	3

Minimum replacement tree size is 3-feet minimum to 4-feet maximum height for coniferous trees.

9. The following standards apply to the replacement of a Landscape Tree:
 - A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
 - B. If a replacement tree of the species of the tree removed or damaged is not reasonably available, the City may allow replacement with a different species.
 - C. Replacement of a Landscape Tree shall be based on total linear DBH calculations at a one-to-one ratio depending upon the capacity of the site to accommodate replacement tree or unless otherwise specified through development review. Replacement of tree on a one-to-one basis shall be as follows:
 1. Calculate the sum of the total linear DBH measurement of the tree to be removed.
 2. The total linear DBH measurement of the tree to be removed shall be replaced with tree at least 1.5 caliper inches in diameter. The total caliper inches of the replacement tree shall be at least equal to the sum total of the linear DBH measurement of the removed tree.

18.790.050 Flexible Standards For Planting and Preservation

- A. **General Provisions.** To assist in the preservation and/or planting of trees and significant tree groves, the Director may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this Title, the standards in this section shall apply except in cases where the Director determines there would be an unreasonable risk to public health, safety, or welfare. Flexibility shall be requested by the project arborist as part of the land use review process and is only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site. A separate adjustment application as outlined in Section 18.370 is not required.
- B. **Flexible Standards.** The following flexible standards are available to applicants in order to preserve and plant trees on a development site.
1. **Lot size averaging.** To preserve existing trees in the development plan for any Land Partition under Chapter 18.420, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80% of the minimum lot size allowed in the zone;
 2. **Setbacks.** The following setback reductions will be allowed for lots preserving existing trees using the criteria in subsection b below.
 - a. **Reductions allowed:**
 - (1) Front yard – up to a 25% reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.
 - (2) Interior setbacks - up to a 20% reduction of the dimensional standards for an interior side and/or rear yard setback required in the base zone. Perimeter side and rear yard setbacks shall not be reduced through this provision.
 - b. **Approval criteria:**
 - (1) A demonstration that the reduction requested is the least required to preserve or plant trees; and
 - (2) The reduction will result in the preservation of or the addition to tree canopy on the lot with the modified setbacks; and
 - (3) The reduction will not impede adequate emergency access to the site and structure.
 3. **Sidewalks.** Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. This flexibility may be accomplished through a curb-tight sidewalk or a public sidewalk easement recorded on private property and shall be reviewed on a case by case basis in accordance with the provisions in Chapter 18.810, Street and Utility Improvement Standards. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If a preserved tree is to be utilized as a street tree, it must meet the criteria found in the Landscaping and Screening section 18.745.040(A)(5).

4. Commercial/industrial/civic use parking. For each 2% of effective canopy cover provided by preserved or planted trees incorporated into a development plan for commercial, industrial or civic uses listed in Section 18.765.080, Minimum and Maximum Off-Street Parking Requirements, a 1% reduction in the amount of required parking may be granted. No more than a 20% reduction in the required amount of parking may be granted for any one development.
5. Commercial/industrial/civic use landscaping. For each 2% of effective canopy cover provided by preserved trees incorporated into a development plan, a 1% reduction in the minimum landscape requirement may be granted. No more than 20% of the minimum landscape requirement may be reduced for any one development.

C. Additional Flexible Standards and Incentives for the Preservation of Significant Tree Groves. A map of Significant Tree Groves is maintained by the Director. The following additional flexible standards and incentives are available when a development site contains at least 10,000 square feet of native tree canopy that is part of or contiguous with a Significant Tree Grove and is not also within the sensitive lands types in section 18.775.010(G)(1-3). If any of these special flexible standards and incentives are requested, the project arborist shall clearly demonstrate in the urban forestry plan (per section 18.790.030(B)) consistency with the applicable provisions.

1. Reduction of Minimum Density. The minimum number of units required by Section 18.510.040 (Density Calculation) may be reduced to preserve a Significant Tree Grove. The amount of reduction in minimum density shall be calculated by subtracting the square footage of preserved Significant Tree Grove from the square footage of the development site used to calculate the minimum density requirement. Reduction of minimum density is permitted provided that:
 - (1) At least 50% of the Significant Tree Grove's canopy within the development site (and not also within the sensitive lands types in section 18.775.010(G)(1-3)) is preserved;
 - (2) The project arborist certifies the preservation is such that the connectivity and viability of the remaining Significant Tree Grove is maximized; and
 - (3) The Significant Tree Grove is protected through an instrument or action subject to approval by the Director that demonstrates it will be permanently preserved and managed such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the City.
2. Residential Density Transfer. Up to 100% density transfer is permitted from the preserved portion of a Significant Tree Grove within a development site to the buildable area of the development site.
 - (1) Density may be transferred provided that:
 - a. At least 50% of the Significant Tree Grove's canopy within the development site (and not also within the sensitive lands types in section 18.775.010(G)(1-3)) is preserved;
 - b. The project arborist certifies the preservation is such that the connectivity and viability of the remaining Significant Tree Grove is maximized.

