



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 18, 2015
Jurisdiction: City of Gresham
Local file no.: CPA 14-346
DLCD file no.: 004-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/11/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 42 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

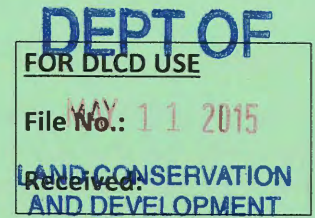
DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION



Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Gresham

Local file no.: **CPA 14-346**

Date of adoption: 5/5/2015

Date sent: 5/8/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 11/28/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

yes - several structural and minor verbiage changes; several substantive changes (see attached memorandums)

Local contact (name and title): Tina Osterink, Natural Resources Planner

Phone: 503.618.2392

E-mail: tina.osterink@GreshamOregon.gov

Street address: 1333 NW Eastman Parkway

City: Gresham

Zip: 97030-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

3.0100 Definitions; 9.1000 - Tree Regulations; Appendix 14 - Significant Trees. Statewide Goals 1 & 2, Citizen Involvement and Land Use Planning

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

3.0100 Definitions; 9.1000 - Tree Regulations; Appendix 14 - Significant Trees.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: METRO

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Attachments that identify changes since initial submittal: 1) Planning Comm. Order; 2) Addendum No. 1; 3) 2/23/15 Memorandum; 4) Addendum No. 2

Proposed new language is double-underlined;
Proposed deleted language is ~~stricken~~.

CB 05-15

ORDINANCE NO. 1753

AMENDMENTS TO VOLUME 3 DEVELOPMENT CODE OF THE GRESHAM
COMMUNITY DEVELOPMENT PLAN, REGARDING THE DEVELOPMENT CODE
IMPROVEMENT PROJECT-6 (DCIP-6) TREE CODE UPDATE

THE CITY OF GRESHAM DOES ORDAIN AS FOLLOWS:

Section 1. Volume 3, Section 3.0100 is amended as follows:

ARTICLE 3 – GENERAL TERMS
Section 3.0100 - Definitions

Arborist. A person possessing the education and technical competence through experience and related training to provide for or supervise the management of trees ~~or other woody plants~~ in a landscape setting.

~~**Certified Arborist.** A tree care technician who has passed certifying exams and holds current status as a Certified Arborist through the International Society of Arboriculture (ISA). A Certified Arborist is qualified to prune, treat, or remove trees but is not considered a Qualified Arborist. An individual who is certified as an arborist by the International Society of Arboriculture (ISA) with a current and active ISA certification number. A Certified Arborist will agree in writing to perform all work in accordance with ANSI A300 standards such as pruning, treating or removing trees.~~

Consulting Arborist. A professional in arboriculture who is a member of the American Society of Consulting Arborists (ASCA) or International Society of Arboriculture (ISA) and is qualified to bring a comprehensive, objective viewpoint to the diagnosis, appraisal, and evaluation of arboricultural issues.

~~**Qualified Arborist.** A professional in arboriculture who has demonstrated professional expertise by membership in the consulting arborist's professional organization (ASCA) and is qualified to provide expert testimony about various issues relating to trees and other woody plants.~~

~~**Registered Consulting Arborist.** A Consulting Arborist who has completed additional requirements beyond those for basic membership in the ASCA and been recognized by the ASCA as having superior experience and expertise in the field of arboriculture.~~

Approved Tree List. Trees approved by the City for the available planting space for required Street Trees, Parking Lot Trees and Buffer Trees.

Tree Caliper. See Tree.

Revegetation. The replacement of trees and plant materials where there has been soil disturbance or the loss of trees and other vegetation, or encroachment of invasive species.

Tree. A large, perennial woody plant generally having a self-supporting stem—or, trunk or multi-trunks and numerous branches. Hedges and arborvitae are not considered trees.

