

City of Sherwood PLANNING COMMISSION Sherwood City Hall 22560 SW Pine Street Sherwood, OR 97140 December 14, 2010 – 7PM

Business Meeting - 7:00

- 1. Call to Order/Roll Call
- 2. Agenda Review
- 3. Consent Agenda
- 4. Staff Announcements
- 5. New Business:
 - a. PA 10-03 Code Clean-up Phase I.V- The proposed changes will update the Fences, Walls and Hedges (16.58.030), Landscaping (16.92), On-Site Storage (16.98), Trees Along Public Streets or on Other Public Property (16.142.050) and Recommended Street Trees (16.142.080). Specifically, the proposed language will clarify the standards for fences and walls on residential and non-residential property. The definition of a fence or wall has been clarified and hedges have been removed from these standards. The street tree removal and replacement standards have been revised to make this process more user friendly. The spacing requirements have been updated to eliminate the street tree problems that have occurred as the trees have aged due to the existing spacing standards. The recommended street tree list has been revised to remove problem trees, fruit bearing trees and add more appropriate trees. The canopy spreads of the trees have also been added to provide additional information to the users.
 - b. S.W.O.T analysis

6. Adjourn

Work Session - Following business meeting

- 1. Review final draft proposed amendments for Residential Use classifications
- 2. Continued Discussion on Commercial and Industrial Uses feedback on use classifications
- 3. Review and comment on issue papers (as time allows):
 - a. Public Improvements
 - b. Subdivisions/partitions/lot line adjustments
 - c. Tree removal and mitigation
 - d. Modifications to site plans

Signed:

Zoe Monahan, Assistant Planner

For Moraham

Proposal: Amendments to the Development Code on this phase of the Code Clean-Up project will clarify the standards for fences and walls on residential and non-residential property, streamline the process for street tree removal and provide for flexibility in the spacing of required street trees. Specifically, the definition of a fence or wall has been clarified and hedges have been removed from these standards. The street tree removal and replacement standards have been revised to streamline the process. The street tree spacing requirements have been updated to account for differences in trees and to take into account driveways and utilities that may conflict with the trees. The recommended street tree list has been revised to remove problem trees, fruit bearing trees and to add more appropriate trees. The proposed changes will modify the following code sections: Fences, Walls and Hedges (16.58.030), Classifications (16.72.010.A), Landscaping (16.92), On-Site Storage (16.98), Trees Along Public Streets or on Other Public Property (16.142.050) and Recommended Street Trees (16.142.080). The proposal will also move the process for review and approval of trees on public property (other than street trees) to Chapter 12 of the Municipal Code. The proposed amendments are attached to this report as Exhibit A.

I. BACKGROUND

A. Applicant:

This is a City initiated text amendment; therefore the applicant is the City of Sherwood.

- B. <u>Location</u>: The proposed amendment is to the text of the development code and, therefore applies citywide.
- G. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Amendment of Chapter 12 of the Municipal code is not a land use decision and does not require a hearing and recommendation by the Planning Commission. Any appeal of the City Council decision relating to Chapter 16 updates would go directly to the Land Use Board of Appeals.
- H. <u>Public Notice and Hearing</u>: Notice of the December 14, 2010 Planning Commission hearing on the proposed amendment was published in *The Times* on 12/2/10 and 12/9/10. In addition, as a courtesy notice placed in the December edition of the Gazette. Notice was posted in 5 public locations around town and on the web site on 11/22/10. The City also sent e-notice to the interested parties list and regular updates were provided in the City newsletter.

While this does apply citywide, it does not affect the permissible uses of any property; therefore "Measure 56" notice was not required or provided. DLCD notice was sent 10/26/10.

I. Review Criteria:

The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).

J. Background:

The City underwent periodic review in 1989-1991 and the Zoning and Community Development Code was comprehensively reviewed and updated as part of that process. Since that time, there have been a number of updates to comply with regional and state laws, address local issues and in response to applications. Overtime the piece-meal updates resulted in the need to conduct a comprehensive audit and update of the code to ensure cross references are correct, standards are clear, and typographical errors are fixed. In addition, over time the trends and values have changed such that it is necessary to evaluate the standards to ensure they address current needs. To that end, the Council, Planning Commission and staff identified the need to conduct a comprehensive update of the Development Code. The Code Update project has been broken into phases to allow manageable portions to be reviewed and adopted prior to moving on to another phase. Phase I was adopted in October of 2010.

After Planning Commission review it was determined that only a portion of the second phase would move forward at this time, while additional work is being completed for the remainder of Phase II. This phase, referred to as phase I.V (1.5) focuses on two elements:

1.) fence standards clarification and 2) street tree removal and replacement as well as spacing requirements.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent an e-mail request for comments to Metro and Portland General Electric on November 5, 2010. DLCD received notice on October 28, 2010. The City has received no responses to date.

Public:

No formal public comments have been received to date on the proposed amendments; however the City and Commission has received input from the public during informal listening sessions and via public surveys which helped guide the proposed amendments under review.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3

16.80.030.1 - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

The City has identified that the code is not always clear and embarked on this multi-phase code clean-up project to address issues that have arisen as a result to make it clearer, more user-friendly, and to reflect current trends and community values. The proposed changes represent the first half of the second phase. Recent input from the public has also made it clear that the required street trees and spacing have led to maintenance issues and the street tree removal process is unclear and cumbersome. The City has also received many comments over the years that the one-size-fits-all fence standards do not adequately accommodate the security needs for

non-residential uses and the corner lot fence standards provide little opportunity for properties with corner lots to have privately fenced yards.

The Planning Commission has held a series of work sessions to discuss the proposed changes and considered public input before the changes were developed to obtain feedback on needed changes. Fences and walls (16.58.030), Trees along public Streets and other Public Property (16.142.050) as well as the Recommended Street Tree List (16.142.080) have been reviewed by both staff and the Commission.

In order to clarify standards in response to issues and questions that have arisen over the past years, the code sections for fences (16.50.030) has been updated with clearer definitions and separate regulations for residential and non-residential zones. Specifically, the definition of a fence has been changed to clarify that lattice and decorative toppers are included in the definition of a fence and that these features are included in the total height of the fence. The proposed language also clarifies that sound walls are not considered fences and provides a definition. The sound wall definition allows sound walls to be up to 20 feet tall which would not met the six foot tall fence standard in the past.

Because the corner lot fence standards were awkward in that the permitted six foot high fence was in relation to the house regardless of how far the house was setback from the property line, the standards for corner lot fencing is proposed to be modified to better reflect the intent while preserving more opportunity for property owners to fence their yards. The corner lot fence standards are intended to ensure that a driver's vision is not obstructed by residential fences and to provide a more pedestrian friendly experience by preventing a six foot high fence along a sidewalk. The proposed language clarifies that the vision clearance standards apply and has identified that the fence must be eight feet back from the sidewalk to ensure that public utility easements are not covered. This eight foot setback will also ensure pedestrians do not have a tall fence right next to the sidewalk. The eight foot setback and the clear vision standards will provide clear vision along corner lots while still allowing homeowners to fence the majority of their yards for privacy.

Both the City Council and Planning Commission have received input from concerned residents recently about the street tree standards. Concerns relate to the process as well as the standards for installation of street trees and replacement of street trees that are permitted to be removed. The current standards do not take utilities, driveways, etc. into account and each development is required to provide one tree for every 25 feet of street frontage or two trees for every buildable lot, whichever is greater. The result is often trees spaced too close together such that the tree is not healthy or there are avoidable impacts to the sidewalk and utilities. To this end, the spacing standards are proposed to be updated to account for public utilities, driveways and street lights and mature canopy spread of the tree will determine what the spacing of the tree will be. The proposed code language also has an exemption to replacement of a street tree if the trees originally were planted too close and lead to problems with utilities and lifting the sidewalks.

Through the process of evaluating the existing standards and processes, it was determined that the Parks Board was not necessarily the most appropriate review body to consider the removal of street trees. After much discussion and several work sessions, a new process for the consideration of removal of street trees was developed. This process allows for consideration of removal and replacement as well as a removal without replacement. As proposed, removal of street trees under 20 inches diameter at breast height (dbh) is permitted via a Type I administrative process if specific clear and objective standards are met and trees over 20 inches dbh are reviewed by a Type II process which includes a staff level decision after the opportunity for public notice and comment.

The process for removal of trees equal to or less than 20 inches dbh will require the person requesting the removal of the tree to apply for a tree permit. There will be a ten day period for others to object to the removal of the tree based on the outlined standards (i.e. they do not PA 10-03 Code Clean Up Phase I.V

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believe the tree meets the criteria for removal). If objections are raised an additional evaluation of the tree will take place to determine if the tree meets the criteria for removal. If there are no objections or the additional evaluation indicates that the tree meets the criteria for removal, the tree permit will be approved.

The process for removal of trees greater than 20 inches dbh requires the more detailed evaluation as part of the initial submittal and encourages the property owner to seek assistance from neighbors, HOAs or the City to address any issues that would enable the property owner to save the tree. The formal public notice (to property owners within 1000 feet) provides opportunity for the public to comment on the tree removal, and again, perhaps provide an opportunity for the neighborhood to work together to help the property owner save the tree if possible.

These new processes eliminates the Parks Advisory Board review of street trees, clearly outlines the requirements and allows for public awareness of the proposed removal and the ability to comment on whether the tree meets the specific criteria for removal.

The Parks Advisory Board will continue to review the tree removal requests for trees on public property, excluding street trees. However, the section of the code will be removed from Chapter 16 and moved to Chapter 12.12 and eliminates their review from being a land use decision.

Upon review of the Comprehensive Plan, the following policies or strategies relate to all or some of the proposed amendments:

Chapter 4, Section E, Policy 1:

 Buffering techniques shall be used to prevent the adverse effects of one use upon another. These techniques may include varying densities and types of residential use, design features and special construction standards

Chapter 4, Section O, Policy 3:

- Encourage the use of visually appealing fencing throughout the City.
- Develop and maintain landscaped conservation easements along major roadways and parkway strips along minor streets.
- Develop and implement a tree ordinance which regulates the cutting of trees and the planting of street trees.

There are no comprehensive plan requirements that would conflict with the proposed code language.

Applicable Regional (Metro) standards

There are no known Metro standards that this proposed amendment would conflict with.

Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comprehensive plan has been acknowledged by the State, there are no conflicts with this text change. Further, there are no known state goals or standards that the proposed amendment would conflict with. DLCD provided verbal comments that the proposed changes 'look good". In addition, they generally support efforts to remove barriers in the code such as conflicts or lack of clarity.

As a whole, the amendments are consistent with and support Goal 2 (land use planning) by providing more clear standards. The code language is in conformance with state and federal plans. The proposed language will continue to be used city wide.

The process used to develop and review the proposed amendment is consistent with the Goal 2 requirements (and the development code):

- The Commission held multiple work sessions on the project;
- The web site was updated regularly to provide opportunity for people to get information and provide input on the project as a whole as well as input on specific topics;
- Non-scientific surveys were solicited and provided input from 47 individuals which helped inform the process;
- Staff attended, provided information and requested input at Parks Board meetings;
- Flyers announcing the project and opportunities for input were developed and made available throughout the City; and
- The Planning Commission held a "Listening Session" to get informal input as the proposed changes were being developed.

In addition to the public outreach provided before the proposed changes were developed and the public hearing set, formal notice was also published in the newspaper for two weeks prior to the hearing, published in the December issue of the Gazette, posted around town, placed in the library and on the web site. Courtesy notices were also provided on the web site, in the City Newsletter (the Archer), to the interested parties list and the most current list of HOA contacts.

FINDING: As discussed above in the analysis, there is a need for the proposed amendments and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.3 – Transportation Planning Rule Consistency

A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.

FINDING: The amendment will not result in a change of uses otherwise permitted and will have no impact on the amount of traffic on the transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends Planning Commission forward a recommendation of approval of PA 10-03 to the City Council.

- V. **EXHIBITS** A. Proposed development code changes
 - B. Proposed amendments to Chapter 12.12

16.58.030 FENCES, AND WALLS AND HEDGES Generally

- A. Purpose: The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effect of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.
- B. Definition: For purposes of this Section, a corner lot adjoining two (2) City streets shall have both yards adjoining the streets considered as front yards.
 - 1. Fence: A freestanding structure that provides a barrier between properties or different uses on the same property and is generally used to provide privacy and security. A fence may be open, solid, wood, metal, wire, masonry or other materials and include lattice or other decorative toppers.
 - 2. Wall: A solid structural barrier that is not intended to alter the grade.
 - 3. Retaining wall: A solid barrier that provides a barrier to the movement of earth, stone or water and is used to alter the grade.
 - 4. Sound wall An exterior wall designed to protect sensitive land uses including parks, residential zones and institutional public zones from noise generated by roadways, railways, commercial and industrial noise sources. A sound wall is permitted when required as a part of a development review. A sound wall may not be taller than 20 feet.
 - 5. Landscape feature: A trellis, arbor or other decorative feature that is attached to or incorporated within the fence.

