



**Oregon**  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development  
635 Capitol Street, Suite 150  
Salem, OR 97301-2540  
(503) 373-0050  
Fax (503) 378-5518  
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/06/2009

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of Tualatin Plan Amendment  
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, April 17, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Colin Cortes, City of Tualatin  
Gloria Gardiner, DLCD Urban Planning Specialist

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**FORM 2**

# DLCD

## Notice of Adoption

**THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

In person  electronic  mailed

**DEPT OF**

**MAR 30 2009**

**LAND CONSERVATION  
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **City of Tualatin**

Local file number: **PTA-08-04**

Date of Adoption: **3/23/2009**

Date Mailed: **3/27/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **2/3/2009**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

This Plan Text Amendment amends Tualatin Development Code (TDC) Sections 34.200, 73.410, 74.705, and 74.765 and creating 74.706 through 708 to require that an applicant who applies to remove street tree(s) must replace the tree(s) one-for-one, with 3 exceptions: (1) conflict with public infrastructure or minimum vision clearance; (2) interference with adjacent existing canopy; or (3) replanting would place street trees too close to each other, hurting their health.

Does the Adoption differ from proposal? **No**

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved:

Specify Density: Previous: **n/a**

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD FILE # 003-09(17351)[15457]

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro

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Local Contact: **Colin Cortes**

Phone: **(503) 691-3024** Extension:

Address: **18880 SW Martinazzi Avenue**

Fax Number: **503-692-0147**

City: **Tualatin**

Zip: **97062-7092**

E-mail Address: **ccortes@ci.tualatin.or.us**

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### **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 1279-09

AN ORDINANCE RELATING TO TREE REMOVAL; AND  
AMENDING TDC 34.200, 73.405, 74.706, 74.707, 74.708,  
AND 74.765 (PTA-08-04)

WHEREAS upon the application of the Community Development Department, a public hearing was held before the City Council of the City of Tualatin on March 23, 2009, related to tree removal, and amending TDC 34.200, 73.405, 74.705, 74.706, 74.707, 74.708, and 74.765 (PTA-08-04); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication on March 5, 2009, in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on March 23, 2009, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [4-0], with Councilor Beikman, Councilor Barhyte, and Councilor Harris absent.

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated March 23, 2009, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended. Therefore,

THE CITY OF TUALATIN, OREGON ORDAINS AS FOLLOWS:

Section 1. TDC Section 34.200 is amended to read as follows:

Section 34.200 Tree Removal Without Architectural Review, Subdivision or Partition Approval, or Tree Removal Permit Prohibited.

(1) ~~(1)~~ Except as provided in TDC 34.200(3), no person shall remove a tree within the City limits **except as follows:**

(a) **For a tree on private property, the person must without first** obtaining a Tree Removal Permit from the City, or obtaining approval through the Architectural Review, Subdivision Review, or Partition Review process;

(b) **For a street tree or tree within a public right-of-way, the person must obtain approval in accordance with TDC 74.705.** Incentives for tree retention are found in TDC Chapter 73, Community Design Standards. Any property owner who removes, or causes to be removed, one or more trees in violation of applicable TDC provisions, shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties set forth in TDC 31.111.

(2) As used in this ordinance, "park" means a City-owned parcel, lot or tract of land, designated and used by the public for active and passive recreation.

(3) The following exemptions apply to tree removal:

(a) General Exemption. Four or fewer trees may be removed within a single calendar year from a single parcel of property or contiguous parcels of property under the same ownership without a permit, except when the tree to be removed:

(i) Is located in the Natural Resource Protection Overlay District (NRPO);

(ii) Is located in the Wetlands Protection Area (WPA) of the Wetlands Protection District (WPD);

(iii) Is a Heritage Tree;

(iv) ~~The tree was~~ previously required to be retained under an approved Architectural Review of the ~~Tualatin Development Code~~ **decision.**

(b) Parks and golf courses are exempt if both the following are met:

(i) The property's owner or owner's agent has submitted a tree management plan to the Community Development Director and has received approval from the Director. The tree management plan shall be approved for a five year period, after which the property owner or owner's agent must submit a new tree management plan for approval or comply with requirements set out in the applicable Architectural Review decision.

