



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/28/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 009-10

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, May 13, 2011

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Debra Martzahn, City of Lincoln City
Gloria Gardiner, DLCD Urban Planning Specialist

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FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

DATE STAMP

DEPT OF LAND CONSERVATION AND DEVELOPMENT

APR 25 2011

For Office Use Only

Jurisdiction: **City of Lincoln City**

Local file number: **ZOA 2010-09**

Date of Adoption: **April 11, 2011**

Date Mailed: **April 22, 2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 10/01/10

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".

The ordinance amends Lincoln City Municipal Code, Chapter 17.52.220 – Tree Protection and Removal, most recently amended by Ordinance 2010-03 in August 2010. The additional amendments revise replacement requirements for trees removed for building footprint and required infrastructure. The ordinance expands permit exemptions for tree-cutting on developed single-family lots. The amendments also establish a process for selective thinning on open space and park zoned land.

Does the Adoption differ from proposal? Please select one

Minor amendments regarding exemptions and replacement requirements.

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

to: **n/a**

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

to: **n/a**

Location: **city-wide**

Acres Involved:

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

New: **n/a**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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 No. 009-10 (18552) [16620]

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

Local Contact: **Debra Martzahn**

Phone: **(541) 996-1228** Extension:

Address: **PO Box 50**

Fax Number: **541-996-1284**

City: **Lincoln City**

Zip: **97367**

E-mail Address: **dmartzahn@lincolncity.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated March 17, 2011

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ORDINANCE NO. 2011-04

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING ZONING
ORDINANCE NO. 84-2 (AS AMENDED), ORDINANCE NO. 2008-16, AND
ORDINANCE NO. 2010-03; ADOPTING CLARIFICATIONS AND OTHER
CHANGES TO REQUIREMENTS FOR TREE REMOVAL PERMITS AND
MITIGATION; CLARIFYING RESTRICTIONS ON COMMERCIAL
FORESTRY; AND AMENDING LINCOLN CITY MUNICIPAL CODE SECTION
17.52.220**

The City Council finds:

- A. Tree regulations in Ordinance No. 2010-03 need to be clarified and updated.
- B. Proposed amendments to the tree regulations are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in the findings attached as Exhibit “A” and incorporated by reference.
- C. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements.
- D. The Planning Commission held a public hearing on November 16, 2010, considered proposed revisions and voted unanimously to recommend them to the City Council.
- E. All interested persons were given an opportunity to provide written and oral testimony on the proposed ordinance amendments.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Lincoln City Municipal Code Section 17.52.220, Tree Protection and Removal, is amended to read as follows:

- SECTION 17.52.220, Tree protection and removal.
- A. Scope. This section applies to all trees within the city wherever located.
 - B. Purpose. This purpose statement provides a general philosophy to guide the specific enforcement and implementation of provisions and criteria in this section.
 - 1. Value of Trees. The city benefits from trees. Trees of varied types add to the aesthetic beauty of the community and provide important environmental benefits including: help clean the air, help control erosion, maintain water quality and provide noise barriers.
 - 2. Intent. The intent of this section is to protect trees where appropriate, including taking reasonable measures in development to avoid tree removal, and to prohibit

1 damage, mutilation, and destruction of valuable trees. Protection of trees is preferred
2 over replacement. This section aims to:

- 3 a. Establish regulations to protect trees;
- 4 b. Encourage the preservation of trees in the city;
- 5 c. Require the preservation of trees on property subject to development approval;
- 6 d. Set standards for removal of trees;
- 7 e. Control problems of soil erosion, destruction of scenic values and wildlife
- 8 habitats;
- 9 f. Improve air quality;
- 10 g. Protect water quality; and
- 11 h. Protect land from erosion.

12 3. Need for Exceptions. The city recognizes that, at the time of development,
13 removing certain trees may be necessary to accommodate structures, streets, utilities,
14 and other needed or required improvements within the development. The burden of
15 proof is on the applicant to show removal is necessary, and that other alternatives are
16 not feasible. Cost shall not be the sole factor in determining whether an alternative is
17 feasible.

18 C. Definitions. The following definitions apply to regulations governing the preservation
19 and removal of trees contained in this section exclusively:

20 “Arborist, Certified” means a licensed tree care consultant, who is certified as an
21 arborist by the International Society of Arboriculture, or other arborist approved by
22 the city.

23 “Diameter” means diameter of tree measured at four and one-half feet above grade on
24 the uphill side. In the case of multi-stemmed or trunked trees, the diameter shall be
25 the sum of diameters of all individual stems or trunks, measured at a point no more
26 than six inches above the surrounding grade or measured six inches from the point
27 where the stems digress from the trunk, whichever produces the larger measurement.
28 If a tree has been removed and only a stump shorter than four and one-half feet
29 remains, diameter shall be measured as the diameter of the top of the stump.

30 “Canopy cover” means the area above ground that is covered by under the trunk and
31 branches of the tree.

32 “Commercial forestry” means the removal of 10 or more trees per acre per calendar
33 year for sale. Tree removal undertaken by means of an approved tree removal plan
34 under subsection (F) of this section is not considered commercial forestry under this
35 definition.

36 “Cut” means to fell or remove a tree or to do anything that has the natural result of
37 causing the death or substantial destruction of a tree, including girdling and topping.