C. Types of Fences Applicability:

The following standards apply to walls, fences, hedges, lattice, mounds, and decorative toppers. The standards do not apply to vegetation, sound walls and landscape features up to four (4) feet wide and at least 20 feet apart. and screens of all types (or a combination thereof) whether open, solid, wood, metal, wire, masonry, plant vegetation or other materials.

D. Location Residential Zone:

- 1. Fences up to forty-two inches (42") high are allowed in required front building setbacks.
- 2. Fences up to six feet (6') high are allowed in required side or rear building setbacks, except fences adjacent to public pedestrian access ways and alleys shall not exceed forty-two inches (42") in height unless there is a landscaped buffer at least three (3) feet wide between the fence and the access way or alley.
- 3. Rear (flag) lot access drives shall be separated from abutting property(ies) by a minimum of forty-two inch (42") sight-obscuring fence or a 42"-72" high landscape hedge within a four (4) foot landscape buffer. Alternatively, where existing mature trees and vegetation are suitable, the Planning Supervisor may waive the fence/buffer in order to preserve the mature vegetation.
- 3. Fences on corner lots may not be placed closer than eight (8) feet back from the sidewalk along the corner-side yard.
- 4. Additionally, all fences shall be subject to the clear vision provisions of Section 16.58.010. (Ord. 2006-021)

E. Location – Non-Residential Zone:

1. Fences up to eight feet (8) high are allowed along front, rear and side property lines, subject to Section 16.58.010. (Clear Vision) and building department requirements.

Provisional Locations:

- 1. On corner lots in residential areas, where a home is characterized as back to back (See diagram adopted herein as shown in the illustration of these text provisions):
- a. A six foot (6') fence may extend into the required second front yard in an amount not to exceed fifty percent (50%) of the distance measured between the house and sidewalk.
- b. Said fence may not extend beyond eight feet (8') from the rear of the house toward the front.
- 2. On corner lots in residential areas where a home is characterized as back to front (See diagram adopted herein as shown in the illustration of these text provisions):
- a. A six-foot (6') fence may extend into the second required front yard in an amount no greater than five feet (5') from the house.
- b. Said fence may not extend beyond eight feet (8') from the rear of the house to the front.
- 3. Fences in yards affecting cul-de-sacs are exempt from this Subsection.
- F. Provisional Conditions: The following conditions are applied to those fences constructed pursuant to Subsection E.
- 1. The clear vision standards of Section 16.58.010 apply and take precedence over these provisions in the event of conflict between this Section and Section 16.58.030.
- Wire/chain link fencing is not allowed along any residential street frontage.

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- F. General Conditions All Fences
 - 1. In all cases, the following standards are applied apply:
 - a. Fences must be structurally sound and maintained in good repair. Fences A fence may not be propped up in any way from the exterior side.
 - b. Chain link fencing is not allowed in any required residential front yard setback.
 - c. The finished side of the fence must face the street or the neighboring property. This shall not preclude finished sides on both sides.
 - d. Wood fences along side yards that are shared between two properties shall be a "good neighbor" design with alternating boards
 - d. Buffering: If a proposed development is adjacent to an existing farming operation, a buffer plan that includes, but is not limited to, setbacks, fencing, landscaping, and maintenance via a homeowner's association or managing company shall be submitted and approved as part of the preliminary plat or site plan review process per Section 16.90.020 and Chapter 16.122, e. In the event of a conflict between this section and the clear vision standards of Section
 - 16.58.010, the standards in section 16.58.010 prevail.

 f. Fences and walls shall not be located within or over a public utility easement without an
 - approved right of way permit.

 g. The height of fence or wall is measured from the actual adjoining level of finished grade
 - g. The height of fence or wall is measured from the actual adjoining level of finished grade measured six (6) inches from the fence. In the event the ground is sloped, the lowest grade within six (6) inches of the fence shall be used to measure the height.
- H. Administrative Variance: The City Manager or his/her designee may grant an administrative variance to this Section.
- I. Abatement of Fences in Non-Compliance
- 1. Fences that do not conform to Subsection E of this Code must come into compliance when the house is sold, when other permits are issued, or by September 1, 2003, whichever is earlier. Fences constructed affecting cul-de-saes or fences creating inadequate site distances pursuant to Section 16.58.010 must come into compliance immediately.
- 2. Chain link fences forty-two inches (42") or under in front yard setbacks, erected prior to adoption of this ordinance, or other fences which, when installed, were legal under the Municipal Code of Ordinances effective at that time, are exempt from Subsection (I)(1).
- J. Penalties: Violations of this Section shall be subject to the penalties defined by Section 16.02.040. (Ord. 96-1014 § 1; 93-964; 86-851)

Chapter 16.72 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS 16.72.010 Generally

A. Classifications

Except for Administrative Variances, which are reviewed per Section 16.84.020, and Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

1. Type I

The following quasi-judicial actions shall be subject to a Type I review process:

- a. Signs
- b. Property Line Adjustments
- c. Interpretation of Similar Uses
- d. Temporary Uses
- e. Final Subdivision Plats
- f. Final Site Plan Review
- g. Time extensions of approval, per Sections 16.90.020; 16.124.010
- h. Type II Home Occupation Permits
- i. Interpretive Decisions by the City Manager or his/her designee
- j. Tree Removal Permit a street tree equal to or less than 20 inches DBH, per Section 16.142.050.B.2.
- 2. Type II

The following quasi-judicial actions shall be subject to a Type II review process:

- a. Land Partitions
- b. Expedited Land Divisions The Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community Development Code. Conditions may be imposed by the Planning Director if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code.
- c. "Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.4, below.
- d. "Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.4.G.4.
- e. Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in 16.90.020.4.H.1.

f. Tree Removal Permit – a street tree over 20 inches DBH, per Section 16.142.050.B.3.

3. Type III

The following quasi-judicial actions shall be subject to a Type III review process:

- a. Conditional Uses
- b. Variances, including Administrative Variances if a hearing is requested per Section 16.84.020.
- c. Site Plan Review -- between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010.4, below.
- d. Subdivisions -- Less than 50 lots.
- 4. Type IV

The following quasi-judicial actions shall be subject to a Type IV review process:

- a. Site Plan review and/or "Fast Track" Site Plan review of new or existing structures in the Old Town Overlay District.
- b. All quasi-judicial actions not otherwise assigned to a Hearing Authority under this section.
- c. Site Plans -- Greater than 40,000 square feet of floor area, parking or seating capacity.
- d. Site Plans subject to Section 16.90.020.4.G.6.
- e. Industrial Site Plans subject to Section 16.90.020.4.H.2.
- f. Subdivisions -- More than 50 lots.
- 5. Type V

The following legislative actions shall be subject to a Type V review process:

- a. Plan Map Amendments
- b. Plan Text Amendments
- c. Planned Unit Development -- Preliminary Development Plan and Overlay District.

Chapter 16.92 LANDSCAPING*

Sections:

16.92.010 LANDSCAPING PLAN

16.92.020 LANDSCAPING MATERIALS

16.92.030 LANDSCAPING STANDARDS

16.92.040 INSTALLATION AND MAINTENANCE

* Editor's Note: Some sections may not contain a history.

16.92.010 LANDSCAPING PLAN

All proposed developments for which a site plan is required pursuant to Section 16.90.020 shall submit a landscaping plan which meets the standards of this Chapter. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan. Maintenance of existing non-invasive native vegetation is encouraged within a development and required for portions of the property not being developed.

(Ord. 2006-021; 86-851 § 3)

16.92.020 LANDSCAPING MATERIALS

A. Varieties

Required landscaped areas shall include an appropriate combination of native evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of this Chapter.

(Ord. 2006-021; 86-851 § 3)

B. Establishment of Healthy Growth and Size

Required landscaping materials shall be established and maintained in a healthy condition and of a size sufficient to meet the intent of the approved landscaping plan. Specifications shall be submitted showing that adequate preparation of the topsoil and subsoil will be undertaken. (Ord. 86-851 § 3)

C. Non-Vegetative Features

Landscaped areas as required by this Chapter may include architectural features interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, semi-pervious decorative paving, and graveled areas. Impervious paving shall not be counted as landscaping. Artificial plants are prohibited in any required landscaped area.

(Ord. 2006-021; 86-851 § 3)

D. Existing Vegetation

All developments subject to site plan review as per Section 16.90.020 and required to submit landscaping plans as per Section 16.92.020 shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the Review Authority, in addition to complying with the provisions of Section 16.142.060, and Chapter 16.144.

(Ord. 2006-021; 94-991 § 1; 86-851)

16.92.030 LANDSCAPING STANDARDS

A. Perimeter Screening and Buffering

A minimum six (6) foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen shall be required along property lines separating single and two-family uses from multi-family uses, and along property lines separating residential zones from commercial or industrial uses. For new uses adjacent to inventoried environmentally sensitive areas, screening requirements shall be limited to vegetation only so as to preserve wildlife mobility. In addition, plants and other landscaping features may be required by the Review Authority in locations and sizes necessary to protect the privacy of residences and buffer any adverse effects of adjoining uses.

(Ord. 2006-021; 86-851 § 3)

B. Parking and Loading Areas

1. Total Landscaped Area

A minimum of ten percent (10%) of the lot area used for the display or parking of vehicles shall be landscaped in accordance with this Chapter. In addition, all areas not covered by buildings, required parking, and/or circulation drives shall be landscaped with plants native to the Pacific Northwest in accordance with this Chapter.

(Ord. 2006-021; 86-851 § 3)

2. Adjacent to Public Rights-of-Way

<u>a.</u> A landscaped strip at least ten (10) feet in width shall be provided between rights-of-way and any abutting off-street parking, loading, or vehicle use areas. Landscaping shall include any combination of evergreen hedges, dense vegetation, earth berm, grade, change in grade, wall, <u>bioswales</u> or fence, forming a permanent year-round screen, except in clear vision areas as per Section 16.58.030.

b. Rear (flag) lot The access drives to a rear lot (i.e. flag lot) shall be separated from abutting property(ies) by a minimum of forty-two inch (42") sight-obscuring fence or a 42"-72" high landscape hedge within a four (4) foot wide landscape buffer. Alternatively, where existing mature trees and vegetation are suitable, the City Manager or Manager's designee Planning Supervisor-may waive the fence/buffer in order to preserve the mature vegetation.

(Ord. 86-851 § 3)

3. Perimeter Landscaping

A ten (10) foot wide landscaped strip shall be provided between off-street parking, loading, or vehicular use areas on separate abutting properties or developments. A minimum six (6) foot high sight-obscuring fence or plantings shall also be provided, except where equivalent screening is provided by intervening buildings or structures.

(Ord. 86-851 § 3)

4. Interior Landscaping

A minimum of fifty percent (50%) of required parking area landscaping shall be placed in the interior of the parking area. Landscaped areas shall be distributed so as to divide large expanses of pavement, improve site appearance, improve safety, and delineate pedestrian walkways and traffic lanes. Individual landscaped areas shall be no less than sixty-four (64) square feet in area and shall be provided after every fifteen (15) parking stalls in a row. Storm water bio-swales may be used in lieu of the interior landscaping standard.

(Ord. 2006-021; 86-851 § 3)

5. Landscaping at Points of Access

When a private access-way intersects a public right-of-way or when a property abuts the intersection of two (2) or more public rights-of-way, landscaping shall be planted and maintained so that minimum sight distances shall be preserved pursuant to Section 16.58.010.

(Ord. 86-851 § 3)

6. Exceptions

For properties with an environmentally sensitive area and/or trees or woodlands that merit protection per Chapters 16.142 and 16.144, the landscaping standards may be reduced, modified or "shifted" onsite where necessary in order to retain existing vegetation that would otherwise be removed to meet the above referenced landscaping requirements. The maximum reduction in required landscaping permitted through this exception process shall be no more than 50%. The resulting landscaping after reduction may not be less than five feet in width unless otherwise permitted by the underlying zone. Exceptions to required landscaping may only be permitted when reviewed as part of a land use action application.

(Ord. 2006-021)

C. Visual Corridors

Except as allowed by subsection F, new developments shall be required to establish landscaped visual corridors along Highway 99W and other arterial and collector streets, consistent with the Natural Resources and Recreation Plan Map, Appendix C of the Community Development Plan, Part II, and the provisions of Chapter 16.142.

(Ord. 91-922 § 3; 86-851)

Chapter 16.98 ON-SITE STORAGE*

Sections:

16.98.010 RECREATIONAL VEHICLES AND EQUIPMENT

16.98.020 SOLID WASTE AND RECYCLING STORAGE

16.98.030 MATERIAL STORAGE

16.98.040 OUTDOOR SALES AND MERCHANDISE DISPLAY

16.98.010 RECREATIONAL VEHICLES AND EQUIPMENT

Recreational vehicles and equipment may be stored only within designated and improved off-street parking areas. Such areas shall meet the screening and landscaping requirements of Section 16.92.030.

16.98.020 SOLID WASTE AND RECYCLING STORAGE

All uses shall provide solid waste and recycling storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste and recycling storage areas and receptacles shall be located out of public view. Solid waste and recycling receptacles for multi-family, commercial, industrial and institutional uses shall be screened by six (6) foot high sight-obscuring fence or masonry wall and shall be easily accessible to collection vehicles.