(ii) This exemption supersedes the Architectural Review requirements with regard to tree removal except as provided in subsection (i) of this section.

(c) Forest Harvesting Exemption. The harvesting of forest tree species for the commercial value of the timber is permitted subject to the following:

(i) The property from which the forest species are to be harvested must be in a property tax deferred status based on agricultural or forest use under any or some combination of the following:

- Farm Deferral according to state law.
- Forest Land Deferral according to state law.
- Small Woodlands Deferral according to state law.

(ii) The property from which the forest species are to be harvested must have been in property tax deferred status on the effective date of this

ordinance or at the time of annexation of the property by the City, whichever occurs later.

(iii) Revocation of the Forest Harvesting Exemption. Property, or portion of the property exempted under TDC, 34.200(3)(c) shall cease to be exempted from the provisions of this ordinance immediately upon the filing of an application for any of the following land use actions:

- Subdivision or Partition review;
- Conditional Use;
- Architectural Review.

(iv) Reinstatement of the Forest Harvesting Exemption. Property or portions of the property previously exempted under TDC 34.200(3)(c) and revoked in accordance with TDC 34.200(3)(c)(iii) will be considered reinstated if the property remains tax deferred in accordance with TDC 34.200(3)(c)(i) and 34.200(3)(c)(ii), and one or more of the following criteria are met:

- The land use action that affected the revocation was denied and the appeals period has expired; or
- The land use action that affected the revocation was approved, and the proposed development ~~which~~ **that** affected the filing of the land use action did not occur; and the approval, ~~that~~ **which** was granted, including extensions has expired.

(v) The Community Development Director shall prepare a listing of properties exempted under this section upon the effective date of this ordinance and update the list annually.

(d) Orchards. Tree removal is permitted in orchards of commercial agricultural production.

(e) Public Right-of-Way. Trees within public right-of-way shall be governed by TDC Chapter 74, Public Improvement Requirements.

(f) Federal, state, county, or City road, water, sanitary sewer, or storm sewer improvements and maintenance of City owned property are exempt from this ordinance.

(4) As provided under TDC 31.030, no single-family dwelling building permit application shall be submitted to the City until all required land use approvals, including any required Tree Removal Permit, have been obtained by the property owner.

Section 2. TDC 73.410 is amended to read as follows:

Section 73.410 ~~Streets. [Reserved for Street Tree Plan.]~~ **A person who desires to plant a street tree shall comply with TDC 74.765, which comprises the street tree plan.**

Section 3. TDC 74.705 is amended to read as follows:

Section 74.705 ~~Permit to Remove or Destroy Trees~~ **Street Tree Removal Permit.**

(1) A person who desires to remove or destroy a tree, **as defined in TDC 31.060**, in or upon any public right-of-way shall make application to the Operations Director on **City forms**, furnished by the City.

(2) The application applicant must provide:

(a) the applicant's name and contact information and if applicable that of the applicant's contractor;

(b) the number and species of all street trees the applicant desires to remove;

(c) a clear description of the street trees' location to allow City staff to accurately identify the, including the nearest street address;

(d) the date of removal; ~~must state the number and kind of trees to be removed, the name of permittee and contractor, if applicable, the time the proposed work is to be done, and such~~

(e) the reason(s) for removal; and

(f) other information as the Operations Director deems necessary.

~~other information as the Operations Director deems pertinent. Work done under the written permit must be performed in strict accordance with the permit terms and this chapter, and with the approval of the Operations Director.~~

(3) Upon the Operations Director approving the removal of a street tree, the applicant or designated contractor shall replace each removed tree on a one-for-one basis by fulfilling the following requirements;

(a) Remove both the tree and stump prior to planting a replacement tree, or request the City to remove the tree and stump and pay the applicable fee(s) established in TDC 74.706; and

(b) Replace the removed tree by planting a species of street tree permitted by Schedule A of TDC Chapter 74 within the time period specified in writing by the Operations Director; or, the applicant may request within sixty (60) days of the permit approval date that the City replace the street tree and pay the applicable fee(s) established in TDC 74.706. If an applicant opts for the City to plant the replacement tree, the Operations Department may plant the tree on its usual tree-planting schedule. Planting done by the applicant or designated contractor shall comply with all applicable TDC sections and any additional requirements imposed by the Operations Director.