- **Buffer Tree.** An evergreen or deciduous tree that has been approved as part of a buffering and screening plan.
- **Dead Tree.** A tree, as determined by a Certified Arborist, that has been damaged beyond repair or is in an advanced state of decline where an insufficient amount of live tissue, green leaves, limbs or branches exists to sustain life.
- **Deciduous Tree.** A tree typically with broad, flat leaves that normally sheds leaves annually and becomes dormant for some period of time.
- **Evergreen Tree.** A tree with needles or leaves that remain alive and on the tree through the winter and into the next growing season.
- **Habitat Tree.** A tree either living or dead that provides nesting space for birds and/ or hollows for cavity dwellers and perches for those animals using the area for foraging or living space.
- **Hazardous Tree.** A tree that constitutes a hazard to life or has a significant potential to cause injury to persons or damage to property because the tree is in imminent danger of collapse, or is otherwise considered to be or likely to create a hazard. Hazardous trees may include, but are not limited to dead, broken, split, cracked, leaning, and uprooted trees. A tree that is a dead, dying tree, or an unstable live tree (due to disease, structural defects or other factors) that is within striking distance of a target, such as people or property; or has been diagnosed with a lethal pathogen recognized by a Consulting Arborist to present significant contagion risk to adjacent trees. A Hazard Tree has the potential to cause property damage, personal injury or fatality in the event of a failure.
- **Hogan Cedar Tree.** A unique form of *Thuja plicata*, the western red cedar, which grows naturally only in the Gresham area. The population center is located approximately where Hogan Road meets Johnson Creek.
- **Imminent Hazard Tree.** A hazardous tree where ~~all or more than 30% percent~~ has already fallen or is estimated to fall within 72 hours into the public right-of-way or onto a target that cannot be protected, restricted, moved; or removed. Determination of Imminent Hazard is made by the City of Gresham Public Works or Emergency Personnel, a PGE forester, or a Consulting Arborist.
- **Landscape Tree.** A tree that was approved as part of a landscaping plan, including “site” trees per Article 7.
- **Major Tree.** ~~Those trees~~ A tree that have has a 12-inch DBH or greater (30-inches DBH diameter at breast height for Trees First Policy). Major trees are those that contribute to the landscape character of the area, ~~to includeing~~ Douglas-fir, red cedar, redwood, giant sequoia, oak, ash, birch, and maple. Major trees are typically suitable for retention next to streets and are not of a species that would likely create a public nuisance, hazard, or maintenance problem.
- **Native Tree.** A tree that is endemic (indigenous) to Oregon, occurring naturally in the area.

- **Non-Native Tree.** For purposes of tree removal, any tree (including shade trees) that originated as nursery stock and that does not qualify as a native Oregon tree.
- **Ornamental Tree.** For purposes of tree removal, any tree (including shade trees) that originated as nursery stock as opposed to native trees that originated at the site prior to development. A tree that is generally less than 25 feet tall at maturity and used in a landscape setting for decorative or aesthetic purposes.
- **Parking Lot Tree.** A tree that was approved as part of a parking lot plan.
- **Perimeter Tree.** A tree located within five feet of either side of a property line. Does not include trees in the public right of way. An existing tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, located within 5 feet of either side of a property line. Does not include trees on developed single-family lots, in the public right-of-way or within 5 feet of the public right-of-way.
- **Regulated Tree.** A tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, including trees located in the Special Purpose Overlay Districts. Regulated Trees are not Required Trees or Significant Trees. Street Trees, Buffer Trees, and Parking Lot Trees of any size, as well as Significant Trees and Groves, also fall under the general category of “regulated” or protected trees, but are subject to specific standards that may supersede those that pertain only to Regulated Trees as identified by size.
- **Required tree.** A protected tree subject to specific standards for removal and replacement that include Street Trees, Buffer Trees, Perimeter Trees, Landscape Trees and Parking Lot Trees of any size and other trees required to be planted by the Development Code. Required Trees are not Regulated Trees.
- **Shade Tree (or Canopy Tree).** A deciduous tree, planted primarily for its high crown of foliage or overhead canopy.
- **Significant Tree; Significant Grove.** Also commonly known as a Heritage Tree or Grove. A tree or group of trees that have been designated by the City as having unique importance, and subject to the Significant Tree Regulations of **Section 9.1000**, Tree Regulations., and **Appendix 14**, Significant Trees.
- **Site Tree.** Any tree located within the property boundaries of a site. *See Site Definition, Section 3.0103.*
- **Street Tree.** ~~Any~~ A tree located within the public right of way along a street between the curb and sidewalk, or any tree located within 10 feet of the public right of way where the planter strip is missing or of inadequate width for tree placement within the right of way.
- **Tree Caliper.** An ANSI (American National Standards Institute) standard for the measurement of nursery trees. For trees up to ~~six (6)~~ 6 inches in diameter, caliper is measured at ~~six (6)~~ 6 inches above the ground level. Trees that are ~~six (6)~~ 6 to ~~twelve (12)~~ 12 inches in diameter, caliper is measured at ~~twelve (12)~~ 12 inches above the ground. For nursery stock above ~~twelve (12)~~ 12 inches in diameter, a DBH measurement is used (see Diameter Breast Height).
- **Tree Head Height.** A measurement from the ground to the lowest limb for a street tree.