- c. Maximum density for the net site area including the Significant Tree Grove is not exceeded;
 - d. The standards in Table 18.790.1 below are met; and
 - e. The Significant Tree Grove is protected through an instrument or action subject to approval by the Director that demonstrates it will be permanently preserved and managed such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the City.
- (2) The proposed development may include the following:
- a. Zero lot line single-family detached housing for the portion of the development site that receives the density transfer.
 - b. The following variations from the base zone development standards are permitted:
 - i. Up to 25% reduction of average minimum lot width;
 - ii. Up to 10 foot minimum front yard setback;
 - iii. Up to 33% reduction of side and rear yard setbacks;
 - iv. Up to 4 foot minimum garage setback; and
 - v. Up to 20% increase in maximum height as long as height adjustments comply with the International Building Code.
 - c. When the portion of the development site that receives the density transfer abuts a developed residential district with the same or lower density zoning, the average area of abutting perimeter lots shall at least be 150% greater than the corresponding minimum lot area in this table.

TABLE 18.790.1

DENSITY TRANSFER TABLE FOR PRESERVATION OF SIGNIFICANT TREE GROVES

<u>Residential Zoning District</u>	<u>Detached SQ. FT.¹</u> <u>Minimum Lot Size</u>	<u>Attached SQ. FT.</u> <u>Or courtyard single-family housing</u> <u>Minimum Lot Size</u>	<u>Duplex</u> <u>Minimum Lot Size</u>	<u>Multifamily</u> <u>Minimum Unit Area</u>
<u>R-1</u>	<u>15,000 sq. ft.</u>	<u>Not Allowed</u>	<u>Not Allowed</u>	<u>Not Allowed</u>
<u>R-2</u>	<u>10,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>Not Allowed</u>	<u>Not Allowed</u>
<u>R-3.5</u>	<u>5,000 sq. ft.</u>	<u>3,500 sq. ft.</u>	<u>10,000 sq. ft.</u>	<u>Not Allowed</u>
<u>R-4.5</u>	<u>3,750 sq. ft.</u>	<u>2,500 sq. ft.</u>	<u>7,500 sq. ft.</u>	<u>Not Allowed</u>
<u>R-7</u>	<u>2,500 sq. ft.</u>	<u>2,000 sq. ft.</u>	<u>5,000 sq. ft.</u>	<u>Not Allowed</u>
<u>R-12</u>	<u>Single family, duplex and multifamily housing permitted at the following densities:</u> <u>1,525 sq. ft. minimum per unit</u>			
<u>R-25</u>	<u>Single family, duplex and multifamily housing permitted at the following densities:</u> <u>740 sq. ft. minimum per unit</u>			
<u>R-40</u>	<u>Single family, duplex and multifamily housing permitted with no upper density limit.</u>			

3. Adjustments to Commercial Development Standards. Adjustments to Commercial Development Standards (Table 18.520.2) of up to 50% reduction in minimum setbacks and up to 20 feet additional building height are permitted provided:
 - (1) At least 50% of a Significant Tree Grove's canopy within a development site (and not also within the sensitive lands types in section 18.775.010(G)(1-3)) is preserved;
 - (2) The project arborist certifies the preservation is such that the connectivity and viability of the remaining Significant Tree Grove is maximized;
 - (3) Applicable Buffering and Screening requirements in section 18.745.050 are met;
 - (4) Any height adjustments comply with the International Building Code; and
 - (5) Any setback reduction is not adjacent to residential zoning; and
 - (6) The Significant Tree Grove is protected through an instrument or action subject to approval by the Director that demonstrates it will be permanently preserved and managed such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the City.

4. Adjustments to Industrial Development Standards. Adjustments to Development Standards in Industrial Zones (Table 18.530.2) of up to 50% reduction in minimum setbacks and up to 20 feet additional building height are permitted provided:
 - (1) At least 50% of a Significant Tree Grove's canopy within a development site (and not also within the sensitive lands types in section 18.775.010(G)(1-3)) is preserved;
 - (2) The project arborist certifies the preservation is such that the connectivity and viability of the remaining Significant Tree Grove is maximized;
 - (3) Applicable Buffering and Screening requirements in section 18.745.050 are met;
 - (4) Any height adjustments comply with the International Building Code; and
 - (5) Any setback reduction is not adjacent to residential zoning; and
 - (6) The Significant Tree Grove is protected through an instrument or action subject to approval by the Director that demonstrates it will be permanently preserved and managed such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the City.

5. Adjustment to Minimum Effective Canopy Requirement. The requirement for 20% effective tree canopy cover per lot is not required when:
 - (1) At least 50% of a Significant Tree Grove's canopy within a development site (and not also within the sensitive lands types in section 18.775.010(G)(1-3)) is preserved;
 - (2) The project arborist certifies the preservation is such that the connectivity and viability of the remaining Significant Tree Grove is maximized;
 - (3) The applicable standard percent effective tree canopy cover in Section 8, Part 3, item n will be provided for the overall development site (excluding streets);

- (4) The Significant Tree Grove is protected through an instrument or action subject to approval by the Director that demonstrates it will be permanently preserved and managed such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the City;
6. Adjustment to Street and Utility Standards. If requested, the Director shall use his or her discretion when considering adjustments to Chapter 18.810, Street and Utility Improvement Standards and section 18.745.040, Street Trees provided:
 - (1) The adjustments will facilitate preservation and help to maximize the connectivity and viability of a Significant Tree Grove;
 - (2) The Significant Tree Grove is protected through an instrument or action subject to approval by the Director that demonstrates it will be permanently preserved and managed such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the City.