- 1 "Development" means grading, excavation, fill, or construction on a site requiring
2 site plan review, conditional use approval, subdivision approval, or planned unit
3 development approval. "Girdling" means the cutting or removal of the outer bark and
4 conducting tissues of a tree, potentially causing death by interrupting the circulation
5 of water and nutrients.
- 6 "Hazardous tree" means a tree that by reason of emergency conditions, disease,
7 infestation, age, or other condition presents a known and immediate hazard to persons
8 or to public or private property.
- 9 "Pruning" means the cutting or trimming of a tree in a manner consistent with
10 recognized tree maintenance practices.
- 11 "Removal" means cutting or removing 50 percent or more of the crown, trunk or root
12 system of a tree, or any action that results in the loss of aesthetic or physiological
13 viability or causes the tree to fall or be in immediate danger of falling. "Removal"
14 includes topping, but shall not include pruning performed to applicable standards.
- 15 "Significant natural resource areas" means those lands described at Chapter 17.46
16 LCMC.
- 17 "Topping" means the severe cutting back of the tree's crown limbs to stubs to such a
18 degree so as to remove the natural canopy and disfigure the tree.
- 19 "Tree" means a perennial woody plant, typically of eight feet or more in height, with
20 a single main stem (the trunk or bole), or in some cases, multiple trunks from which
21 branches and twigs extend to form a characteristic crown of foliage.
- 22 "Large tree" includes any tree that has a trunk at least six inches in diameter (see
23 definition of diameter).
- 24 "Protected tree" includes any tree preserved in a tree protection or landscape plan,
25 any tree planted as mitigation for removed trees, any tree planted to fulfill a
26 requirement of the city code, and any tree planted to replace protected trees that
27 died or were removed.
- 28 "Mitigation tree" includes any tree required by this section as a replacement for a
29 tree removed.
- 30 D. Tree Removal Prohibitions.
- 31 1. Tree removal is prohibited, except as allowed in this section. Violations of this
32 section are enforceable as Class A violations.
- 33 2. Topping is prohibited, except where necessary for utility work or public safety, in
34 which case, it requires a tree removal permit. The burden of proof is on the applicant

1 to demonstrate in the permit application that topping is necessary, the only means of
2 accomplishing the task, and preferable to removal. The city will rely on the most
3 recent version of the ANSI A300 Standards for Tree, Shrub, and Other Woody Plant
4 Maintenance to distinguish topping from pruning, and will keep a copy of the
5 publication at the Planning & Community Development Department for review.

6 3. Removal of protected trees is prohibited. Protected trees must be maintained
7 according to applicable tree protection plans, CC&Rs (conditions, covenants and
8 restrictions), and other recorded agreements.

9 4. Removal of trees in wetlands that fall under the jurisdiction of state or federal
10 government removed without concurrence from those state and/or federal agencies
11 that have jurisdiction is prohibited.

12 5. Removal of trees as part of commercial forestry operations, as described in this
13 subsection, is prohibited, and commercial forestry is not permitted, except as
14 specifically allowed by this section.

15 E. When Tree Removal is Allowed Without a Tree Removal Permit

16 1. Generally.

- 17 a. In all cases, removal of trees must be conducted in a manner consistent with
18 LCMC 12.08.050 (B), which regulates land-disturbing activities.
19 b. Removal of trees less than six inches in diameter is permitted without a tree
20 removal permit, unless they are “protected trees.”

21 2. Single Family Dwellings and Duplexes or Two-family Dwellings, and
22 Attached Single Family Dwellings. Removal of trees is allowed without a permit
23 on a lot developed with a single family dwelling, duplex or two-family dwelling,
24 or attached single family dwelling, provided:

- 25
26 a. The lot is not capable of further land division due to size or configuration, or
27 if the lot is capable of further division, trees to be removed are within 100 feet
28 of the dwelling; and
29 b. No “protected tree” may be removed without a permit, except that any tree
30 planted to fulfill the landscaping requirements in LCMC 17.52.100 for lots
31 with single and two-family dwellings may be removed, if replaced by a plant
32 or plants with equal plant unit value, as described in LCMC 17.52.100.G(1).

33 3. Public Utilities and Public Works.

- 34 a. Removal of trees is allowed without a permit if performed by utility or city
35 public works personnel to remove vegetation and trees that present a danger

- 1 to life or property, to restore utility services, or to reopen a public
2 thoroughfare to traffic.
- 3 b. Removal of trees is allowed without a permit if performed by city public
4 works personnel to remove trees that are deemed nuisances under Chapter
5 8.12 LCMC, Nuisances, or to remove trees necessary to install or maintain
6 improvements on parklands, streets, sewers, or utilities within publicly
7 owned and dedicated rights-of-way or public utility easements.
- 8 4. Dangerous and Nuisance Trees. Removal of a tree that is a hazard or a
9 nuisance, affecting public safety as defined in LCMC 8.12.080, as
10 demonstrated to the satisfaction of the director of planning and community
11 development in consultation with the city engineer, as applicable to the
12 circumstances.
- 13 F. When a Tree Removal Permit is Required. Except as allowed in subsection E, above,
14 no person shall engage in or cause land clearance or tree removal without first having
15 obtained a tree removal permit issued by the city.
- 16
- 17 1. A tree removal permit may be issued only for:
- 18
- 19 a. Single Family Dwellings, Duplexes, Two-family Dwellings, and Attached
20 Single Family Dwellings. Removal of trees is allowed with a permit on a lot
21 adjacent to a lot developed with a single family dwelling, duplex or two-family
22 dwelling, or attached single family dwelling, provided:
- 23
- 24 i. The adjacent lot is owned by the owner of the developed lot or the owner of
25 the developed lot has written permission from the owner of the adjacent lot,
26 and the trees to be removed are within 100 feet of the dwelling; and
- 27 ii. No "protected tree" may be removed, except that any tree planted to fulfill
28 the landscaping requirements in LCMC 17.52.100 for lots with single and
29 two-family dwellings may be removed, if replaced by a plant or plants with
30 equal plant unit value, as described in LCMC 17.52.100.G(1).
- 31
- 32 b. Multi-Family Dwellings, Commercial or Industrial Sites, Undeveloped Sites,
33 Trees More than 100 Feet from Single Family Dwellings and Duplexes or Two-
34 family Dwellings, and Attached Single Family Dwellings on the same lot.
35 Removal of trees is allowed with a permit for the following reasons only:
- 36 i. Diseased or Dead. Removal of dead trees or diseased tree(s) weakened by
37 age, storm, fire or other injury. If a visual inspection by the city staff cannot
38 establish that the tree is dead or diseased, the applicant shall, at the
39 applicant's cost, obtain the services of a certified arborist to make that
40 determination. If the arborist determines that the tree is dead or diseased and
41 cannot be saved, the director of planning and community development shall
42 approve its removal.