(Ord. 2006-021; 86-851 § 3)

16.98.030 MATERIAL STORAGE

A. GENERALLY

Except as otherwise provided herein, external material storage is prohibited, except in commercial and industrial zones where storage areas are approved by the Review Authority as part of a site plan or as per Section 16.98.040.

(Ord. No. 2010-05, § 2, 4-6-2010; Ord. 89-901 § 1; 86-851)

B. Standards

^{*} Editor's Note: Some sections may not contain a history.

Except as per Section 16.98.040, all service, repair, storage, and merchandise display activities carried on in connection with any commercial or industrial activity, and not conducted within an enclosed building, shall be screened from the view of all adjacent properties and adjacent streets by a six (6) foot to eight (8) foot high, sight obscuring fence subject to chapter 16.58.030. In addition, unless adjacent parcels to the side and rear of the storage area have existing solid evergreen screening or sight-obscuring fencing in place, new evergreen screening no less than three (3) feet in height shall be planted along side and rear property lines. Where other provisions of this Code require evergreen screening, fencing, or a landscaped berm along side and rear property lines, the additional screening stipulated by this Section shall not be required.

(Ord. 89-901 § 1)

C. Hazardous Materials

Storage of hazardous, corrosive, flammable, or explosive materials, if such storage is otherwise permitted by this Code, shall comply with all local fire codes, and Federal and State regulations. (Ord. 89-901 § 1)

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Division VIII. ENVIRONMENTAL RESOURCES

Chapter 16.142 PARKS, OPEN SPACES AND TREES

16.142.050 Trees Along Public Streets or on Other Public Property Street Trees

A. Trees Along Public Streets Installation of Street Trees on New or Redeveloped Property

Trees are required to be planted to the following specifications along public streets abutting or within any new development or re-development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets. After installing street trees, the property owner shall be responsible maintaining the street trees on the owner's property or within the right of way adjacent to the owner's property.

- 1. Tree Location: Trees shall be planted within the planter strip along newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines.

 (Ord. 2006 021)
- 2. Tree sSize: AThe trees shall have a minimum trunk diameter of two (2) inches DBH and minimum height of six (6) feet.
- 53. Tree Types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.

4. Required Street Trees and Spacing

- a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.
- b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveway, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than 40 feet apart in any development.
- c. A new development may exceed the 40 feet spacing requirement under section b. above, under the following circumstances;
 - (1). Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
 - (2). There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and
 - (3). The street trees are spaced as close as possible given the site limitations in (1), and (2) above.
 - (4). The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
 - 3. Tree spacing: A minimum of one (1) tree for every twenty-five (25) feet of public street frontage, or two (2) trees for every buildable lot, whichever yields the greater number of

trees. Double fronting lots shall have a minimum of one (1) street tree for every twenty-five (25) feet of frontage. Corner lots shall have a minimum of three (3) street trees.

- 45. For arterial and collector streets, the City may require planted medians in lieu of paved twelve (12) foot wide center turning lanes, planted with trees to the specifications of this subsection.
- 5. Tree types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.

(Ord. 2006-021)

B. Removal and Replacement of Street Trees

The removal of a street tree shall be limited and in most cases, necessitated by the tree. A person may remove a street tree as provided in this section 16.142.050.B. The person removing the tree is responsible for all costs of removal and replacement. A street tree that is removed must be replaced within six (6) months of the removal date.

1. Criteria for All Street Tree Removal

No street tree shall be removed unless it can be found that the tree is:

- a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
- b. Obstructing public ways or sight distance so as to cause a safety hazard, or
- c. Interfering with or damaging public or private utilities, or
- d. Being defined as a nuisance as per City nuisance abatement ordinances.
- 2. Street trees less than 20 inches DBH may be removed if any of the criteria in 1. above are met and a tree removal permit is obtained.
 - a. Tree Removal Permit Process is a Type I land use decision and shall be approved subject to the following criteria:
 - (1). The person requesting removal shall submit a Tree Removal Permit application that identifies the location of the tree, the type of tree to be removed, the proposed replacement and how it qualifies for removal per 1. above.
 - (2). The person shall post a sign, provided by the City, on or adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - (3). If an objection to the removal is submitted by the City or to the City during the ten (10) calendar day period an additional evaluation of the tree will be conducted by an arborist to determine whether the tree meets the criteria for street tree removal in 1.
 - (4). Upon completion of the additional evaluation substantiating that the tree warrants removal per 1. above or if no objections are received within the 10 day period, the tree removal permit shall be approved.
 - (5). If additional evaluation indicates the tree does not warrant removal, the Tree Removal Permit will be denied.
- 3. Street trees over 20 inches DBH may be removed through a Type II review process subject to the following criteria.
 - a. The applicant shall provide a letter from a certified arborist identifying:
 - (1) The tree's condition,
 - (2) How it warrants removal using the criteria listed in 1. above, and

- Identifying any reasonable actions that could be taken to allow the retention of the tree.
- b. The applicant shall provide a statement that describes whether and how the applicant sought assistance from the City, HOA or neighbors to address any issues or actions that would enable the tree to be retained.
- c. Review of the materials and comments from the public confirms that the tree meets the criteria for removal in 1, above

4. Exemption from Replacing Street Trees

A street tree that was planted in compliance with the code in effect on the date planted and no longer required by spacing standards of section A.4. above may be removed without replacement provided;

- Exemption is granted at the time of tree removal permit or Type II street tree removal approval,
- b. The property owner provides a letter from a certified arborist stating that the tree must be removed due to a reason identified in the Tree Removal criteria listed in 1. above, and.
- c. The letter describes why the tree cannot be replaced without causing continued or additional damage to public or private utilities that could not be prevented through reasonable maintenance.
- 5. Notwithstanding any other provision in this section, the City Manager or the Manager's designee may authorize the removal of a street tree in an emergency situation without a tree removal permit when the tree poses an immediate threat to life, property or utilities. A decision to remove a street tree under this section is subject to review only as provided in ORS 34.100.

Prohibited Trees and Shrubs

- 1. Poplar, conifer, cottonwood, willow, ailanthus, any other native tree species, and fruit and nut trees, are prohibited along public streets as such trees tend to grow in such manner as to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same.
- 2. Poplar, cottonwood, and willow trees are prohibited on other public or private property not along public streets, when, in the City's determination, such trees may tend to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same. English ivy, holly and Himalayan blackberries are also prohibited on public property
- C. Removal and Cutting of Trees
- 1. For the purposes of this Section, "removal and cutting" shall be defined as the falling or removal of a tree, or any other deliberate action by any person, the natural result of which is to cause the death or substantial destruction of the tree. Prohibited removal and cutting activities do not include normal trimming or pruning when done in accordance with generally accepted arborcultural practices. The authorizations required by this subsection shall not apply to any removal or cutting associated with development activities authorized by the land use approvals contemplated by this Section 16.142.060. Subsection C of this Section shall only govern the removal or cutting of trees along public streets or of trees and woodlands on public property not part of a land use application.
- 2. Any tree located on public property or along public streets, as per this Section, shall not be subsequently removed or cut without the authorization of the Parks Advisory Board, unless removal or cutting is necessitated by the tree:
- a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
- b. Obstructing public ways or sight distance so as to cause a safety hazard, or
- e. Interfering with or damaging public or private utilities, or
- d. Being defined as a nuisance as per City nuisance abatement ordinances, or
- e. Otherwise becoming a hazard to life or property, in the City's determination.

- 3. All requests for authorization to remove or cut trees or woodland shall be made in writing stating reasons and circumstances necessitating removal or cutting. The Parks Advisory Board shall consider the request in open session at any duly convened Board meeting. Any Board authorization for the removal and cutting of such trees or woodlands shall be made in writing, setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records, as per other Notices of Decision required by this Code. Any tree or woodland removed per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal is responsible for all costs of replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.
- 4. In the specific circumstances listed in subsection C2 of this Section only, the City Manager or his or her designee may administratively authorize the immediate removal of such trees or woodlands without Parks Advisory Board review. Any administrative authorization for the removal or cutting of such trees or woodlands shall be made in writing setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records as per other Notices of Decision required by this Code. Any tree or woodland removed as per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.

DC. Trees on Private Property eCausing dDamage

Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the City Manager or his or her designee. without Parks Advisory Board review. Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and processed as perreviewed under the applicable City nuisance abatement ordinances.

ED. Penalties

The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this Section, shall be subject to the penalties defined by Section 16.02.040, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

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*Please note that the code language for trees on public property has been removed and it is recommended that this section (former 16.142.050.C.2) be moved to chapter 12.12. of the municipal code.

16.142.080 A. Recommended Street Trees TABLE INSET:

Common Name	-Botanical Name	Canopy Spread
Acer - Maple		
Cavalier Norway Maple	Acer platanoides cavalier - Cavalier Norway Maple	
Cleveland Norway Maple	p. cleveland	30'
Cleveland II Norway Maple	p. cleveland	25'
Columnar Norway Maple	p. columnare	15'
Fairway Sugar Maple (sugar maple)	p. fairway	40'
Olmsted Norway Maple	p. olmsted	20-25'
Summershade Maple	p. summershade	35-50'
Roughbark Maple	Acer triflorum	20'
Trident Maple	Acer buergeranum	20'
Rocky Mountain Glow Maple	Acer grandidentatum 'Schmidt'	15'
David's Maple	Acer davidii	20'
Metro Gold Hedge Maple	Acer campestre 'Panacek'	25'
Red Sunset Maple (Old Town)	Acer rubrum red sunset - Red Sunset Maple (Old Town) (Provided that a root barrier is installed)	25-40'
Royal Red Maple	r. royal red	20-25'
Gerling Red Maple	r. gerling	25-35'
Tilford Red Maple	r. tilford	30'
Carpinus - Hornbeam		
Pyramidal European Hornbeam	Carpinus betulus pyramidals pyramidalis	30-40'
Pyramidal European Hornbeam	b. columnaris	<u>15'</u>
Pyramidal European Hornbeam	b. fastigiata	15-20'
	Cercidiphyllum - Katsura Tree	
	c. japonicum	20-50"

Footon Dodhud	Carolis Carolia canadania Canadian Dad Dud	10.202
Eastern Redbud	Cercix Cercic, canadenis - Canadian Red Bud	10-20'
Fraxinus - Ash		
	americana -	35-50'
	americana —	35-50'
Dr. Pirone Ash	angustifolia dr. pirone	
	oxycarpa flame	
Raywood Ash	raywoodi	20'
Oregon Ash	latifolia	25-40'
Ginkgo		
	bilboa	50-60'
Autumn Gold	bilboa	25-35'
Fairmount	bilboa	15-25'
_		
Gleditsia		
Honey Locust	triacanthos sunburst	20-30'
Liquidamber		
American Sweetgum	styraciflua	40'
_		
Liriodenrod		
	tulipifera—	30-50'
Magnolia		İ
Evergreen Magnolia	grandiflora vars	
Southern Magnolia	grandiflora	40'
Or. Merrill Magnolia	kobus dr. merrill	15-20'
Edith Bogue Magnolia	Magnolia grandiflora 'Edith Bogue'	15'
- In Dygue Magnona	magnona grandmora Editii Dogue	15

Platanus	
aceriflora	65-80'
avium plena	30-40'
avium scanlon	30-40'
serrulata vars (nonweeping)	15-30'
okame	20-30'
blireana	20'
cerasifera newport	15-20°
pissardi	10'
thundercloud-	20'
vesuvius	15'
maacki	25-30'
serrula	20-30'
padus alterti	10-20'
spaethi-	15-20'
virginiana var. mellanocarpa canada red	10-20'
padus	35'
grandiflora	10-20'
berg	15-20'
purpurea	10-20'
Malus 'Prairifire'	20'
Quercus alba x Q. robur 'Crimschmidt'	15'
palustris	35'
rubra	30-50'
	avium plena avium scanlon serrulata vars (nonweeping) okame blireana eerasifera newport pissardi thundercloud vesuvius maacki serrula padus alterti spaethi virginiana var. mellanocarpa canada red padus grandiflora berg purpurea Malus 'Prairifire' Quercus alba x Q. robur 'Crimschmidt' palustris

American Linden	americana	35-40'
Little Leaf Linden	cordata	40'
	glenleven—	
	redmond-	
Crimean Linden	euchlora	20-30'
Silver Linden	tomentosa	40'
Bicentennial Linden	bicentennial	30'
Greenspire Linden	greenspire	20'
Salem Linden	salem	20-30'
Chancel or Linden	Tilia cordata 'Chancole'	20'

B. Recommended Street Trees under Power Lines

Acer ginnala -- Amur Maple 20' spread

Acer campestre -- Hedge Maple 30' spread

Acer palmatum -- Japanese Maple 25' spread

Acer griseum -- Paperbark Maple 20' spread

Acer circinatum -- Vine Maple 25' spread

Amelanchier x grandiflora -- Apple Serviceberry 20' spread

Amelanchier Canadensis -- Shadblow Serviceberry 20' spread

Cercis Canadensis -- Eastern Redbud 25-30' spread

Clerodendrum trichotomum -- Glorybower Tree 20' spread

Cornus florida -- Flowering Dogwood 20-25' spread

Cornus kousa -- Japanese Dogwood 25' spread

Crataegus phaenopyrum -- Washington Hawthorn 25' spread

Crataegus x lavellei -- Lavelle Hawthorn 20' spread

Fraxinus excelsior globosum -- Globe-Headed European Ash 12-15' spread

Fraxinus ornus -- Flowering Ash 20-30' spread

Fraxinus oxycarpa aureopolia -- Golden Desert Ash 18' spread

Koelreuteria paniculata -- Goldenrain Tree 10-20' spread

Laburnum x waterii -- Golden Chain Tree 15' spread

Malus -- Flowering Crabapple 20-25' spread

Prunus -- Flowering Cherry 20-25' spread

Pyrus calleryana -- Flowering Pear "Cleveland Select" 20 spread

Styrax japonica -- Japanese Snowbell 25' spread

Syringa reticulata -- Japanese Tree Lilac 20-25' spread

C. Prohibited Street Trees

Acer, Silver Maple

Acer, Boxelder

Ailanthus, gladulosa - Tree-of-heaven

Betula; common varieties of Birch

Ulmus; common varieties of Elm

Morus; common varieties of Mulberry

Salix; common varieties of willow

Coniferous Evergreen (Fir, Pine, Cedar, etc.)