3.0150 Tree Related Terms and Definitions

The following definitions apply to Tree-related applications, including but not limited to Section 9.1000, Tree Regulations-

- **Clear Cutting.** Any tree removal which leaves fewer than an average of ~~one~~ 1 tree per 1,000 square feet of lot area, well-distributed throughout the entirety of the site. This definition does not apply to sites that have fewer than an average of ~~one~~ 1 tree per 1,000 square feet of lot area at the time development is proposed, except for sites from which the current owner or the proposed developer or his or her representative has removed ~~regulated~~ Trees in excess of the number that may be removed without a development permit under ~~Section 9.1010-9.1024(D)~~ Section 9.1024(D) of the Development Code.
- **Critical Root Zone.** The rooting area of a tree, primarily within the tree's dripline, which if injured or otherwise disturbed is likely to affect a tree's chance for survival.
- **Crown Cover.** The area within the drip line or perimeter of the foliage of a tree.
- **Diameter Breast Height (DBH).** The diameter measurement of the trunk or stem of a tree at a height 4.5 feet above the ground level at the base of the tree. Trees growing on slopes are measured at the mid-point between the up-slope and down-slope sides. For multi-stemmed trees, the size is determined by measuring all the trunks at 4.5 feet, and then adding the total diameter of the largest trunk to one-half the diameter of each additional trunk.
- **Dripline.** An imaginary line along the ground that reflects the outermost extent of foliage of a tree extended vertically to the ground. The dripline radius is typically measured at approximately one foot away from the trunk of the tree for each inch of tree diameter.
- **Pruning.** The removal of branches, water sprouts, suckers, twigs, or branches. Major pruning entails the removal of branches three inches in diameter or greater. Major pruning also includes root pruning and removal of branches and limbs that would constitute more than 20% of the trees foliage area. Minor pruning includes removal of deadwood and pruning less than 20% of the tree's foliage area.
- **Severe Crown Reduction.** The specific reduction in the overall size of a tree and/or the severe internodal cutting back of branches or limbs to stubs within the tree's crown to such a degree as to remove the normal tree canopy and disfigure the tree. Severe crown reduction is not a form of pruning.
- **Stand.** As applied to trees, a group of two or more trees growing in a continuous area. Also known as a grove or tree group.
- **Tree Protection Plan.** A detailed description of how trees intended to remain after development will be protected and maintained.
- **Tree Protection Zone.** The area of protection located in a radius from the tree at a rate of 1 foot of horizontal distance from the tree for each 1 inch diameter of tree measured at 4.5 feet above ground, or as determined by a Certified Arborist.
- **Tree Removal.** The act of removing a tree by digging up or cutting down, or the effective removal through irreversible damage of roots, stems, or crown, including tree topping.
- **Tree Survey.** A scaled drawing that provides the location of all trees having an ~~eight~~ 8 inch or greater DBH that designates the common or botanical name of those trees, and their DBH.
- **Tree Topping.** ~~The severe cutting back of limbs or main stem to stubs larger than 3 inches in diameter within the tree's crown to such a degree as to remove the normal top and disfigure the tree.~~ The practice of cutting the dominant central stem or the most ascending branches leaving stubs or lateral branches that are too small to assume the role of a terminal leader. Cutting back the central stem or any ascending branch to a diameter exceeding 15 percent of the trees diameter (DBH), or as determined by a Certified Arborist, will be considered topping.
- **Tree Well.** A space within a sidewalk or other impervious area that has been created specifically as an area for a tree's root system to grow.
- **Urban Forest.** Trees within a city located on public and private property that are located within specific urban environments that have particular physical characteristics, provide various benefits and serve different needs.