- 1 ii. Solar Access. Removal of tree(s) to allow solar access to the south face of
2 buildings during solar heating hours, taking into account latitude,
3 topography, microclimate, existing development, existing vegetation, and
4 planned uses and densities, which cannot be accomplished by pruning as
5 demonstrated by an appropriate professional;
- 6 iii. Surveyor Access. Selective removal of tree(s) and vegetation to allow
7 reconnaissance surveys, topographical determinations of a project site,
8 coring to permit geotechnical evaluation and soil surveys, and similar
9 efforts, to the extent the applicant demonstrates such removal is necessary to
10 perform such surveys;
- 11 iv. Spread of Disease, Insects and Threat of Natural Hazard. Where removal is
12 necessary to prevent the spread of disease or insects declared to be a
13 nuisance by a government agency or certified arborist, or to correct or
14 eliminate a verified natural hazard to the property owner, surrounding
15 properties, or the community at large.
- 16 v. Selective Thinning on Open Space and Park Zoned Land. Where crowding
17 is impairing the health and vigor of trees as determined by an appropriately
18 qualified forester, after notice and hearing pursuant to LCMC Sections
19 17.76.020 and 17.76.030 the City Council may allow selective thinning on
20 property zoned Open Space or Park according to an acceptable maintenance
21 plan to improve the health of the forest and using the lowest impact forestry
22 methods practical.
- 23 vi. Development. Removal of tree(s) for the placement of structures and other
24 improvements, in accordance with paragraph F.9 of this section and
25 provided:
26 1) the city has approved a a site plan, subdivision, planned unit
27 development or building permit; and
28 2) the city has approved a a tree protection plan, if required by subsection
29 (H);
- 30 2. Conditions. The city may place conditions on any tree removal permit as
31 appropriate to assure that the tree removal is conducted in a manner consistent with
32 this section and LCMC 12.08.050(B), which regulates land disturbing activities.
33 Where conditions of a permit conflict with requirements of this section, the more
34 restrictive shall apply.
- 35 3. Review Process. If part of a project that requires subdivision review, site plan
36 review, or a conditional use permit, the permit for tree removal shall be processed
37 as part of development or conditional use permit review. Other tree removal
38 applications shall be reviewed by the director of planning and community
39 development, who may require an erosion control plan to determine conformance

- 1 with LCMC Chapter 12.08, Grading and Erosion Control, and rules issued by the
2 public works department.
- 3 Where a tree protection plan is required for development review, the city shall not
4 issue a tree removal permit until the applicant has demonstrated compliance with all
5 conditions of the development approval that are required to be met prior to the start
6 of any land clearing, grading, or construction.
- 7 4. Fee. The city council may adopt by resolution a fee to cover the actual or average
8 costs of reviewing or issuing a tree removal permit.
- 9 5. Authority. The city manager or the city manager's designee, including the director
10 of planning and community development in the case of development approval, or
11 the public works director in the case of a public works permit, is authorized to issue,
12 extend, enforce, and revoke a tree removal permit.
- 13 6. Permit Notice and Appeal.
- 14 a. The city shall provide notice of decision or hearing in conjunction
15 with the required notice for subdivision, partition, site development
16 review, planned development or conditional use and in accordance
17 with LCMC Chapter 17.76, Administrative Procedures. Notice shall
18 not be required for other tree removal permits.
- 19 b. Appeals of a tree removal permit shall be as provided in this title for
20 quasi-judicial land use decision. Administrative decisions by the
21 director of planning and community development may be appealed to
22 the planning commission, which shall be the final appeal. Decisions of
23 the planning commission, not including appeals of administrative
24 decisions, may be appealed to the city council in the same manner as
25 provided for in LCMC Chapter 17.76.
- 26 c. The city shall not issue a tree removal permit approved in conjunction
27 with a development review until the time allowed for appeals has
28 passed and no appeal has been filed, or after all appeals have been
29 exhausted. The timely filing of an appeal shall have the effect of
30 suspending the issuance of a permit pending the outcome of the
31 appeal.
- 32 7. Display of Permit – Inspection. The tree removal permit grantee shall be kept on
33 site during permitted activities. The permit grantee shall allow city representatives
34 to enter and inspect the premises at any reasonable time, and failure to allow
35 inspection shall constitute a violation of this section.
- 36 8. Duration. A tree removal permit shall be effective for 18 months from the date of
37 approval. Upon written request by the applicant prior to the expiration of the
38 existing permit, a tree removal permit shall be extended for a period of up to one
39 year if the approval authority finds that the applicant is in compliance with all

1 prior conditions of permit approval and that no material facts stated in the original
2 application have changed.

3 9. Tree Removal for Development. Removal of tree(s) for the placement of
4 structures and other improvements shall comply with the following:

5 a. Timing of permit issuance.

6 i. Building. A permit for tree removal from individual building lots shall
7 be issued in conjunction with, and not prior to, issuance of the building
8 permit.