<u>Populus; common varieties of poplar, cottonwood and aspen</u>
<u>Female Ginkgo</u>

D. Alternative Street Trees

Trees that are similar to those on the recommended street tree list can be proposed provided that they are non-fruit bearing, non-invasive and not listed on the prohibited street tree list. A letter from a Certified Arborist must be submitted, explaining why the tree is an equivalent or better street tree than the recommended street trees that are identified in this section.

Chapter 12.12 PARKS AND OTHER PUBLIC AREAS Sections:

- 12.12.010 Policy of city council.
- 12.12.020 Delegation of authority.
- 12.12.030 Regulations prescribed by council.
- 12.12.040 City employees not affected.
- 12.12.050 Closures.
- 12.12.060 Damage--Payment for restoration.
- 12.12.070 Parks--Sales and services for hire restricted.
- 12.12.080 Parks--Advertising and decorative devices forbidden.
- 12.12.090 Parks--Intoxicating liquor prohibited.
- 12.12.100 Parks--Rubbish accumulation prohibited.
- 12.12.110 Parks--Vandalism prohibited.
- 12.12.120 Parks--Firearms or fireworks prohibited.
- 12.12.130 Parks--Molesting animals, birds and fish prohibited.
- 12.12.140 Parks--Fishing and bathing restrictions.
- 12.12.150 Parks--Notice mutilation prohibited.
- 12.12.160 Parks--Animals running at large prohibited.
- 12.12.170 Parks--Use of established entrance required.
- 12.12.180 Parks--"No admittance" areas.
- 12.12.190 Parks -- Trees on Other Public Property (not street trees)
- 12.12.190 200 Permit for large groups required.
- 12.12.200–210 Permit--Exhibition required.
- 12.12.210 220 Permit--Subject to ordinances and regulations.
- 12.12.220_230 Public convenience stations.
- 12.12.230-240 Traffic regulations.
- 12.12.240 Violation--Penalty.

12.12.010 Policy of city council.

The city council, except as otherwise expressly provided, declares its intention to exercise general supervision, management and control of all public parks, public parkways, public squares, public grounds, including but not restricted to streets, boulevards, paths, sidewalks, greenways, rest areas, playgrounds and other areas, hereinafter collectively referred to as "public areas," whether publicly or privately owned, dedicated, leased or otherwise set aside for public use and not under the supervision or control of any other public agency; and the council declares its intention to prescribe rules and regulations as herein set forth or from time to time as necessary, with respect to such public areas.

All public areas as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience and safety of the general public in the use thereof. (Ord. 653 § 1, 1974)

12.12.020 Delegation of authority.

The city administrator is authorized to make such reasonable rules and regulations and to establish permit fees and permit deposits not inconsistent with this and other city ordinances and

the policies of the council as herein enunciated, as may be necessary for the control and management of the public areas hereinabove designated. All such rules and regulations shall be set forth in writing, be reviewed and approved by the city park commission to the extent deemed necessary by the city administrator, shall be posted in conspicuous places in the areas affected thereby, for the guidance of the general public and individual users. When adopted, one copy of each rule and regulation shall be kept and maintained in a file for that purpose in the office of the city recorder with the approval of the park commission endorsed thereon.

If any person feels aggrieved by any such rule or regulation, he or she may appeal to the council by filing with the city recorder a remonstrance against such rule or regulation, which shall be placed on the agenda of the council at its next regular meeting; and until amended or repealed by the council, such rule or regulation shall remain in full force and effect. (Ord. 653 § 2, 1974)

12.12.030 Regulations prescribed by council.

The council finds that it is in the public interest and necessary for the peace, health and safety of the general public that the rules and regulations set forth in this chapter be enforced, and for the purposes herein set forth are adopted.

(Ord. 653 § 3, 1974)

12.12.040 City employees not affected.

Nothing contained herein shall prevent the performance of any act or duty by city employees which has been duly authorized by the park commission, city administrator or public works director or police department.

(Ord. 653 § 4, 1974)

12.12.050 Closures.

No person shall ride, drive or walk on such parts or portions of the parks or pavements as may be closed to public travel, or interfere with barriers erected against the public. (Ord. 653 § 5, 1974)

12.12.060 Damage--Payment for restoration.

A. Owners or persons in control of, or persons who permit the entry of, any dog, horse or other animal into any public area under the control of the city, in addition to any penalties imposed by this chapter for violation hereof, shall be held liable for, and shall pay to the city, the full value of repair or restoration of any public property damaged or destroyed; and if not paid upon demand by the city, recovery of same may be sought by action brought in the name of the city in any court of competent jurisdiction.

B. Any person who shall utilize the public areas herein described and who shall damage or destroy any public property under the control of the city, in addition to any penalties imposed by this chapter for violations hereof, shall be held liable for, and shall pay to the city, the full value of repair or restoration of any public property damaged or destroyed, and if not paid upon demand by the city, recovery of same may be sought by action brought in the name of the city in any court of competent jurisdiction.

(Ord. 653 § 6, 1974)

12.12.070 Parks--Sales and services for hire restricted.

It is unlawful for any person to sell or offer for sale an article or perform or offer to perform any service for hire in any of the parks without a written permit for such concession properly and regularly granted by the city administrator with concurrence and approval by the park commission.

(Ord. 653 § 7, 1974)

12.12.080 Parks--Advertising and decorative devices forbidden.

It is unlawful for any person to place or carry any structure, sign, bulletin board or advertising device of any kind whatever, or erect any post or pole or the attachment of any notice, bill, poster, sign wire, rod or cord to any tree, shrub, fence, railing, fountain, wall, post or structure, or place any advertising, decorative or other device of any kind whatever, on any of the bases, statues, bridges or monuments in any park; provided, that the park commission may by a written permit, allow the erection of temporary decoration on occasions of public celebration or holidays.

(Ord. 653 § 8, 1974)

12.12.090 Parks--Intoxicating liquor prohibited.

It is unlawful for any person to take into or upon any park any intoxicating liquor, for other than his or her own use. No intoxicated person shall enter or remain in any of the parks. The sale or dispensing of malt beverages containing not more than four percent of alcohol by weight, shall be allowed only after obtaining a permit to do so from the city park commission, subject to approval of the city council and the Oregon Liquor Control Commission. (Ord. 653 § 9, 1974)

12.12.100 Parks--Rubbish accumulation prohibited.

It is unlawful for any person to obstruct the free use and enjoyment of any park by misuse of refuse containers or by placing any straw, dirt, chips, paper, shavings, shells, ashes, swill or garbage, or other rubbish, or refuse or debris, in or upon any park, or to distribute any circulars, cards or other written or printed matter in any park. (Ord. 653 § 10, 1974)

12.12.110 Parks--Vandalism prohibited.

It is unlawful for any person to remove, destroy, break, injure, mutilate or deface in any way any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower or other property in any park.

(Ord. 653 § 11, 1974)

12.12.120 Parks--Firearms or fireworks prohibited.

It is unlawful for any person to use firearms, firecrackers, fireworks, torpedoes or explosives of any kind in any park.

(Ord. 653 § 12, 1974)

12.12.130 Parks--Molesting animals, birds and fish prohibited.

It is unlawful for any person to use any weapon, stick, stone or missile of any kind to the destruction, injury, disturbance or molestation of any wild or domestic animal, fowl or fish within the park limits.

(Ord. 653 § 13, 1974)

12.12.140 Parks--Fishing and bathing restrictions.

It is unlawful for any person to fish, wade, swim or bathe in any of the parks except in the places designated by regulation for such purposes. The park commission shall have authority to allow fishing in the waters of any park of the city by posting adjacent to such waters a sign or signs stating that such fishing is authorized, and by posting age limits, such fishing may be restricted to juveniles or other persons under the age as designated by the sign; and it is unlawful for any person over the age limit as posted to fish in any such waters of a city park. (Ord. 653 § 14, 1974)

12.12.150 Parks--Notice mutilation prohibited.

It is unlawful for any person to injure, deface or destroy any notice of the rules and regulations for the government of the parks which shall have been posted or permanently fixed by order or permission of the park commission.

(Ord. 653 § 15, 1974)

12.12.160 Parks--Animals running at large prohibited.

It is unlawful for the owner, possessor or keeper of any animal to permit such animal to roam at large in any park, and, if such animal is found in any park, it may be impounded. (Ord. 653 § 16, 1974)

12.12.170 Parks--Use of established entrance required.

No one shall enter or leave the parks except at an established entrance, and no one shall enter or remain in the parks after the hours fixed by regulation. (Ord. 653 § 17, 1974)

12.12.180 Parks--"No admittance" areas.

No person shall enter any building, enclosure, or place within any of the parks upon which the words, "no admittance" shall be displayed or posted by sign, placard or otherwise. (Ord. 653 § 18, 1974)

12.12.190 Parks -- Trees on Other Public Property (not street trees)

Trees and woodlands on public property shall be preserved to provide clean air and natural environment for the community.

A. The Parks Advisory Board may authorize or require the removal of any tree on public property, excluding a street tree, that is;

- 1. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees;
- 2. Obstructing public ways or sight distance so as to cause a safety hazard;
- 3. Interfering with or damaging public or private utilities;
- 4. A nuisance under City nuisance abatement ordinances; or
- 5. Otherwise constitutes a hazard to life or property, in the City's determination.

B. The City Manager or Manager's designee may order the removal of a tree on public property in an emergency situation without Parks Advisory Board approval when the tree poses an

immediate threat to life, property or utilities. A decision to remove a tree on public property under this section is subject to review only as provided in ORS 34.100.

C. A tree that is removed under this section must be replaced unless it is determined by a certified arborist that it cannot be replaced without additional or continued damage to public or private utilities that cannot be prevented through reasonable maintenance.

12.12.190 200 Permit for large groups required.

Use of the public areas herein described for organized group picnics, political or religious gatherings, or groups consisting of more than one hundred fifty (150) persons in attendance at any one time, is unlawful unless a written permit has been issued with the approval of the park commission or designated agent thereof.

(Ord. 653 § 19, 1974)

12.12.200 210 Permit--Exhibition required.

Any person claiming to have a permit from the city shall produce and exhibit such permit upon request of the park commissioner or the police department. (Ord. 653 § 20, 1974)

12.12.210 220 Permit--Subject to ordinances and regulations.

All permits issued by the city shall be subject to the city's ordinances. The persons to whom such permits are issued shall be bound by the rules, regulations and ordinances as fully as though the same were inserted in such permits. Any person or persons to whom such permits shall be issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued, as well as for any breach of such rules, regulations and ordinances, to the person or persons so suffering damages or injury.

(Ord. 653 § 21, 1974)

12.12.220 230 Public convenience stations.

- A. It is unlawful for any person to blow, spread or place any nasal or other bodily discharge, or spit, urinate or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public convenience station or in any place in such station, excepting directly into the particular fixture provided for that purpose. Nor shall any person place any bottle, can, cloth, rag, or metal, wood or stone substance in any of the plumbing fixtures in any such station.
- B. It is unlawful for any person to stand or climb on any closet, closet seat, basin, partition or other furniture or fitting, or to loiter about or push, crowd or otherwise act in a disorderly manner, or to interfere with any attendant in the discharge of his or her duties, or whistle, dance, sing, skate, swear, or use obscene, loud or boisterous language within any public convenience station, or at or near the entrance thereof.
- C. It is unlawful for any person to cut, deface, mar, destroy, break, remove or write on or scratch any wall, floor, ceiling, partition, fixture or furniture; or use towels in any improper manner, or waste soap, toilet paper, or any of the facilities provided in any public convenience station.

(Ord. 653 § 22, 1974)

12.12.230 Traffic regulations.

Except as may be otherwise specifically prescribed by this chapter or other city ordinances, the motor vehicle code of the city regulating street traffic shall be in full force and effect in all public areas described in this chapter.