(c) The applicant shall comply with all applicable TDC sections and additional requirements imposed by the Operations Director. The Operations Director may:

i. Waive the one-for-one replacement requirement if he or she determines that the replacement would:

1. conflict with public improvements or utility facilities, including but not limited to fire hydrants, water meters and pipes, lighting fixtures, traffic control signs; private improvements or utility facilities – including but not limited to driveways and power, gas,

telephone, cable television lines; or, minimum vision clearance;

2. interfere with the existing canopy of adjacent trees, the maturation of the crown of the proposed replacement tree, or both; or
3. cause a conflict by planting trees too close to each other, hurting their health;

- ii. limit the selection of species from Schedule A; and
- iii. direct how to plant replacement tree(s).

(d) A person who fails to comply with TDC 74.705(3) shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties in TDC 31.111.

Section 4. TDC 74.706 is added to read as follows:

**Section 74.706 Street Tree Fees.**

A person who applies to remove a street tree under TDC 74.705 shall pay all costs incurred by the City as reflected in the applicable fees listed in the city of Tualatin Fee Schedule. City actions and associated fees include but are not limited to inspection of a street tree requested for removal, removal of a street tree, removal of a stump, planting of a street tree, and inspection(s) to determine if the applicant has fulfilled permit requirements.

Section 5. TDC 74.707 is added to read as follows:

**Section 74.707 Street Tree Voluntary Planting.**

A person who desires to plant a tree in or upon a public right-of-way may plant or have the City plant a species of street tree permitted by TDC Chapter 74 Schedule A without a City permit, if the tree is not a replacement for a tree that the person has removed. Such a person may submit a request to the City with payment of fee(s) so that the City may plant a street tree. If a stump exists where a street tree is to be planted, the person shall remove the stump or pay a fee to the City as established in TDC 74.706 so that the City may remove the stump on behalf of the person. In all instances, a person who desires to plant a tree shall comply with other applicable TDC sections and any additional requirements of the Operations Director.

Section 6. TDC 74.708 is added to read as follows:

**Section 74.708 Street Tree Emergencies.**

(1) If emergency conditions occur that require the immediate cutting or removal of street trees to avoid danger or hazard to persons or property, the Operations Director shall issue emergency permits without payment of fees and formal applications. If the Operations Director is unavailable, the adjacent property owners may proceed to cut the trees without permits to the extent necessary to eliminate the immediate danger or hazard. If a



street tree is cut under this section without filing of an application with the Operations Director, the person doing so shall report the action to the Operations Director within two City business days without payment of fee and shall provide such information and evidence as may be reasonably required by the Operations Director to explain and justify the removal.

(2) In all instances, a person who removes a street tree as a result of an emergency must replace it within sixty (60) days of notifying the Operations Director. The City reserves the right to waive this requirement.

(3) A person who fails to comply with TDC 74.708 shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties in TDC 31.111.

(4) If no emergency is found to exist, no person shall cut or remove a street tree without complying with the requirement of the Tualatin Development Code.

Section 7. TDC 74.765 is amended to read as follows:

**Section 74.765 Street Tree Species and Planting Locations. ~~of Plantings.~~**

All trees, plants or shrubs planted in the right-of-way of the City shall conform in species and location and in accordance with the street tree plan in Schedule A. **If the Operations Director determines that none of the species in Schedule A is appropriate or finds appropriate a species not listed, the Director may substitute an unlisted species.**

Section 8. TDC Schedule A is amended to read as follows:

**Schedule A: Street Tree Species**

The following street trees are authorized for planting in the City of Tualatin. Please refer to Map 74-1 to reference locations of the following species of trees:

Species Common Name	Planting Strip Width (feet)			Powerline Compatible	Spacing on center (feet)
	4	5	6+		
<u>Zone 1</u>					
Leprechaun Ash	✓	✓	✓		30
Purple Beech	✓	✓	✓		30
European Hornbeam	✓	✓	✓	✓	30
Armstrong Maple	✓	✓	✓		30
Scanlon/Bowhall Maple	✓	✓	✓		30
Skyrocket English Oak	✓	✓	✓		30
Capital Flowering Pear	✓	✓	✓		30
Persian Parrotia	✓	✓	✓		30
Eastern Redbud	✓	✓	✓		30
Zelkova Musashino	✓	✓	✓		30
Autumn Applause Ash		✓	✓		30
Shademaster Honey Locust		✓	✓		30
<u>Zone 2</u>					