9 ii. Infrastructure. A tree removal permit may not be issued under this
10 subsection for removal for installation of street, gutter, curb, sidewalk,
11 sanitary sewer, storm sewer, and water system improvements until the city
12 engineer has given final approval to the design of the improvements and to
13 the grading and erosion control plans, and, to the extent otherwise required
14 by this section or this code, the owner has entered into a public
15 infrastructure improvement agreement for the improvements and provided
16 financial security therefor, including for tree mitigation; and the director
17 of planning and community development has approved a tree protection
18 and mitigation plan, if required.

19 iii. Phased developments. For phased developments, a separate tree
20 removal permit is required for each phase of infrastructure development,
21 which will not be issued until such time as public works approves
22 commencement of grading for the phase. Tree removal permits issued for
23 infrastructure development shall apply only to the minimum area
24 necessary to accommodate the improvements.

25 b. Tree removal shall conform to the approved Tree Protection and Replacement
26 Plan, if required by Section H, and to Section I, Protection Standards Related to
27 Construction.

28 c. Re-vegetation. Immediately following completion of the improvements, areas
29 disturbed by tree removal shall be re-vegetated in accordance with the
30 requirements of LCMC 17.52.100 F, G, H, and I.

31 d. Bond Required. Whenever trees are removed that according to this chapter
32 require replacement, if removal is in conjunction with a development, the
33 anticipated cost of replacement trees and vegetation required shall be covered by
34 the bonding mechanism approved for the development, or a separate bond
35 expressly for the purpose of required tree replacement.

36 G. Replacement of Trees Lawfully Removed.

- 1 1. Applicability. The standards of this section apply to trees removed with a permit
2 required by subsection (F) that are more than 100 feet from a building subject to
3 site plan review, or conditional use approval, or that are removed to allow
4 development of parking in excess of the amount of required parking, or that are
5 removed for purposes other than compliance with a governmental requirement. If
6 the tree being removed is dead, dying, diseased or dangerous to life or property,
7 replacement is encouraged, but not required, unless the tree is a Protected tree, in
8 which case, replacement is required.
- 9 2. Replacement Requirement. Removed trees six-inches or more in diameter must be
10 replaced on a one-for-one basis.
- 11 3. Pre-Development Tree Removal. Any trees that were located in the areas
12 described in paragraph G. 1 that were removed within one year prior to
13 application for a tree permit shall be included among those required to be
14 replaced under paragraph G. 1 and 2.
- 15 4. Tree Replacement Specifications: Species, Size and Location. When replacement
16 of a tree or trees legally removed is required by paragraph G. 2, the number,
17 species and size shall be governed by all of the following:
- 18 a. Species. The city prefers native trees, including conifers; however, the
19 planning commission or director of planning and community development
20 shall take into consideration site compatibility as well as the property
21 owner's preference, provided the species of replacement tree is expected
22 to mature to approximately the same environmental and aesthetic value as
23 the tree being removed.
- 24 b. Size. The minimum diameter of a replacement tree shall be one and one-
25 half inches. The planning and community development director or
26 planning commission may adjust the size requirement for tree species
27 where the applicant demonstrates to the satisfaction of the director of
28 planning and community development that the minimum size would be
29 unreasonable or impractical in the circumstances.
- 30 c. Location. Trees shall be replaced according to a planting plan provided by
31 the applicant and approved by the director of planning and community
32 development, showing all preserved and replacement trees.
- 33 5. Planting Site. The preferred replacement site shall be on the property from which
34 a tree is being removed. Provided one or more of the replacement trees cannot be
35 located viably on the property from which a tree is removed, the director of
36 planning and community development may either require that a) the applicant pay
37 an in-lieu payment into the city tree fund an amount equivalent to the value of the
38 replacement trees after installation, as provided in this subsection, or that b) the
39 applicant plant one or more replacement trees on other private or public property

1 within the city, with the consent of the owner and under a management plan
2 approved by the city. The planting location of mitigation trees on city property
3 shall be determined by the city council, whose authority is hereby delegated to the
4 city manager. The city manager, in conjunction with staff, shall select an
5 appropriate planting site on open space, a park, or other public land suitable for
6 new trees.

7 6. In-Lieu Payment. The in-lieu payment amount shall be equivalent to the cost of
8 the replacement trees, plus the cost of delivery, installation, and maintenance for a
9 period of one year. The in-lieu payment approved and received shall be used by
10 the city for planting and maintenance of mitigation trees on city-owned property.
11 Any unspent funds shall be carried forward from year to year for the purpose of
12 meeting the intent of this chapter to maintain the city's urban forest.

13 7. Responsibility to replace mitigation trees. The planting of replacement trees shall
14 take place in such a manner as to reasonably ensure that the trees grow to
15 maturity. Any mitigation tree planted on private property dying within one year of
16 the date of planting shall be replaced by the owner of the property.

17 8. Timing of Replacement. Replacement trees, including trees meant to replace a
18 previously planted mitigation tree that has died within one year, shall be planted
19 within six months of the date of issuance of a tree removal permit or death of a
20 mitigation tree, unless the director of planning and community development has
21 granted an extension of time no longer than six months due to season or
22 unforeseen circumstances. Failure to complete mitigation within the allotted time
23 frame shall be considered a violation of this chapter and subject to the penalties
24 provided for in subsection (J).

25 H. Design Modifications for Tree Retention.

26 Design Modifications of Public Improvements. The planning commission, with input
27 from the city engineer, may adjust design specifications of public improvements to
28 accommodate tree retention where possible and where it would not interfere with
29 safety.

30 I. Tree Protection and Replacement Plan Required.

31 1. Applicability. Requirements of this subsection apply to any lot, parcel or
32 combination of lots or parcels for which an application for a subdivision, site plan
33 review, planned unit development or conditional use is filed if the proposed
34 project will involve tree removal.