The following regulations are made applicable to public areas within the city and subject to the city's control:

- A. No one shall ride or drive any bicycle, motorcycle, motor vehicle, truck, wagon, horse, or any vehicle or animal in any part of the parks, except on the regular drives designated therefor; provided, that baby carriages and such vehicles as are used in the park service are not included in the foregoing prohibition.
- B. No one shall drive any moving van, dray, truck, heavy-laden vehicle, or vehicle carrying or ordinarily used in carrying merchandise, goods, tools, materials or rubbish, except such as are used in the park service, over any drive or boulevard in any of the parks; provided, however, the city park commission in its discretion may grant permission in writing for vehicles to carry materials over park drives or boulevards to buildings abutting on parks when no other road, street or way is accessible or passable.
- C. No one shall hitch horses or other animals to any tree, shrub, fence, railing or other structure, except such as are provided for such purpose, or allow horses or other animals to stand unhitched while the rider or attendant is beyond reach of such horse or other animal.
- D. It is unlawful for any person to park any motor vehicle on any park or playground area in the city, except in regularly designated parking areas. The police department shall have and exercise authority to tow any vehicle found parked in a park or playground area not designated for parking purposes, and to impound such vehicle and to impose and collect the fees for towing and storage.
- E. It is unlawful for any person to store, park or leave standing unattended for a continuous period of more than twenty-four (24) hours, any motor vehicle, boat, trailer, conveyance or other personal property within any public area under the city's control. (Ord. 653 § 23, 1974)

12.12.240-250 Violation--Penalty.

Any person violating any provision of this chapter or any rule or regulation adopted pursuant hereto, upon conviction, shall be punishable by a fine of not more than five hundred dollars (\$500.00).

(Ord. § 98-1049 § 7: Ord. 653 § 24, 1974)



Home of the Tualatin River National Wildlife Refuge

MEMORANDUM

City of Sherwood 22560 SW Pine St. Sherwood, OR 97140 Tel 503-625-5522 Fax 503-625-5524 www.ci.sherwood.or.us

DATE:

December 7, 2010

TO:

Planning Commission

Mayor Keith Mays

FROM:

Julia Hajduk

Council President Dave Heironimus

SUBJECT:

SWOT analysis

Councilors Dave Grant Linda Henderson Lee Weislogel Del Clark Robyn Folsom

City Manager Jim Patterson

Attached is the SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis that you provided to Council last year. At our December 14th meeting, we will need to conduct a new SWOT analysis to be provided to the Council prior to the Board and Commission recognition dinner on the 16th.

SWOT analysis (Strengths, Weaknesses, Opportunities, Threats) Planning Commission

City Council SWOT presentation - December 15, 2009, 6:00pm-7:00pm

Strengths

- ◆ Full Commission, now with more experience
- ♦ Very good public involvement this year. The e-communication tools are helping get people engaged in the process and at the point where their input has the most benefit to the process
- Err on the side of inclusion rather than strict process
- ♦ Good communication with other Boards when developing concept plans. (Example, coordinated with Parks Board on both Brookman Concept Plan and Adams Avenue North Concept Plan.)
- Master planning/Concept Planning work over the past few years has really supported several of the current Council goals such as infra-structure, livability and economic development.

Weaknesses

- ◆ Lack of data and performance data to gauge how well we are doing our jobs (are we accomplishing our goals)
- ◆ Lack of parks and active recreational facilities citywide do the existing regulations hinder the ability to increase the amount of parks?
- ◆ Communication tools, while getting better, still have a long way to go
- Haven't completed industrial design standards.
- ♦ I-5/99 W connector could be a weakness to the community depending on where it goes and is currently a weakness because of the unknown aspect of when, if or where it might be. This also impacts the urban and rural reserves.
- ♦ Code updates/housekeeping are needed
- Issues brought up under community comments are often not within the Planning Commission purview and therefore, hard to respond to.
- ◆ Lack of communication with Council (both Council to Commission and Commission to Council) makes it hard to make decisions or recommendations.

Opportunities

- Construction down turn allows staff time to be reallocated to long range planning efforts including code clean-up, code updates and concept plans.
- Area 48 concept plan development provides the Planning Commission an opportunity to support the Council Goals on economic development.
- ♦ I-5/99W connector increases opportunity for transportation which in turn affects economic development potential and livability.
- ◆ Can continue to do more with e-communication and better explain the planning process in simple steps to better inform the public
- Web cast meetings to allow more engagement
- ♦ Area of public notice can be increased to reach more potentially affected people.
- ♦ Every Commissioner comes to the Commission looking for opportunities, through every project, to support the Council goals.

♦ Code needs to be updated to ensure that as Sherwood grows, it does so in a way that maintains the small town feel that brought the residents here in the first place.

Threats

- ♦ I-5/99 W connector depending on which improvements happen when.
- Construction downturn
- Not having enough non-residential tax base as a result
- ◆ Transportation
- Cost of doing business in Sherwood may be a threat to potential developers
- Existing businesses going out of business while new business continues to be encouraged.
- ♦ Code needs to be updated to ensure that as Sherwood grows, it does so in a way that maintains the small town feel that brought the residents here in the first place.

Relationship to the Council Goals:

The Commission believe they apply the Council Goals regularly as they provide input on concept plans, recommend code updates and review land use proposals. Specifically:

- Ensuring that there are adequately sized streets, walkways and access for emergency vehicles, ensures *public safety*.
- Review of public infrastructure needs at the conceptual stage all the way to the site plan or subdivision review addresses the *Infrastrucutre* goal.
- Application of aesthetic design standards, open space standards, and the standards of the zone, etc helps maintain the *livability* of the community.
- As plans are being developed the Commission consistently considers how the outcome
 will result in more economic development opportunities to the City. As the Commission is
 developing recommendations on design standards that provide for more livability, the
 Commission also directs staff to coordinate with local business owners and developers to
 ensure that the standards being developed do not unintentionally impede the ability to
 provide jobs in the community.



MEMORANDUM

City of Sherwood 22560 SW Pine St Sherwood OR 97140 Tel 503-625-5522 Fax 503-625-5524 www.di-sherwood.or.us

Mayor Keth Mays

Council President Dave Heronimus

Councitors Dave Grant Linda Henderson Lee Weisloge! Robyn Folsom

City Manager

DATE: December 6, 2010

TO: Planning Commission

FROM: Michelle Miller Planner

SUBJECT: Revised Residential Land Use Districts Update

At the November 9, 2010 Planning Commission work session, commissioners had an opportunity to review the residential land use proposed code changes. Commissioners identified several issues that needed further clarification or investigation. The following topics are in response to the issues raised at the work session.

1) Define and Clarify Ham Radio Tower and their Limitations
There was a brief discussion regarding placement, height and definition of these types of towers. Staff also received relevant information from citizen, Neil Shannon regarding state statutory requirements as well as adopted Code language from the City of Beaverton pertaining to this subject. Below is the ORS and also proposed language adapted from Beaverton's Development Code. Staff

• ORS § 221.295, declares that Ham Radio Towers are permitted up to 70 ft.

recommends these additions in order to comply with Oregon law.

§ 221.295: "Notwithstanding ORS chapters 215 and 227, a city or county ordinance based on health, safety or aesthetic considerations that regulate the placement, screening or height of the antennas or antenna support structures of amateur radio operators must reasonably accommodate amateur radio communications and must represent the minimum practicable regulation necessary to accomplish the purpose of the city or county. However, a city or county may not restrict antennas or antenna support structures of amateur radio operators to heights of 70 feet or lower unless the restriction is necessary to achieve a clearly defined health, safety or aesthetic objective of the city or county."

Proposed City Code Language to Exempt Ham Radio Towers:

16.xxx Exemptions to Height Limits for Ham Radio Towers All of the following are exempt from the regulations contained in this section of the Code:

Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS 221.295. This includes antennas attached

to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. This exemption applies only to the Sherwood Development Code and does not apply to other applicable city, state, and federal regulations. Amateur radio facilities not meeting the requirements of this exemption are considered non-exempt, and must comply with Section 16.xxx.

16.xxx Requirements for Non-Exempt Amateur Radio Facilities

- A. Non-exempt amateur radio facilities may not be erected until a valid building permit has been obtained from the City of Sherwood.
- B. Notwithstanding Chapter XX of the Development Code, the following rules apply to non-exempt amateur radio facilities in existence on or before 2011:
- 1. Facilities constructed before 2011 under building permits validly issued on the date of construction are not subject to these regulations.
- 2. Exempt facilities that are proposed to be modified to become a non-exempt facility, shall acquire a new building permit from the City.
- 3. Facilities without permits from the City of Sherwood or Washington County shall acquire a building permit from the City.

The following are definitions that should be added to the City's definition section.

- a. Ham Radio Towers: Amateur ("Ham") Radio Services Radio communication services, including amateur-satellite service and amateur service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.
- b. Amateur Radio Facilities. The external, outdoor structures associated with an operator's amateur radio service. This includes antennae, masts, towers, and other antenna support structures.

2) Definition of Family Day Care Facilities

Commissioners requested that staff investigate compliance with ORS provisions regarding family daycare providers. Currently Sherwood allows up to 12 children in a family daycare center in the residential zone. Alternatively, the Oregon statute allows up to 16 children with special approval. In consideration of the possible fluctuations within the provisions of Oregon statutes, staff recommends that the City's definition no longer identify the number of children allowed, but that the local statute comply with the ORS. Day care providers require licensure by the state and this will streamline the compliance requirements as they will not be different standards. Tigard has taken this approach and it appears to be a prudent way to ensure compliance with the state statute.

ORS § 657A:

Definition: Provide child care for up to 12 children, may be certified for up to 16 with prior approval from the Division:

- a. Are located in a building constructed as a single-family dwelling.
- Must comply with the Oregon Administrative Rules that apply to this type of Child Care.

- d. You are a "licensed family child care home" (see "Licensed Family Child Care" license information on this website)
- e. Your facility is primarily educational and provides care for less than four hours per day to children 36 months old or older but not yet attending kindergarten;
- f. You provide care in the home of the child; or
- g. You provide care only on an occasional basis and are a person, sponsor, or organization not ordinarily engaged in providing child care.

ORS § 657A.440 Application of zoning ordinances to registered or certified family child care homes. (1) A registered or certified family child care home shall be considered a residential use of property for zoning purposes. The registered or certified family child care home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. A city or county may not enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a registered or certified family child care home.

(2) A city or county may impose zoning conditions on the establishment and maintenance of a registered or certified family child care home in an area zoned for residential or commercial use if the conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.

(3) A county may:

- (a) Allow a registered or certified family child care home in an existing dwelling in any area zoned for farm use, including an exclusive farm use zone established under ORS 215.203:
- (b) Impose reasonable conditions on the establishment of a registered or certified family child care home in an area zoned for farm use; and
- (c) Allow a division of land for a registered or certified family child care home in an exclusive farm use zone only as provided in ORS 215.263 (9).
- (4) This section applies only to a registered or certified family child care home where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status.

Compare to Sherwood's current definition of Family Day Care Provider Definition

Family Day Care Provider: A day care provider which accommodates fewer than thirteen (13) children in the provider's home.

3) Appropriate terminology for Religious Institutions, Churches, Places of Worship or Public Gathering Place

The City currently allows conditionally churches, government offices, and public use buildings in the residential zones. "Churches" is a term that maybe too exclusive for the use proposed ie. Mosque, synagogue, temple or other non-denominational

gathering places are not included in the term "church." "Public gathering place" is an option along with the options listed below:

Tigard: Religious institutions Beaverton: Places of Worship

Hillsboro: Church Wilsonville: Church

Portland: Religious Institutions

4) **Define Household Pet:** "Raising animals other than household pets" is a conditional use in the residential zone in Sherwood. The City had not otherwise identified which animals are considered household pets. It has generally been assumed that animals used for companionship rather than a source of food or other commercial gain would be considered a "pet." Thus, staff has generally found that chickens are a conditional use requiring a conditional use permit. Commissioners felt that further clarification may be necessary to ensure that the definition of household pet is clear and objective. Staff recommends adding a definition of "household pet" within the definition section for clarification somewhere in keeping with those ideals.

The survey of several jurisdictions on terminology found the following: **Tigard**: household pets-no definition

Hillsboro: separated definitions for indoor pets and exotic pets and livestock Exotic pets: exotic animal not normally domesticated in the United States or which is wild by nature.

Indoor pets: any animal kept inside a residential dwelling unit **Livestock:** means any domesticated animal fitting any of the following

- a. Pultry
- b. Miniature livestock
- c. Standard livestock
- d.

Wilsonville: Agriculture, horticulture, greenhouses, nurseries (provided that any commercial sales of products shall require the approval of a conditional use permit), timber growing, grazing, and the small scale raising of livestock and animals

Portland: No definition

5) Consider setbacks and size of accessory structure limitations- Pick up discussion.

At the last meeting, the Commission wanted to further consider setbacks of accessory structures and size limits. Currently, the setback is at 3 ft for a smaller building (200 sq. ft or under), and if a building permit is required then the setback is 5 ft. The accessory structure could be up to 720 sq. ft.

Tree Removal and Mitigation – Issue Paper

Description of issue:

This issue paper is addressing the removal and mitigation of trees on private property, not the removal and replacement of street trees which has been addressed in prior issue papers and continues to be the subject of its own discussion.