Golden Desert Ash	✓	✓	✓	✓	30
Leprechaun Ash	✓	✓	✓		30
Purple Beech	✓	✓	✓		30
Goldenrain	✓	✓	✓		30
European Hornbeam	✓	✓	✓	✓	30
Ivory Japanese Lilac	✓	✓	✓	✓	30
Amur Maackia	✓	✓	✓	✓	30
Amur Maple	✓	✓	✓	✓	30
Crimson Sentry Maple	✓	✓	✓	✓	30
Trident Maple	✓	✓	✓	✓	30
Skyrocket English Oak	✓	✓	✓		30
Persain Parrotia	✓	✓	✓		30
Eastern Redbud	✓	✓	✓		30
Yellowwood	✓	✓	✓		30
Raywood Ash		✓	✓	✓	30
Urbanite Ash		✓	✓		30
Ginko		✓	✓		30
Greenspire Linden		✓	✓		30
Crimson King Maple		✓	✓		30
Tri-Color Beech			✓		60
Frontier Elm			✓		60
Globe Sugar Maple			✓		60
Red Sunset Maple			✓		60
Red Oak			✓		60
Scarlet Oak			✓		60

**Schedule A**

**TREE PLANTINGS IN THE CITY OF TUALATIN**

The following street trees are authorized for planting in the City of Tualatin. Please refer to Map 74-1 to reference locations of the following types of trees:

Zone 1

Zone 2

4-Foot Planter Strips:

- Armstrong Maple
- \*European Hornbeam
- Scanlon/Bowhall Maple
- Chanticlear Pear
- Columnar Maple
- Zelkova

Planted 30-Foot on Center

4-Foot Planter Strips:

- \*Golden Desert Ash
- \*Amur Maple
- \*Crimson Sentry Maple
- \*Ivory Japanese Lilac
- \*European Hornbeam
- \*Maackia
- \*Trident Maple
- Yellowwood

5 to 6-Foot Planter Strips:

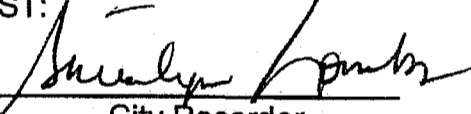
- Any of the listing above, plus
- Zelkova

~~Shademaster Honey Locust~~ ~~Planted 30-Foot on Center~~  
~~Autumn Applause Ash~~  
~~Planted 30-Foot on Center 5 to 6-Foot Planter Strips~~  
~~Any of the listing above, plus~~  
6-Foot or More Planter Strips: ~~Crimson King Maple~~  
~~Any of the listings above~~ ~~Ginko~~  
~~Planted 30-Foot on Center~~ ~~\*Raywood Ash~~  
~~Greenspire Linden~~  
~~Urbanite Ash~~  
~~Planted 30-Foot on Center~~  
  
~~6-Foot or More Planter Strips:~~  
~~Any of the listing above, plus~~  
~~Red Sunset Maple~~  
~~Scarlet Oak~~  
~~Tri-Color Beech~~  
~~Globe Sugar Maple~~  
~~Red Oak~~  
~~Frontier Elm~~  
~~Planted 60-Foot on Center~~  
  
~~\*Powerline Compatible~~

INTRODUCED AND ADOPTED this 23rd day of March, 2009.

CITY OF TUALATIN, Oregon

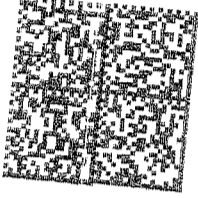
BY   
 Mayor

ATTEST:  
 BY   
 City Recorder

APPROVED AS TO LEGAL FORM

  
 CITY ATTORNEY

CITY OF TUALATIN  
COMMUNITY DEVELOPMENT DEPT.  
PLANNING DIVISION  
18880 SW MARTINAZZI AVE.  
TUALATIN, OR 97062-7092



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03/27/2009

Mailed From 97062

US POSTAGE

ATTN: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND  
CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540