35 2. Elements of a tree protection plan. The owner of lots or parcels specified in
36 subsection (I)(1) shall provide a tree protection plan for the planting,
37 maintenance, removal and protection of trees, prepared by a certified arborist to
38 meet the approval of the director of planning and community development and the

1 city engineer. The tree protection plan shall include all of the following items;
2 however, the director of planning and community development and the city
3 engineer may waive one or more of the items where the required information
4 already has been made available to the city, or is not necessary to review the
5 application.

6 a. Identification of the location, size and species of all existing, large trees and
7 protected trees.

8 b. An accurate topographical survey, subdivision map or plat map that bears the
9 signature of a qualified, registered surveyor or engineer, and showing:

10 i. The shape and dimensions of the property, and the location of any existing
11 and proposed structures or improvements;
12

13 i. The location of the individual large trees and protected trees on the site, and
14 indicating species, approximate height, diameter, canopy spread and common
15 name; and
16

17 iii. The location of existing and proposed easements, as well as setbacks
18 required by existing zoning requirements.

19 c. In lieu of the map or survey required in subsection (I)(2)(b), an applicant
20 proposing to remove trees may provide aerial photographs with overlays, GIS
21 documentation, or maps approved by the director of planning and community
22 development, that clearly indicate the information required by this subsection.

23 d. Arborist Report. The report, prepared by a certified arborist, shall describe all
24 large trees and all protected trees on the site and any large or protected trees
25 removed within the period of one year prior to application for a tree permit. The
26 report shall include the following:

27 i. information on the health and condition of all large trees and protected
28 trees;
29 ii. information on species, common name, diameter, and approximate height
30 and age of all large trees and protected trees; and
31 iii. indication of those subject to removal or transplanting;

32 e. Tree Identification. Unless specifically exempted by the director of planning
33 and community development and the city engineer, a statement that any trees
34 proposed for removal will be identified by a method obvious to a site inspector,
35 such as tagging, painting, or flagging, in addition to clear identification on
36 construction documents.

1 f. Replacement Plan. A detailed description and map of the proposed tree
2 replacement program, meeting the standards of subsection (I)(2) and including the
3 information on the number, size, species, and cost.

4 g. Covenants, Conditions and Restrictions (CC&Rs). Where the applicant is
5 proposing to remove trees on common areas in a recorded subdivision or planned
6 unit development, the applicant shall provide a copy of the applicable CC&Rs,
7 including any landscaping provisions.

8 h. Tree Protection Program. A program describing how preserved trees will be
9 protected during tree removal and construction that meets the requirements of
10 subsection I, unless specifically exempted by the director of planning and
11 community development. The tree protection program shall commit the property
12 owner to a maintenance plan that promotes the vitality of all protected trees.

13 3. Recording of tree protection plan. Approved tree protection plans shall be
14 recorded, either separately or included in development agreements required in
15 Titles 16 and 17 for Planned Unit Developments (PUDs) and subdivisions. The
16 property owner shall record a deed restriction as a condition of approval of any
17 development permit affected by this section to the effect that trees preserved and
18 planted in accordance with an approved tree protection plan may be removed only
19 with a permit and only for the reasons described in subsection (E), in which case,
20 the tree shall be replaced. The form of this deed restriction shall be subject to
21 approval by the director of planning and community development and the city
22 attorney. Except as provided in this subsection, removal of a tree designated for
23 protection under a tree protection plan recorded as a condition of development
24 approval shall constitute a Class A violation.

25 J. Protection standards related to construction.

26 1. Applicability. These standards apply to all construction or development that
27 requires a tree removal permit.

28 2. Standards.

- 29 a. All trees required to be protected must be clearly labeled as such.
30 b. The property owner shall give notice to the city a minimum of two (2)
31 business days (at least 48 hours) in advance of any grading or clearing of the
32 site.
33 c. The property owner shall permit the city to enter the site at any time to review
34 compliance with the tree protection plan and tree removal permit.
35 d. No person may conduct any construction activity likely to be injurious to a
36 tree designated to remain, including, but not limited to placing solvents,
37 building material, or construction equipment, or depositing soil, or placing
38 irrigated landscaping, within the drip line, unless a plan for such construction
39 activity has been approved by the director of planning and community

- 1 development or the planning commission based upon the recommendation of
2 an arborist.
- 3 e. No person shall attach any device or wire to any tree unless needed for tree
4 labeling or protection.
- 5 f. Protective Barrier.
- 6 i. Before development, land clearing, excavation, filling, or any land
7 alteration for which a tree removal permit is required, the developer shall
8 delineate clearly the exterior property lines of the project.
- 9 ii. The developer shall erect and maintain barriers adequate to prevent
10 incursion of machinery within driplines of trees the tree protection plan
11 identifies to be preserved in and within drip lines of trees on adjoining
12 properties.
- 13 iii. Barriers must be sufficiently substantial to withstand nearby construction
14 activities, and the most appropriate and protective barrier shall be utilized.
15 Plastic tape or similar forms of markers do not constitute "barriers." For
16 street rights-of-way and utility easements, however, barriers may consist of
17 stakes set a maximum of fifty feet (50') apart along the outside perimeters of
18 areas to be cleared and connected with ribbon, plastic tape rope, or similar
19 material used for demarcation.
- 20 iv. Selection and installation of demarcations and barriers must be approved
21 by the director of planning and community development or the city engineer
22 prior to commencement of grading or tree removal. Protective barriers shall
23 remain in place until the city authorizes their removal or issues a final
24 certificate of occupancy, whichever occurs first.