The City's tree removal standards have not been updated significantly since the 1990's. In 2006, the City updated the Code to address issues of prospective developers removing trees prior to submittal of a land use application as a way to avoid mitigation requirements. The creation of section 16.142.060 and 16.142.070 has generally achieved its intended outcome and been well received, however it bears additional evaluation to determine if a better process would work better. In addition, the City has recently seen developments with a significant amount of trees to be removed and begun to question whether the existing requirements truly achieve the desired results originally intended with the standards.

Below is a brief overview of the standards for removal of trees on private property with and without a land use application.

Trees on Private Property Not Subject to a Land Use Application

Property owners can remove up to 5 mature trees, per acre, per calendar year, not to exceed 100 inches total DBH. Though the code is not clear on the issue, on lots smaller than one acre, 5 trees are permitted to be removed. To remove additional trees the property owner must go through a site plan review. Although, this has not been widely used, citizens tend to get upset when they may be required to go through this process. A mature tree is defined as a deciduous tree greater than ten (10) inches DBH or a coniferous tree greater than 20 inches DBH. This section requests documentation of the number of trees and the removal date however it is helpful to have additional information such as the type and size of tree and the site address on file as well.

Trees on Private Property subject to Land Use Review

This section identifies the size of the trees that shall be inventoried. The standards also identify how the location, size, type, and condition of the existing trees and the proposed types of trees that will be used for mitigation. This section of the code indicates that the "the City shall permit only the removal of trees...minimally necessary to undertake the development activities contemplated by the land use application under consideration." It does not provide any guidance, direction or deference to preservation of larger, healthier or stands of trees over trees that are smaller, diseased or isolated.

The recent adoption of the Brookman Area Concept Plan and the Tonquin Area Concept Plan has increased concerns about the financial impacts to developers of the removal and mitigation standards for trees. These areas in particular are of concern because being outside the city at this time, if the standards are not fair and just, a property owner may choose to remove trees prior to annexation into the City so as to avoid being subject to the tree removal and mitigation standards. Washington County does not have any tree removal requirements.

Finally, the tree mitigation standards are very limited in that a developer must replace inch for inch on-site, off-site or pay a fee in-lieu, now set at \$75 per DBH removed. It has been suggested that the inch for inch mitigation does not account for the fact that the trees will grow

over time, that the trees have grown since originally planted (for instance the high school had to mitigate for parking lot trees that were removed which had grown since they were originally planted) or that there may be other ways to mitigate for the loss of trees rather than simply replacing the inches removed.

Code Sections (language included on page 3-8):

16.142.060 Trees on Property Subject to Certain Land Use Applications 16.142.070 Trees on Private Property -- not subject to a land use action

Public input received:

The City has received comments over time indicating that there is concern about the tree removal and mitigation standards. St. Francis' school gym was approved through the site plan process. While they chose specific building and parking locations to try to minimize the impact to the trees on site, they have struggled to complete their mitigation due to the required 1,470 inches DBH. Another recent example is the Sherwood Mini Storage on Wildrose Place, which had over 1,000 caliper inches that were removed for the industrial development and were required to provide mitigation. It has been suggested that the City consider allowing credit for other environmentally friendly improvements that reduce the carbon footprint of a site rather than simply requiring the replacement of trees.

There are also concerns regarding the heavily wooded properties in the Brookman Area and Tonquin Employment Area. People were both concerned with the preservation of the natural environment and that the mitigation requirements would deter potential developers. A number of these properties are heavily wooded and it is likely that developers will want to remove them for their building footprint and associated parking, loading, landscaping, etc. The current cost to replace caliper inch for caliper inch or pay the fee-in-lieu could deter people from developing in these areas.

When this section was created in 2006 a citizen submitted comments indicating that we should adopt the City of Lake Oswego Tree Code (Chapter 55). He was concerned that we were allowing people to deforest properties. The Lake Oswego Tree Code has been provided for additional information as Attachment A.

Comparison to other jurisdictions and Oregon Model Code:

The attached table on page 9 compares the City of Sherwood tree standards to other jurisdictions. The Oregon Model Code addresses landscape standards and street tree standards. As it does not specifically address tree removal and mitigation for trees on private property that are or are not subject to land use approval, the Oregon Model Code is not identified in the attached table.

Initial Staff Recommendation

Trees on Private Property

It is recommended that the Planning Commission explore an alternate process such as an administrative review that allows the City to review the removal and require mitigation but that provides people more flexibility and less process than a full site plan would, when removing trees on private property that are not subject to land use review.

Trees on Private Property subject to Land Use Review

It is recommended that the Planning Commission, along with the community, first clearly establish the intent and goals of the tree removal and mitigation requirements. The standards vary depending on whether the goal is for aesthetics, tree canopy retention, tree canopy increase, retention of healthy large trees, wildlife habitat, etc.

After the clear goals are established, we can explore different retention or mitigation requirement options that allow more flexibility to developers while preserving the natural beauty and environmental benefits associated with trees.

Some ideas to consider:

- Retention of heavily wooded area on site allows certain amount of removal without mitigation.
- Incentives for retention of a certain percentage of large trees in a larger area to be used as future open space.
- The applicant could submit a quote from a certified arborist for the cost to replace the required caliper inches instead of having a set fee.
- Allow solar or other green features or technologies as a portion of the mitigation requirement.

Code Language (Current)

16.142.060 Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

(Ord. 2006-021)

- 1. All Planned Unit Developments subject to Chapter 16.40, site developments subject to Section 16.92.020, and subdivisions subject to Chapter 16.122, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. This Section shall not apply to any PUD, site development or subdivision, or any subdivision phase of any PUD, having received an approval by the Commission prior to the effective date of Ordinance No. 94-991, except for Subsection C5 of this Section, which shall apply to all building permits issued after the effective date to that Ordinance.
- 2. For the inventory purposes of this Section, a tree is a living woody plant having a trunk diameter as specified below at four and one-half (4- 1/2) feet above mean ground level at the base of the trunk, also known as Diameter Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition and from regulation under this Section, as are any living woody plants under five (5) inches DBH.

(Ord. 2006-021)

- a. Douglas fir, ponderosa pine, western red cedar, white oak, big leaf maple, American chestnut, ten (10) inches or greater.
- b. All other tree species, five (5) inches or greater.
- In addition, any trees of any species of five (5) inches or greater DBH that are proposed for removal as per the minimally necessary development activities defined in subsection C3 of this Section shall be inventoried.
- 3. For the inventory purposes of this Section, a woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a five (5) inches or greater DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.

(Ord. 2006-021)

- B. Tree and Woodland Inventory
 - 1. To assist the City in making its determinations on the retention of trees and woodlands, the land use applications referenced in subsection A of this Section shall include a tree and woodland inventory and report, in both map and narrative form, addressing the standards in subsection C of this Section, and a written report by an arborist, forester, landscape architect, botanist, or other qualified professional, as determined by the City, that generally evaluates the nature and quality of the existing trees and woodlands on

the site and also provides information as to the extent and methods by which trees and woodlands will be retained. The inventory shall include a resume detailing the qualified professional's applicable background and experience. The City may also require the submission of additional information as per Section 16.136.030.

Trees removed on the property within one year prior to the submittal of the development application shall also be included in the inventory. In the event that adequate data is not available to address the specific inventory requirements below, an aerial photo may be utilized to determine the approximate number, size and type of trees on the property.

(Ord. 2006-021)

- 2. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and reports shall include, but are not limited to, the following specific information. Mapping shall include a composite map, illustrating as much required information as possible while retaining map readability.
 - a. The location of the property subject to the land use application and tree and woodland inventory, including street addresses, assessors' map and tax lot numbers, and a vicinity map.
 - b. Mapping indicating the location of trees and woodlands, as defined by subsections A2 through 3. Mapping shall include typical tree root zones, given tree species, size, condition and location. For any woodland, inventory data and mapping is required only for the group, rather than on a tree by tree basis.
 - c. Mapping and other inventory data shall include, but is not limited to, the boundaries and/or types of soils, wetlands, and floodplains underlying the tree or woodland; site hydrology, drainage, and slope characteristics; the condition, density, form, root zone and aspect of the tree or woodland, including in the case of a woodland, associated understory.
 - d. Mapping and other inventory data shall be of sufficient detail and specificity to allow for field location of trees and woodlands by the City, and shall include but is not limited to, existing and proposed property lines, topography at the intervals otherwise specified for the type of land use application being considered, and any significant man-made or natural features that would tend to aid in such field location.
 - e. The number, size, species, condition, and location of trees and woodlands proposed for removal, the timing and method of such removal, and the reason(s) for removal.
 - f. The number, size, species, condition, and location of trees and woodlands proposed for retention, and the methods by which such trees and woodlands shall be maintained in a healthy condition both during and subsequent to development activity.
 - g. Proposed mitigation and replacement efforts as per subsection D of this Section, including a description of how proposed replacement trees will be successfully replanted and maintained on the site.

C. Tree and Woodland Retention

1. The review authority shall make findings identifying all trees and woodlands, or additional trees not inventoried, that merit retention. Alternatively, the City may require planting of new trees in lieu of retention as per subsection D1 through D3 of this Section, or acquire said trees and woodlands as per subsection D4 of this Section. Prior to making any such determinations or recommendations, the review authority may seek the recommendations of the City Parks Advisory Board. Special consideration shall be given in making these determinations to the retention or replanting of trees native to the Willamette Valley and Western Oregon, except in areas where such trees are prohibited as per Section 16.142.050B.

(Ord. 2006-021)

- 2. To require retention of trees or woodlands as per subsection B of this Section, the Commission or Council must make specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
 - a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Unified Sewerage Agency stormwater management plans and standards or the City Comprehensive Plan, or
 - d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
 - e. Otherwise merit retention because of unusual size, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.
- 3. In general, the City shall permit only the removal of trees, woodlands, and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the land use application under consideration. For the development of PUDs and subdivisions, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets, and other infrastructure, and minimally required site grading necessary to construct the development as approved. For site developments, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots.
- 4. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per subsection C2 of this Section, which may be removed or shall be retained as per subsection B of this Section, and which shall be mitigated as per subsection D of this Section, and any limitations or conditions attached thereto. The applicant shall prepare and submit a Final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the Notice of Decision. Such Plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist.

(Ord. 2006-021)

5. At the time of building permit issuance for any development of a site containing trees or woodlands identified as per subsection C of this Section, the Building Official shall permit only the removal of trees, woodlands and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the building permit application under consideration. The permit shall

specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. Minimally necessary activities will typically entail tree removal for the purposes of construction of City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots. A fee for this inspection shall be established as per Section 16.74.010, provided however that said inspection is not deemed to be a land use action.

- 6. When a tree or woodland within an approved site plan, subdivision or Planned Unit Development subsequently proves to be so located as to prohibit the otherwise lawful siting of a building or use, retention of said trees or woodlands may be deemed sufficient cause for the granting of a variance as per Chapter 16.84, subject to the satisfaction of all other applicable criteria in Chapter 16.84.
- 7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.

D. Mitigation

- 1. The City may require mitigation for the removal of any trees and woodlands identified as per subsection C of this Section if, in the City's determination, retention is not feasible or practical within the context of the proposed land use plan or relative to other policies and standards of the City Comprehensive Plan. Such mitigation shall not be required of the applicant when removal is necessitated by the installation of City utilities, streets and other infrastructure in accordance with adopted City standards and plans. Provided, however, that the City may grant exceptions to established City street utility and other infrastructure standards in order to retain trees or woodlands, if, in the City's determination, such exceptions will not significantly compromise the functioning of the street, utility or other infrastructure being considered. Mitigation shall be in the form of replacement by the planting of new trees.
- 2. Replacement trees required as part of mitigation as per this Section shall, as determined by the City, be generally of a substantially similar species, size and quantity to those trees proposed for removal, taking into account soils, slopes, hydrology, site area, and other relevant characteristics of the site on which the mitigation is proposed. In consideration of the foregoing factors the City may require replacement trees to be replanted at greater than a 1:1 caliper inch ratio. Exotic or non-native trees shall generally be replaced with species native to the Willamette Valley or Western Oregon, except where such native trees are prohibited by Section 16.142.050B2. Said replacement trees shall be in addition to trees along public streets required by Section 16.142.050A. Standards for trees along public streets may be different than those for trees required for retention or replacement under this Section.

(Ord. 2006-021)

- 3. If replacement trees of the species, size or quantity being removed are not available, or cannot be successfully replanted due to soils, slopes, hydrology, site area, or other relevant characteristics of the site, the City may require:
 - a. Different species of trees to be submitted, or
 - b. Replacement trees to be planted on another, more suitable site within the City, or

- c. Cash payments equivalent to the fair market value of the otherwise required replacement trees, including estimated installation costs, said payments to be set aside by the City in a dedicated fund for eventual purchase and planting of trees when suitable sites become available.
- 4. The Commission may also make recommendation to the Council, based on the recommendation of the Parks Advisory Board, that trees or woodlands identified as per this Section be purchased by the City, if such trees cannot otherwise be retained as part of the proposed land use plan, obtained as a parks and open space or other dedication to the City, or otherwise be mitigated as per subsection D of this Section.