Section 2. Volume 3, Section 4.1151 is amended as follows:

SECTION 4.1100 DOWNTOWN PLAN DISTRICT

4.1151 Downtown Design Guidelines and Standards

A. Site Design

4. Parking Lot/Parking Garage Screening continued

D. Standards:

All Development

1. **Section 9.0823(C)(4)** Landscaping of Parking Lots: Perimeter Screening applies to all new developments. The following additional standards supplement this Section.

3. Parking structures visible from the street shall be screened using at least one of the following:

c. Trees with a minimum caliper of 2 inches, as noted in Table 9.1013, at 6 feet above grade and maximum spacing of 25 feet, along with shrubs, and understory planting.

3. Site Landscaping

d. A minimum of 20 percent of landscape areas shall be planted with drought resistant canopy trees, shrubs, groundcovers, perennials and grasses.

e. In addition to required street trees, as noted in Table 9.1013, site trees shall be required at a rate of one tree per 3,000 square feet of gross site area. Existing regulated major trees may be counted as two required site trees.

Existing trees to be counted toward this requirement must be confirmed by a Consulting Arborist, Qualified Arborist or

a Registered Consulting Arborists to be healthy trees. Buffer, yard, drive and parking lot tree requirements may count toward the site tree requirement.

f. Trees, including those in parking area landscaping and buffering, shall be planted at sizes no less than the following and as noted in Table 9.1013:

1. Deciduous canopy trees shall be a minimum of 2.5 inch caliper size and shall be balled and burlapped or container stock.

2. Deciduous ornamental trees shall be a minimum of 2-inch caliper size and shall be balled and burlapped or container stock.

Section 3. Volume 3, Sections 4.1240 and 4.1247 are amended as follows:

SECTION 4.1200 CIVIC NEIGHBORHOOD PLAN DISTRICT

4.1240 Site Landscaping

A. Purpose

Some site landscaping is required in the Civic Neighborhood Plan District because it contributes to the quality and character of open spaces. It also helps to reduce stormwater runoff by reducing impervious surface area.

B. Site Landscaping Standard

There is no minimum site area landscaping requirement. For all new development in the Civic Neighborhood Plan District, any site area not developed for building, parking, or enhanced pedestrian spaces shall be improved with landscaping, as defined in **Section 3.0100**. Examples of enhanced pedestrian spaces include plazas, arcades, galleries, courtyards, outdoor cafes, widened sidewalks, benches, shelters, street furniture, public art, or kiosks. Street trees are required, as provided in **Section ~~9.1020~~ 9.1000**.

Section 4.1247 Street Design Requirements

A. Purpose

Special street design features will support pedestrian-oriented, transit-supportive development in the Civic Neighborhood Plan District. These requirements will ensure consistent application of appropriate treatments throughout the district.

B. Standards

All new development in the Civic Neighborhood Plan District shall comply with the following standards for street design in addition to the Public Works Standards. If a conflict arises, the Civic Neighborhood Plan District Street Standards supersedes the Public Works Standards.

2. Sidewalk Corridor:

a. The standard sidewalk corridor shall consist of the following (refer to **Figure A11.003, Appendix 11.000):**

i. A 6" wide curb

ii. In primary commercial zones:

A. A minimum 4-foot wide amenities zone abutting the curb for street trees, signs, utility and streetlight poles, fire hydrants, bike racks, etc. The amenity zone shall be hard surfaced and a contrasting color and texture from the sidewalk as approved by the Manager.

B. A minimum 9-foot wide through-zone that is clear of all obstacles including utility vaults. Tree wells shall not be included in the 9-foot through-zone. The through-zone shall parallel the street and provide a direct, hard-surfaced, walking path.

- e. Street Trees:
 - i. Street trees shall be placed in the amenity zone. Trees placed back of walk are not considered street trees and do not fulfill the requirements of **Section 9.1000**.
 - ii. Tree grates or pavers shall be used in hard surfaced amenity zones. Plastic tree grates are not allowed (refer to Public Works Standards Drawing 533).
 - iii. Recommended street trees are designated per functional street classification as noted in **Table 3**.