25 K. Violation – Enforcement.

- 26 1. Responsibility/Liability. The owner and the owner's agents and contractors,
27 including but not limited to an arborist, contractor, engineer or other person
28 responsible for clearing, grading, construction or tree removal on a project, are
29 responsible for meeting the requirements of this section and shall have joint and
30 separate liability for any violation of this section.
- 31 2. Violations Defined. A violation of this chapter includes cutting, damaging, or
32 removing a tree:
- 33 a. Without a valid tree removal permit; or
- 34 b. In noncompliance with, or breach of, any condition of approval of a tree
35 removal permit, tree protection plan, or tree maintenance plan; or
- 36 c. In noncompliance with any condition of any city permit including but not
37 limited to a building permit, public works permit, approved tree protection plan,
38 covenants, codes and restrictions (CC&Rs) imposed by a condition of approval
39 and required to be reviewed and approved by the city, or other development

1 approval that results in damage to, or contributes to the decline or failure of, a tree
2 or its root system; or

3 d. In noncompliance with any recorded covenant; or

4 e. In noncompliance with any other section of this title or code.

5 3. Remedies. If the city manager or the city manager's designee has reason to believe
6 that a violation of this chapter has occurred, then he or she may do any or all of the
7 following:

8 a. Require the owner of the land on which the tree was located to submit sufficient
9 documentation, which may include a written statement from a certified arborist,
10 demonstrating that removal of the tree was authorized by law;

11 b. Issue a stop work order, as provided in subsection (K)(4);

12 c. Issue a citation pursuant to LCMC, Chapter 1.16 with an expedited hearing;

13 d. File an action to temporarily restrain and/or permanently enjoin the owner from
14 continuing to violate this section;

15 e. Take any other action allowed by law.

16 4. Authorization to Enforce Compliance. The director of planning and community
17 development, the building official, and the public works director are each authorized
18 to issue a stop work order, withhold approval of a final plat or public works permit, or
19 withhold issuance of a certificate of occupancy, permits or conduct of required
20 inspections or acceptance of work until the provisions of this section, including any
21 conditions attached to a public works permit, tree protection plan or tree removal
22 permit have been fully met.

23 a. Use of Stop Work Order. In the event any grading, clearing, excavation, filling,
24 construction or land-disturbing activity on the property is about to occur, is
25 occurring or has occurred in such a manner that preserved trees or trees required
26 to be protected on the site are in imminent danger of damage or removal from
27 such activities, any person authorized to enforce this chapter may order all work
28 on the site to cease until adequate safeguards are in place as follows:

29 i. Notification. Based on sufficient evidence that activities on site are likely to
30 cause or have caused harm to trees required to be protected, city staff shall
31 immediately notify any responsible person on the project that a stop work
32 order is imminent and that all work on the site shall cease. Staff shall make
33 reasonable attempts to inform the owner and developer by any means,
34 including, but not limited to telephone, facsimile, or electronic
35 communication;

- 1 ii. Written Form. The order shall be in written form, copied to the property
2 owner, and include a brief description of the violations or imminent harm that
3 are required to be immediately addressed;
- 4 iii. Posted Sign. A sign declaring the stop work order shall be posted on the
5 site;
- 6 iv. Duration. The stop work order shall not be lifted until adequate safeguards,
7 including any amendments to an agreement between the applicant and the
8 city, a development approval, a tree protection plan, a tree removal permit, a
9 public works permit, or other applicable permit, are reviewed and approved by
10 the city.
- 11 v. Removal of Stop Work Order. The stop work order shall be removed after
12 the city staff responsible for the matter has determined there is no longer a
13 need for the order.
- 14 vi. Settlement. Whenever the city has issued a citation for violation of this
15 code in connection with activities leading to issuance of a stop work order or
16 order to cease and desist activities on land, the city and owner may agree to
17 resolve the citations by means of settlement in lieu of further prosecution. Any
18 monies paid in lieu of fines shall be deposited in the city tree fund. Any such
19 settlement agreement shall be approved by the city council.
- 20 5. Violation - Penalties. A violation of this section shall be enforced as a Class A civil
21 infraction pursuant to LCMC Chapter 1.16. Any person convicted of a violation of
22 this section shall be subject to civil penalties including a fine up to the maximum
23 amount provided by this code, with illegal removal of or damage to one tree
24 constituting a single violation. In addition to the monetary fine, a person convicted of
25 a violation under this section shall be required to remedy any damage caused by the
26 violation.
- 27 a. Upon conviction of a violation of this section, a person shall be required to
28 mitigate the unlawful tree cutting or removal by replacing the removed trees with
29 like kind trees. If the director of planning and community development makes a
30 determination one or more of the replacement trees cannot be located viably on
31 the property from which a tree is removed, the municipal court judge shall impose
32 as a penalty a forfeiture in the amount of money equivalent to the cost of the
33 replacement trees, plus the cost of delivery, installation, and maintenance for a
34 period of one year.
- 35 b. In the event replacement trees are required to be planted as mitigation for
36 unlawfully removed or damaged trees, the replacement trees must be planted in
37 accordance with the specifications for tree replacement in subsection (K)(7).

1 c. The municipal court judge is authorized to impose an enhanced penalty of twice
2 the value of the unlawfully removed or damaged trees where the tree removal was
3 conducted in violation of this section and in disregard of any Lincoln City permit
4 or approval.

5 6. Alternative Sentence for Multiple Violations. In the event a person is convicted of
6 more than one violation of this section, the following alternative sentence may be
7 imposed:

8 If a person has gained money or property through the commission of an offense
9 under this section, then upon conviction thereof, the municipal court judge may
10 sentence the person to pay an amount, fixed by the court, not to exceed double the
11 amount of the gain from the commission of the offense. "Gain" is defined as the
12 amount of money or value of property derived from the commission of the
13 violation, less the amount of money or value of property seized by or surrendered to
14 the city. "Value" shall be the greater of the market value or replacement cost as
15 determined by a licensed professional in the tree, nursery, or landscape field.