E. Penalties

Violations of this Section shall be subject to the penalties defined by Section 16.02.040, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense.

(Ord. 91-922 § 3)

16.142.070 Trees on Private Property -- not subject to a land use action

A. Generally

In general, existing mature trees on private property shall be retained unless determined to be a hazard to life or property. For the purposes of this section only, existing mature trees shall be considered any deciduous tree greater than ten (10) inches diameter at the breast height (dbh) or any coniferous tree greater than twenty (20) inches dbh.

B. Standards

In the event a property owner determines it necessary to remove existing mature trees on their property that are not a hazard, they may remove up to 5 trees per acre per calendar year by right, not to exceed 100 inches total dbh. The property owner shall document the number of trees and the date removed for their records and shall notify the City Planning Department 48 hours prior to tree removal. Failure to notify the Planning Department shall not result in a violation of this code unless it is determined that the tree removal is in excess of that permitted outright.

If the property owner determines that it is necessary to remove more trees than is permitted by right, the act is considered to be an alteration of the exterior appearance of the property and site plan review is required. In that instance, the requirements of Section 16.142.060 shall apply. The review authority shall be determined by the square footage of the area to be disturbed. (Ord. 2006-021)

Jurisdiction	Proces land us
Sherwood	5 trees can be a permi
Tualatin	4 or few in a sing permit us in a noverlay overlay, required architect
Tigard	A tree peremoving sensitive Code 18.
Beaverton	Less than 10% of the be remove 5 trees or requires a
Wilsonville	Type A: 1-3 within 12 m Type B: 4 contents removed

9 Planning Commission

<u>Attachments</u>

Attachment A: City of Lake Oswego (Pages 12- 26)

Attachment B: City of Tigard (Pages 27- 30)

Attachment C: City of Beaverton (Pages 31- 40)

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.

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

<u>Caliper Inch</u> 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.

<u>Dead Tree</u> 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.

<u>Diameter at breast height or DBH</u> means the diameter of the trunk, at its maximum cross section, measured 54 inches (41/2 feet) above mean ground level at the base of the trunk.

<u>Dripline</u> 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".

<u>Tree Cutting Permit</u> 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.

<u>Tree Protection Zone</u> 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 1 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.

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. <u>Hazard Tree Removal Permit</u>: 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.

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

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

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. <u>Civil Violation</u>. 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. <u>Nuisance Abatement</u>. 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. <u>Enforcement Fee.</u> A person who removes a tree without first obtaining a tree cutting permit form 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. <u>Injunction</u>. 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. <u>Cumulative Remedies</u>. 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, <u>Prior Text</u>; Ord. 2260, Amended, 09/05/2000, <u>Prior Text</u>; Ord. 2231, Amended, 03/21/2000, Editorial correction Paragraph 1 word "tree removal" changed to "violation", <u>Prior Text</u>; Ord. 2221, Amended, 01/18/2000, <u>Prior Text</u>)

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 penaltics 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 twothirds 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.
- 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:
 - Major pruning of Protected Trees once within a one year period.
 - 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.
 - 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. <u>Approval Criteria</u>. 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.
 - 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.
 - 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.
 - 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. <u>Submission Requirements.</u> 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. <u>Conditions of Approval.</u> 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. <u>Extension of a Decision</u>. Previous approval of Tree Plan One proposal shall not be extended.

40.90.15.

2. Tree Plan Two

- A. <u>Threshold.</u> 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. <u>Procedure Type.</u> 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. <u>Approval Criteria</u>. 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.

- 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.
- 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. <u>Submission Requirements.</u> 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. <u>Conditions of Approval.</u> 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. <u>Extension of a Decision.</u> 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.

- 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. <u>Procedure Type.</u> 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. <u>Approval Criteria</u>. 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. <u>Submission Requirements.</u> 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. <u>Conditions of Approval.</u> 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. <u>Compliance with Approval.</u> 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. <u>Extension of a Decision.</u> Previous approval of Tree Plan Three proposal shall not be extended.

40.90.15.

4. Commercial Timber Harvest.

- A. <u>Threshold.</u> 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:
 - Commercial harvest of timber on Tax Lot Identification Nos. 1S132CC11300, 1S132CD09000, and 1S132CD09100.
- B. <u>Procedure Type.</u> 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. <u>Approval Criteria</u>. 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.

- D. <u>Submission Requirements.</u> 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. <u>Extension of a Decision</u>. Previous approval of Commercial Timber Harvest proposal shall not be extended

Site Plan Modification – Issue Paper

Description of issue:

Occasionally, once land use approval is granted for a site plan application, a developer or property owner requests modifications to the site plan approval. These can range from small modifications such as adding or removing parking or landscaping to large modifications such as adding buildings or structures. This can occur at any time after land use approval, whether the site is still vacant, under construction or years after the first approval and fully developed.

Currently, changes to approved site plans are permitted under the standards of Section 16.90.020.3.A "Site Plan- Plan Changes and Revocation- Changes". This section vaguely defines a "substantial change" that requires further review and requires site plan modification requests to be accompanied by a fee of one-half (1/2) the original review fee.

In other jurisdictions, site plan modifications are processed with clear and objective review standards. The current Sherwood Code requires "supplemental review" but does not provide details regarding how to conduct the review and it is not clear who the review authority is for these modifications. In addition, requiring one-half of the original review fee can be extreme and does not necessarily relate to the proposed modification. The Planning Department has established a policy to require one-half of the fee that would apply currently (thus eliminating the need to research "original" fees), but this should be clarified in the code. This fee structure also limits flexibility for a property to respond to changing market needs or conditions and creates a great burden and process for modifications that may be "substantial" when considering the vague definitions, but are minor in terms of impact to the site or surrounding area. This can also be seen as a disincentive to provide site upgrades or reinvest in existing established businesses.

Code Sections 16.90.020.3.A:

"Construction, site development, landscaping, tree mitigation, habitat preservation, and other development activities shall be carried out in accordance with the site development plans per Chapter 16.72. Any proposed changes to approved plans shall be submitted for review to the City. Changes that are found to be substantial, as defined by Section 16.90.020, that conflict with original approvals, or that otherwise may conflict with the standards of Section 16.90.020, shall be submitted for supplemental review together with a fee equal to one-half (1/2) the original site plan review fee."

Public input received:

While no public input has been formally received, we are currently processing two site plan modification applications for two apartment complexes in the City. The process for reviewing these proposals could benefit from clarification of this code section.

Comparison to other jurisdictions and the Oregon Model Code:

See attached table on page 3

Initial Staff Recommendation

- 1. Implement clear and objective site plan modification review criteria.
- 2. Clearly define the process for site plan modification review (i.e. staff-level, dependent on overall project size, dependent on percentage change, etc).
- 3. Implement a site plan modification review fee.

Jurisdiction	Site Plan Modification Requirements	
Oregon Model Code	4.2.800.A. Modifications to Approved Plans and Developments. Minor modifications of an approved plan or existing development, as defined in Chapter 4.6, shall be processed as a Type I procedure and require only Land Use Review. Major modifications, as defined in Chapter 4.6, shall be processed as a Type II or Type III procedure and shall require Site Design Review. For information on Type I, Type II and Type III procedures, please refer to Chapter 4.1. For Modifications approval criteria, please refer to Chapter 4.6.	l all
	Major modifications include:	
	1. A change in land use;	
	2. An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;	
	3. A change in setbacks or lot coverage by more than 10 percent, provided the resulting	
	setback or lot coverage does not exceed that allowed by the land use district;	
	4. A change in the type and/or location of access-ways, drives or parking areas affecting off-site traffic;	
	5. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;	
	6. A reduction of more than 10 percent of the area reserved for common open space; or	
	7. Change to a condition of approval, or a change similar to items 1-6, that could have a	
-	detrimental impact on adjoining properties. The City Planning Official shall have	
	discretion in determining detrimental impacts warranting a major modification.	
	Minor modifications include:	
	1. Minor modifications that involve only clear and objective code standards may be	
	reviewed using a Type I procedure;	
	2. Minor modifications that involve one or more discretionary standards shall be reviewed	
	through Type II procedure; and	
	3. When the code is unclear on whether the application should be a Type I or Type II review, a Type II procedure shall be used.	3

Sherwood	Construction, site development, landscaping, tree mitigation, habitat preservation, and other development activities shall be carried out in accordance with the site development plans per Chapter 16.72. Any proposed changes to approved plans shall be submitted for review to the City. Changes that are found to be substantial, as defined by Section 16.90.020, that conflict with original approvals, or that otherwise may conflict with the standards of Section 16.90.020, shall be submitted for supplemental review together with a fee equal to one-half (1/2) the original site plan review fee.
Tualatin	No formal process- staff use discretion in determining if a new site plan review is necessary.
Tigard	18.360.050 Major Modification(s) to Approved Plans or Existing Development A. Determination request. An applicant may request approval of a modification to an approved plan or existing development by: 1. Providing the Director with three copies of the proposed modification addressing the changes listed in Subsection B below. B. Evaluation criteria. The Director shall determine that a major modification(s) will result if one or more of the following changes are proposed. There will be: 1. An increase in dwelling unit density, or lot coverage for residential development; 2. A change in the ratio or number of different types of dwelling units; 3. A change in the ratio or number of different types of dwelling units; 4. A change in the type of commercial or industrial structures as defined by the Uniform Building Code; 5. An increase in the height of the building(s) by more than 20%; 6. A change in the type and location of accessways and parking areas where off-site traffic would be affected; 7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed 100 vehicles per day; 8. An increase in the floor area proposed for a nonresidential use by more than 10% excluding expansions under 5,000 square feet; 9. A reduction in the area reserved for common open space and/or usable open space which reduces the open space area below the minimum required by this code or reduces the open space area below the minimum required by this code or reduces the open space area boy more than 10%; 10. A reduction of project amenities below the minimum established by this code or by more than 10% where specified in the site plan: a. Recreational facilities; b. Screening; and/or c. Landscaping provisions. 11. A modification to the conditions imposed at the time of site development review approval which are not the subject of Subsections B.1 through 10 above of this section.

C. When the determination is made. Upon determining that the proposed modification to the site development plan is a major modification, the applicant shall submit a new application in accordance with Sections 18.360.030 and 18.360.070 for site development review prior to any issuance of building permits. 18.360.060 Minor Modification(s) to Approved Plans or Existing Development A. Minor modification defined. Any modification which is not within the description of a major modification as provided in Section 18.360.050 shall be considered a minor modification. B. Process. An applicant may request approval of a minor modification in accordance with Section 18.360.030.B and as follows: 1. Providing the Director with three copies of the proposed modified site development plan; and 2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in Section 18.360.050.B. C. Approval criteria. A minor modification shall be approved, approved with conditions or denied following the Director's review based on the finding that: 1. The proposed development is in compliance with all applicable requirements of this title: and 2. The modification is not a major modification. Wilsonville If a property owner wishes to add landscaping for an existing development, in an effort to beautify the property, the Landscape Standards set forth in Section 4.176 shall not apply and no Plan approval or permit shall be required. If the owner wishes to modify or remove landscaping that has been accepted or approved through the City's development review process, that removal or modification must first be approved through the procedures of Section 4.010. B. A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing: 1. Minor alterations to existing buildings or site improvements of less than twenty-five percent (25%) of the previous floor area of a building, but not to exceed 1,250 square feet, or including the addition or removal of not more than ten (10) parking spaces. Minor modifications to approved Architectural and Site Development Plans may also be approved, subject to the same standards.

Sherwood Planning Commission Meeting				
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Request to Speak Forms				
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- Individuals may not impugn the character of anyone else, including but not limited to members of the community, the reviewing body, the staff, the applicant, or others who testify. Complaints about staff should be placed in writing and addressed to the City Manager. If requested by the complainant, they may be included as part of the public record. Complaints about the City Manager should be placed in writing and addressed to the Mayor. If requested by the complainant, they may be included as part of the public record.
- Comment time is 4 minutes with a Commission-optional 1 minute Q & A follow-up.
- The Chair of a meeting may have the ability to modify meeting procedures on a case-bycase basis when especially complicated issues arise, or when the body is involved in extraordinary dialogue, but only after receiving the advice and majority consent of the body. The Chair may also cut short debate if, in their judgment, the best interests of the City would be served.

(Note: Written comments are encouraged, and may be submitted prior to the meeting by mail, or at the meeting. There is no limit to the length of written comment that may be submitted)

Persons who violate these rules may be asked to stop their comments by any member of the body. Community Comments beyond the 4-minute limit may not be included in the record of the meeting. Persons who impugn the character of anyone will be required to stop immediately. Their comments will not be included in the record of the meeting, and they will forfeit their remaining time. Any person who fails to comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser.

I have read and understood the Rules for Meetings in the City of Sherwood.

Agenda Item: Code Irees
I am: Applicant: Proponent: Opponent: Other
Name: Nongen O'Congou
Address: 17511 Sw Heatherwood Lone
City/State/Zip: 5/ enwered OR 97140
Email Address: nor senmo connor @ yakoo. com
I represent:MyselfOther

If you want to speak to Commission about more than one subject, please submit a separate form for each item.

for each item.