Section 4. Volume 3, Section 4.1469 is amended as follows:

SECTION 4.1400 PLEASANT VALLEY PLAN DISTRICT

4.1469 Tree Planting Requirements

- A. Purpose and scope
This section is enacted with the goal of enhancing and protecting the existing tree canopy within the community to improve water quality, habitat, and aesthetics, and to minimize urban heat island effects. The tree-planting standard is a requirement for all new development. It encourages the planting and protection of trees, minimizes the impact of tree loss during development, and ensures a sustained tree canopy.
- B. Tree planting requirements
Applicants must submit a tree preservation or planting plan indicating how they will meet the following requirements. All planted trees shall be selected from the City of Gresham Recommended Approved Tree List.
 - 1. Single Family Dwellings and Duplexes. The applicant shall meet any one of the three options below. The applicant may choose to meet one or more of these options.
 - a. Tree preservation. At least 2 inches of existing tree diameter per 1,000 square feet of site area must be preserved. On lots that are 3,000 square feet or smaller, at least 3 inches of existing tree diameter must be preserved per lot.
 - b. Tree planting. At least 2 inches of tree diameter per 1,000 square feet of site area must be planted. On lots that are 3,000 square feet or smaller, at least 3 inches of tree diameter must be planted per lot.
 - c. Pleasant Valley Tree Mitigation Fund. This option may be used where site characteristics or construction preferences do not support the planting or preservation of trees. Proceeds from the tree fund may be used only in designated open space areas in Pleasant Valley. The applicant must contribute

the cost to purchase and plant the required number of trees before a building permit will be issued:

- For lots with 3,000 square feet or more of area, the cost to purchase and plant at least 2 inches of tree diameter per 1,000 square feet of site area; or
 - For lots with less than 3,000 square feet of area, the cost to purchase and plant at least 3 inches of tree diameter per lot.
2. Attached Residential Dwellings. As required in **Section 7.0103 and Section 7.0201**.
 3. All Other Development. At least 2 inches of tree diameter per 1,000 square feet of site area must be preserved or planted. This is in addition to any trees used to satisfy street tree or buffering and screening requirements.

Section 5. Volume 3, Section 5.0411 is amended as follows:

SECTION 5.0400 HABITAT CONSERVATION AREA (HCA) OVERLAY DISTRICT

5.0411 Specific Development Standards

The development standards described in this section apply to all development and redevelopment that occurs entirely, or partially, within Habitat Conservation Areas, unless such development is exempt under **Section 5.0403**, or, unless the applicant chooses to follow the discretionary process in **Section 5.0412** of this Overlay. This section also applies to subdivisions and partitions of properties that contain HCAs. An applicant may choose to use the mitigation standards of **Section 5.0412** in lieu of the mitigation standards of this section.

Unless otherwise directed, development proposed within the HCA, that is not exempted, will be processed as a Type II development permit application. All applications must include the general development permit application items required by **Section 11.0211** of the Gresham Community Development Code as a discussion of how the proposal meets all of the applicable HCA overlay standards.

- A. Application Requirements.** Applications for a building permit or development permit must provide a development plan and accompanying narrative explanation that includes the following information in addition to any other building permit or development permit requirements. All of the application requirements must be met prior to approval of a building or development permit.
 1. Applicants must verify the HCA on their property as described in **Section 5.0414** of this Overlay. They must also submit a construction management plan as required by **Section 5.0410**.

2. For the entire subject property (HCA and non-HCA), applicants must submit a scale map of the property that includes:
 - a. Location of all High, Moderate, and Low HCAs on the property;
 - b. Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges;
 - c. Location of any wetlands or water bodies on the property, including a delineation of the Water Quality Resource Area;
 - d. Location of 100 year floodplain and floodway boundary as defined by the Federal Emergency Management Agency (FEMA) and the area of the 1996 flood inundation;
 - e. Topography shown by contour lines of 2-ft. intervals for slopes less than 15% and by 10 ft. intervals for slopes 15% or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed; and
 - f. If applicable, the Hillside Physical Constraint Overlay and Flood Plain Overlay.
3. Detailed site plan of proposed development outlining total disturbance area, including, proposed building footprints, site property improvements, utilities and landscaping.
4. The following additional information shall be provided about the HCA:
 - a. For properties containing less than one acre of HCA, the location of all trees within the HCA that are greater than six inches diameter at breast height (DBH), shall be identified by size and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees and the diameter range, and provide a listing of the dominant species;
 - b. For proposed disturbance areas containing less than one acre of HCA, all trees with a diameter of six inches or greater that will be removed shall be specifically identified as to diameter at breast height (DBH) and species. For proposed disturbance areas containing one acre or more of HCA an approximation of the number of trees, their diameters and the dominant species;
 - c. Provide the tree removal/protection data requirements of ~~(B) through (G)~~ of ~~Section 9.1011~~ Sections 9.1022, 9.1024, 9.1026, 9.1032, 9.1034 and 9.1036.