16 7. Specifications for Replacement of Unlawfully Removed Trees. Replacement of a
17 tree removed in violation of this ordinance shall be according to the following:

18 a. Species. A replacement tree shall be a substantially similar species, taking into
19 consideration site characteristics. If a replacement tree of the species of the tree
20 removed or damaged is not reasonably available, the director of planning and
21 community development may allow replacement with a different species of
22 equivalent or greater natural resource value; and

23 b. Size and number. If a replacement tree of the size cut is not reasonably
24 available on the local market or would not be viable, the director of planning and
25 community development shall require replacement with more than one tree of the
26 maximum size reasonably available and viable, so that the sum of the calipers is
27 equal or greater than the estimated caliper of the tree removed or damaged. If this
28 number of trees cannot be located viably on the subject property, the director of
29 planning and community development may require one or more replacement trees
30 to be planted on other property within the city, either public property or, with the
31 consent of the owner, private property, or may accept fees in lieu of planting as
32 described in subsection (G)(6); and

33 c. Manner of planting. The planting of a replacement tree shall take place in a
34 manner reasonably calculated to allow growth to maturity.

35 8. Exclusivity. The remedies set out in this section shall not be exclusive, and the city
36 may take any action authorized by law to enforce this section.

37 9. Any person designated to enforce violations of city ordinances may enforce this
38 section of the municipal code.

1 L. Tree Board.

2 1. Purpose. An advisory board is hereby established to advise staff and city council
3 on matters relating to trees.

4 a. The tree board shall make recommendations on a tree manual implementing the
5 requirements of this section and that establishes guidelines for tree selection,
6 installation, and maintenance, using best practices. The city council shall adopt
7 the tree manual by resolution.

8 b. The tree board shall make recommendations on suggested tree species for use
9 in planting and landscaping in Lincoln City, Oregon.

10 c. The tree board shall make reports from time to time as it deems advisable on
11 ordinance revisions and enforcement, information concerning tree disease or
12 infestation, and other matters related to trees.

13 2. Members. The city council by ordinance shall establish the number of members
14 and any membership qualifications of the tree board.


15 **Section 2. Delegation of Authority to Correct Errors.** The City Council delegates to
16 the City Recorder the authority to make any required corrections due to scrivener's
17 errors, including but not limited to cross-references, and to make such changes prior to
18 codifying this ordinance.

19 **Section 3. Severance.** In the event that any provision of this ordinance is determined by
20 a court of competent jurisdiction to be invalid or unenforceable, such invalid provision
21 shall be severed and the remaining provisions of the ordinance that have not been held
22 invalid or unenforceable shall continue to be valid and enforceable to the fullest extent
23 permitted by law.

24 **PASSED AND ADOPTED** by the City Council of the City of Lincoln City on this 11th
25 day of April, 2011.

26
27
28 
29 DICK ANDERSON, MAYOR

30
31
32 ATTEST:

33 
34 CATHY STEERE, CITY RECORDER
35
36
37

**Ordinance 2011-04 – Amendments to Tree Protection and Removal Ordinance
Exhibit A**

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

All proposed documents were made available for public review and purchase and assistance was available to interpret and explain the technical information. Hearing notices were published in local papers in accordance with notice requirements. Therefore, the amendments are consistent with Goal 1.

(2) Goal 2: Land Use Planning

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, were adopted by the City Council of Lincoln City after public hearings and have been reviewed on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these proposed amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The areas affected by the proposed amendments are located within the City’s Urban Growth Boundary. No agricultural lands will be affected by the amendments. Therefore, Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the

leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The areas affected by the proposed amendments are located within the City’s Urban Growth Boundary. The area is zoned for urban development and does not include designated forestlands, so in that sense, this goal is not applicable. The amendment specifically excludes from the definition of commercial forestry those removals conducted with city permits and selective thinning to improve the health of the urban forest. The amendments eliminate mitigation requirements for tree removals from the footprints of proposed buildings, from a 100-foot buffer around the buildings and from footprints of required infrastructure. Making the mitigation requirements less onerous for new construction within the UGB is conducive to greater concentration of development, reducing development pressures on forested lands outside the UGB; therefore, the proposed amendments are consistent with Goal 4.

(5) Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

“To protect natural resources and conserve scenic and historic areas and open spaces.”

Old-growth forests outperform landscape lawns, farms and gardens in greenhouse gas/global warming mitigation. The continued refinement of the tree ordinance attempts to ensure that important trees in developing areas are protected, and those that need to go are removed in a timing and responsible manner. By encouraging more concentrated development in the UGB, expansion into forested lands outside the current city limits is delayed or avoided; therefore, the proposed amendments are consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

Trees improve the environment by storing carbon, preventing erosion and runoff, and providing shade. The ordinance and these amendments protect, preserve and require planting of trees in the city. They prohibit tree removal that would negatively impact natural resource areas, erosion, soil stability, flow of surface waters or water quality. Therefore, the proposed amendments are consistent with Goal 6.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

Trees guard against runoff and erosion that can increase natural hazards. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees; therefore the proposed amendments are consistent with Goal 7.

(8) Goal 8: "Recreational Needs"

"To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts."

The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees, which contribute greatly to parks and open spaces, and enhance the community's recreational areas. Therefore, the proposed amendments are consistent with Goal 8.