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I have read and understood the Rules for Meetings in the City of Sherwood.

Aş	genda Item: 5 treet Trees
	am: Applicant: Proponent: Opponent: Other
Na	ame: Trema E. Landers
	ddress: 23855 SW Red Fern Drive
Ci	ity/State/Zip: Sherwood, OR 97140
	mail Address: trennar @ comcest, net
I	represent: X Myself X Other President Arbor Lane Womeowners Assoc.
If you want to spe	eak to Commission about more than one subject, please submit a separate form

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- Comment time is 4 minutes with a Commission-optional 1 minute Q & A follow-up.
- The Chair of a meeting may have the ability to modify meeting procedures on a case-bycase basis when especially complicated issues arise, or when the body is involved in extraordinary dialogue, but only after receiving the advice and majority consent of the body. The Chair may also cut short debate if, in their judgment, the best interests of the City would be served.

(Note: Written comments are encouraged, and may be submitted prior to the meeting by mail, or at the meeting. There is no limit to the length of written comment that may be submitted)

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I have read and understood the Rules for Meetings in the City of Sherwood.

Agenda Item:
I am: Applicant: Proponent: Opponent: Other
Name: In Cookyes
Address: Po Box 208
City/State/Zip: 5 Lerwood OR 97/40
Email Address: Time @ steeltek Endustries com.
I represent: Myself Other

If you want to speak to Commission about more than one subject, *please submit a separate form for each item.*

12/14/10

In any City forum or meeting:

- Individuals may not impugn the character of anyone else, including but not limited to members of the community, the reviewing body, the staff, the applicant, or others who testify. Complaints about staff should be placed in writing and addressed to the City Manager. If requested by the complainant, they may be included as part of the public record. Complaints about the City Manager should be placed in writing and addressed to the Mayor. If requested by the complainant, they may be included as part of the public record.
- Comment time is 4 minutes with a Commission-optional 1 minute Q & A follow-up.
- The Chair of a meeting may have the ability to modify meeting procedures on a case-bycase basis when especially complicated issues arise, or when the body is involved in extraordinary dialogue, but only after receiving the advice and majority consent of the body. The Chair may also cut short debate if, in their judgment, the best interests of the City would be served.

(Note: Written comments are encouraged, and may be submitted prior to the meeting by mail, or at the meeting. There is no limit to the length of written comment that may be submitted)

I have read and understood the Rules for Meetings in the City of Sherwood.

Agenda Item: STREET TREES
I am: Applicant: Proponent: Opponent: Other
Name: Neil Shanned
Address: 23997 SW Red Fend DR
City/State/Zip: Sherwood
Email Address: Noil Shaw EMSN. com
I represent:Other

If you want to speak to Commission about more than one subject, please submit a separate form for each item.

for each item.

- Individuals may not impugn the character of anyone else, including but not limited to members of the community, the reviewing body, the staff, the applicant, or others who testify. Complaints about staff should be placed in writing and addressed to the City Manager. If requested by the complainant, they may be included as part of the public record. Complaints about the City Manager should be placed in writing and addressed to the Mayor. If requested by the complainant, they may be included as part of the public record.
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(Note: Written comments are encouraged, and may be submitted prior to the meeting by mail, or at the meeting. There is no limit to the length of written comment that may be submitted)

Persons who violate these rules may be asked to stop their comments by any member of the body. Community Comments beyond the 4-minute limit may not be included in the record of the meeting. Persons who impugn the character of anyone will be required to stop immediately. Their comments will not be included in the record of the meeting, and they will forfeit their remaining time. Any person who fails to comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser.

I have read and understood the Rules for Meetings in the City of Sherwood.

Agenda Item: woodheeven - Saundan Parking
I am: Applicant: Proponent: Opponent: Other
Name: Rick Finsand
Address: 22652 sw Saunters Drive
City/State/Zip: sherwood, OR 97140
Email Address: N. Finsanda comcest. not
I represent: K Myself Other towners association ACC Barro
If you want to speak to Commission about more than one subject, please submit a separate form

Rules for Meetings in the City of Sherwood

It is the purpose of these rules to promote common courtesy and civility in all meetings of the City of Sherwood. All who wish to speak should expect to be treated fairly and with respect. All who speak should reciprocate by focusing on the issue being considered, while respecting the opinions of those with whom they may disagree. This will enable our community to establish an environment wherein all issues and opinions may be fairly considered and decisions, though sometimes difficult, will be made in a spirit of mutual respect of all citizens, no matter their differences.

Public Hearings before the City Council and other Boards and Commissions shall follow the following procedure:

- Staff Report--15 minutes
- Applicant--30 minutes(to be split, at the discretion of the applicant, between presentation and rebuttal.)
- Proponents—5 minutes each (applicants may not also speak as proponents.)
- Opponents—5 minutes each
- Rebuttal—Balance of applicant time(see above)
- Close Public Hearing
- Staff Final Comments—15 minutes
- Questions of Staff/Discussion by Body—no limit
- Decision

(Note: Written comments are encouraged, and may be submitted prior to the hearing, at the hearing, or when the record is left open, after the hearing for a limited time. There is no limit to the length of written comment that may be submitted)

Appeals before the City Council and other Boards and Commissions shall follow the following procedure:

- Staff Report--15 minutes
- Applicant 30 minutes (to be split, at the discretion of the applicant, between presentation and rebuttal.)
- Only those who previously went on the written or verbal record at the PC hearing may appear before Council.
- No one can pass their time to someone else
- Proponents—5 minutes each (applicants may not also speak as proponents.)
- Opponents—5 minutes each. Opponents who represent a neighborhood or business association have 15 minutes
- Appellants—30 minutes (to be divided it there are multiple appellants.)
- Rebuttal—Balance of applicant time (see above)
- Close Public Hearing
- Staff Final Comments—15 minutes
- Questions of Staff/Discussion by Body—no limit
- Decision

(Note: Written comments are encouraged, and may be submitted prior to the hearing, at the hearing, or when the record is left open, after the hearing for a limited time. There is no limit to the length of written comment that may be submitted)

APPROVED MINUTES

City of Sherwood, Oregon Planning Commission Minutes December 14, 2010

Commission Members Present:

Staff:

Chair Allen

Julia Hajduk, Planning Manager Zoe Monahan, Assistant Planner

Jean Simson

Russell Griffin

Lisa Walker

Brad Albert

Karen Brown, Recording Secretary

Commission Members Absent:

Michael Cary Raina Volkmer

Council LiaisonUWayor Mays

- 1. Call to Order/Roll Call NChair Allen called the meeting to order and welcomed new Commissioner Brad Albert
- 2. Agenda ReviewUWA10-03 Code Clean Up Phase 1.5, SWOT Analysis
- 3. Consent Agenda Wone
- 4. City Council Comments Mayor Mays none given

Tom Pessemier responded for the Engineering Department by saying that this is not actually a Planning Commission issue; that intersection has been the subject of a formal study and that parking there is creating a hazard for pedestrians, emergency vehicles and school busses. There will be 3 parking spaces removed and a stop sign installed. Notices will be sent to the homeowners in the area.

- 6. Staff Comments Uulia mentioned that 3 of the 4 Planners attended a legal issues conference and will discuss that at a future meeting. She also notified the Commission that the IT Department has requested permission to video tape and broadcast the meetings on the Community Access Channel. No one objected to the proposal.
- 7. New Business PA 10-03 Code Clean-Up, Chair Allen asked for any exparte contact disclosures. Commissioner Simson disclosed that she had received a call for Tim Voorhies regarding the code and work session topics and voiced some concerns about what is being asked of the citizens. She did not feel that conversation would prevent her from participating. Commissioner Griffin disclosed that he had been approached by Jim

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Claus in the parking lot on his way into the meeting but did not fully understand what was said by Mr. Claus, but reference was made to Jews and Nazis but he does not feel that it would prevent him from participating in the hearing.

Zoe presented her staff report regarding the proposed changes in the code regarding: fences, walls, hedges and street trees. The development code has not been comprehensively updated since 1990 so this is the effort to update the code.

First, the question of what defines a fence was addressed. Hedges and vegetation have been removed from this definition. The requirements proposed include maximum height allowance, separated the residential and non-residential requirements, and modified the corner lot set-back requirements. Street tree spacing and removal were also addressed in this review. The proposed spacing is now based on the canopy spread rather than 1 tree for every 25 of frontage. Regarding the removal process, the Parks Board approval has been removed and a process that allows for public comment period has been added. An exemption process has also been added. The recommended street tree list and prohibited street tree lists have been revised, as well as an alternative street tree process if someone wants to add a tree that is not currently listed. They have suggested a tiered removal process based on the size of the tree as well. Staff s recommendation is to recommend approval to the Council on the proposed language.

Commissioner Griffin asked about what fees would be charged for tree removal.

The fees have not been determined yet, but will need to be approved by the Budget Committee and should be suggested prior to going to council for review.

Chair Allen opened the hearing up to public comment:

Neil Shannon, 23997 SW Red Fern Drive, Sherwood OR, provided public testimony saying he is in favor of using the canopy diameter as one of the guidelines, however has concerns regarding protecting the trees in the planter strips. There are so many other items in the strips it is not giving the trees a chance to survive. Regarding removal and replacement, he is not in favor of permits being required and feels the HOA needs to be more involved.

Noreen O Connor 17511 SW Heatherwood Lane, Sherwood OR, has been very active in tree planting in the community. She will be happy to take responsibility for her tree, but urged the Commission to be careful with the details. She does not want to have to pay a fee to remove a tree that should never have been allowed to be planted. She does not want to see a battle fought one homeowner at a time.

Treena Landers 23855 SW Red Fern Drive, Sherwood OR, president of the HOA for Arbor Lane, has worked for over the past year to have permission to replace trees in their neighborhood with Sunset Maples. She would also like to see a plan that includes the HOAs more. They have mapped their entire neighborhood and had hoped to work with the Parks Board on letting the HOA approve the removal of trees when necessary. She feels like every time they get their process lined up, something gets changed.

Tim Voorhies PO Box 908, Sherwood OR, has concerns with items in the plan stating that after trees are planted the maintenance becomes the homeowner s responsibility. He asked about guidelines that homeowners need to follow while pruning limbs. He has concerns that homeowners could be in trouble if they prune street trees.

Seeing no other citizens wanting to testify, Chair Allen closed the public testimony.

Julia added that the intent was never to add bureaucracy, but rather alleviate steps and time constraints. The potential was discussed of letting recognized HOAs approve their own tree removal and maintenance to a point.

Tom Pessemier suggested that there may be a land use process that would allow HOAs to work with staff to develop guidelines that would allow, for example, the removal and replacement of 20 street trees all together rather than having each homeowner go through the process one at a time.

In closing the Staff Report, Zoe pointed out that they have tried to incorporate ways for public comment to be taken in both process types. She added that in the exemption process the letter from a certified arborist would need to indicate why the tree could not be replaced and how it might continue to create additional problems.

Conversation/deliberation continued regarding the best way to determine tree sizes allowed, where and how to measure the height as well as fees and costs for permits if permits are required.

Commissioner Albert added the fact that there are large storm water benefits to the City by having large trees that help with shade and evaporation and that should be looked at while making these decisions.

It was determined that the Commission would like more information regarding fees and costs of permitting processes as well as size guidelines of removal and replacement requirements ranging from no process to a light process and a heritage tree process as well as a wholesale process for removing/replacing large numbers of trees at one time.

Commissioner Simson asked to clarify if the wording that states within the right-of-way to the owners property, includes the trees in front of homes in the median, like on Sunset Blvd. It was determined that the owners responsibility is to the curb line.

Discussion moved to fences and walls. Commissioner Simson began by suggesting some of the definitions be added into the criteria and locations sections. Staff agreed.

A motion was made to continue the public hearing for PA 10-03 to January 11, 2011, keeping the record open. Commissioner Albert seconded the motion; all were in favor, the motion passed.

S.W.O.T (Strengths, Weaknesses, Opportunities and Threats) Analysis. Julia began by sharing the previous year s list of items. Commissioner Simson feels that reading a long list before the Council is not very productive. A shorter list is easier to absorb. She has pointed out a few items she feels would be best to focus on. She was excited after

last year s meeting. The Commission gave several comments about what they felt was important. The two things repeated were the public notice process and the desire to have joint work sessions. Both of those have happened and she felt that was very positive feedback and would like to keep that momentum going and re-emphasize those issues. Her suggestions after conversation among the Commission include:

Strengths would be: very good public involvement, effective work sessions with Council and better communication with other boards when developing concept plans.

Weaknesses- Communication tools. Lack of data and performance data to gauge how well things are working. A weakness and opportunity would be finding a way to educate the public on the planning and development processes.

Opportunities Nebcast and/or broadcast of meetings and better technology to convey public information. The construction downturn can still be an opportunity. Streamline the standards for different circumstances.

Threats include: Cost of doing business in Sherwood and the cost of developing in Sherwood are both seen as threats.

The next meeting is scheduled for January 11, 2011

Chair Allen closed the public hearing and the Commission moved into work session.

End of minutes.