(9) Goal 9: Economic Development

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The proposed amendments balance the need to make room for new development with the desire to protect trees. The ordinance supports maintenance of a natural resource that is attractive to tourists, and an important component of Lincoln City's economy. Therefore, the proposed amendments are consistent with Goal 9.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The proposed amendments eliminate the mitigation requirement for trees removed from the footprint of proposed buildings and required infrastructure, so may reduce costs of developing new housing. The amendments eliminate several incentives for tree retention, including increased density, only because they are covered in other parts of the code. Therefore, the amendments are consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

Trees help to stabilize soils and landforms, thus limiting erosion and runoff that can have negative impacts on sewer systems. The proposed amendments clarify

and strengthen regulations that protect, preserve and require plantings of trees; therefore, they are consistent with Goal 11.

(12) Goal 12: Transportation

“To provide and encourage a safe, convenient and economic transportation system.”

Trees help to stabilize soils and landforms and limit erosion and runoff that can have negative impact on streets. The proposed amendments clarify that street design can be modified to preserve trees only if the revisions are safe; therefore, they are consistent with Goal 12.

(13) Goal 13: Energy Conservation

“To conserve energy.”

Large trees provide shade and wind protection, which keep the environment naturally comfortable, and thus help to conserve energy used for heating and cooling buildings and cars. The amendments encourage compact and intense development by allowing tree removal from the footprints of buildings and required infrastructure without mitigation. The ordinance continues to protect other trees; therefore, the proposed amendments are consistent with Goal 13.

(14) Goal 14: Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The proposed amendments encourage compact and intense development by allowing tree removal from the footprints of buildings and required infrastructure without mitigation. The amendments eliminate density bonuses as incentives for tree preservation, only because density bonuses are covered in other parts of the code. Therefore, the amendments are consistent with Goal 14.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected areas are not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The affected areas of the proposed amendments include some areas adjacent to designated estuarine resources. Trees help to stabilize soils and landforms, thus limit erosion and runoff that can have negative impact on estuarine resources. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees; therefore, the amendments are consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. Trees help to protect the coastal shorelands by stabilizing soils and landforms, thus limiting erosion and runoff, and by mitigating the negative effects of high winds. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees; therefore the proposed amendments are consistent with Goal 17.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

Trees help to protect beaches and dunes by stabilizing soils and landforms, thus limiting erosion and runoff, and by mitigating the effect of high winds that also can have negative impact on beaches and dunes. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees; therefore the proposed amendments are consistent with Goal 18.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The proposed amendments will not affect the nearshore ocean and continental shelf other than to the extent that they stabilize soils and reduce erosion runoff. Therefore, the proposed amendments are consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearing and has been reviewed on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a Citizen Involvement Program. In addition, the public hearing process, with notice to the public and property owners, and review of the proposed amendments by the Planning Commission (a citizen board) and the City Council (a citizen board) establishes conformance with this goal. Therefore, the amendments are consistent with this goal.

(3) Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development.”

Public services and utilities generally already are in place in the areas affected by the proposed amendments. The tree ordinance and amendments accommodate the needs of the utility workers by allowing tree removal where necessary to perform work, and application for a permit for tree topping, if necessary. The ordinance eliminates the mitigation requirement where removal is necessary to install new services. The goal is satisfied.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The proposed amendments do not affect the densities of properties in Lincoln City, because they do not authorize or prohibit any particular development. The tree ordinance allows for tree removal for purposes of development in a timely and careful manner that preserves remaining trees and does not negatively impact neighboring uses, natural resource areas, or erosion, soil stability, flow of surface waters or water quality. This goal is satisfied.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The areas affected by the proposed amendments include some identified Natural Hazards areas. Through their environmental benefits, trees guard against runoff and erosion that can increase natural hazards. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees. This goal is satisfied.

(6) Housing Goal

"To provide for the housing needs of all citizens."

Because the proposed amendments do not change what uses, including residential uses, are allowed under the existing zoning ordinance, they will not affect the density or availability of adequate numbers of needed housing units at price ranges and rent levels commensurate with the local area. The amendments do reduce development costs inherent in the previous version of the ordinance, which may have contributed to somewhat higher prices. Therefore, the housing goal is consistent to the extent that it is applicable.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The amendments ensure that a natural resource attractive to tourists as well as property owners and prospective businesses is preserved and protected, and therefore, meet the goal.

(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The ordinance, in its purpose statement, describes the value of trees and how they add to the aesthetic beauty of the community. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees. This goal is satisfied.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The ordinance and proposed amendments allow for tree removal where necessary for installation and maintenance of streets. The ordinance and amendments protect, preserve and require plantings of trees, which, through their environmental benefits, guard against runoff and erosion that can damage streets. Therefore, this goal is satisfied.

(10) Energy Goal

"To conserve energy."

Large trees provide shade and wind protection, which keep the environment comfortable naturally, and thus help to conserve energy that might otherwise be used for heating and cooling. This ordinance and amendments protect large trees and require planting of replacement trees where removal is more than what the city deems necessary. Therefore, the goal is satisfied.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The ordinance benefits the environment by protecting and preserving trees and by preventing or requiring replacements for trees that are removed unnecessarily. It is structured to balance need for tree removal in specific cases to allow development with the need to maintain a healthy and distinctive urban forest. The amendments provide tighter control over timing of tree removal for development, and clarify replacement requirements and penalties for removal without a permit. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. Trees help to protect coastal resources by stabilizing soils and landforms, thus limiting erosion and runoff, and by mitigating the effect of high winds that also have negative impact. The proposed amendments clarify and strengthen regulations that protect, preserve and require plantings of trees; therefore, the proposed amendments are consistent with this goal.

PLANNING & COMMUNITY DEVELOPMENT
LINCOLN CITY
Salem,
Salem, OR 97367



DEPT OF
APR 25 2011
LAND CONSERVATION
AND DEVELOPMENT

ATTN: Plan Amendment Specialist
Dept. of Land Conservation/Develop.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