Section 6. Volume 3, Section 5.0415 is amended as follows:

SECTION 5.0400
HABITAT CONSERVATION AREA (HCA) OVERLAY
DISTRICT

5.0415 Consistency and Relationship with Other Regulations

- E. The tree regulations of Section 9.1000 do not apply within HCA areas. Regulated Tree, Significant Tree, and Required Tree removals within HCA areas shall meet the applicable removal and tree protection standards of Section 9.1000. All mitigation and replacement requirements shall comply with applicable provisions of the HCA Section 5.0400. Tree removal activities that include disturbance or alteration of undeveloped HCA area exceeding 200 square feet shall be subject to full Type II or Type III provisions of the HCA code as outlined in Section 5.0400. HCA areas disturbed during tree removal activities shall be restored to their original condition when the tree removal is complete.

Section 7. Volume 3, Section 6.0326 is amended as follows:

SECTION 6.0300 PLANNED DEVELOPMENTS

6.0326 Street Trees

Street trees shall be provided for all streets within a PD following the standards of Sections ~~9.1020-9.1022~~ 9.1023 and 9.1033 of the Community Development Code.

Section 8. Volume 3, Section 7.0201 is amended as follows:

SECTION 7.0200 DESIGN REVIEW STANDARDS AND CRITERIA

7.0201 Single-Family Attached Dwelling Units

- L. Other standards for Single Family Attached Dwellings

5. Shared Open Space Standards for Complexes

Large single family attached complexes are similar in scale and operation to multi-family and condominium complexes and shall, therefore, provide similar amenities on the property of the project including common open space, play areas, and a mechanism for maintenance of such areas. The following standards are provided for those purposes:

- e. Required open space area landscaping shall include lawn, groundcover, shrubs and trees. Non-lawn groundcovers shall be a minimum of 4 inch pots spaced 2 feet on center. Shrubs shall be a minimum one gallon size at the time of planting. Trees shall be at least 1.5 inch caliper minimum size at the time of planting. Mulch materials are only permitted as a filler until living plant materials mature and spread.

7. Landscaping

Landscaping is intended to enhance the visible appearance and livability of single family attached dwelling projects and preventing building footprints from dominating available lot areas.

- f. Of the required front yard landscaping as stated above, up to 20% of that area may be walkways or stoops associated with unit access and at least 80% of those areas must consist of a continuous ground cover of lawn and/or low growing evergreen shrubs, or other evergreen ground cover. Trees and larger shrubs may also be added to the landscaped area. Planting sizes are as follows:
 - i. Groundcovers, other than lawn, must be a minimum of 4 inch pots spaced 2 feet on center.
 - ii. Trees shall have a minimum caliper of 1 ½ inches at planting and must be staked for at least one year.
 - iii. Evergreen shrubs must be at least 24 inches high at finished grade and a minimum one gallon size at planting.
 - iv. Mulches and barkchips are only allowed as a filler, until required groundcover and shrub materials mature and spread. Mulches and barkchips are not permitted as a substitute for living plant materials.
- g. All landscaped areas shall be irrigated with an in-ground irrigation system, unless a licensed landscape architect submits written verification that the proposed planting materials do not require irrigation.
- h. In addition to street trees as required by **Sections 9.1020-9.1022-9.1023**, landscape/site trees shall be required at the rate of one tree per 2,000 square feet of gross site area. ~~Existing On-~~ landscape/site trees that are preserved may count at a 1 to 1 ratio for purposes of meeting site tree requirements.
 - i. New landscape/site trees must be capable of growing to a height of 25 feet. However, when accompanied by an arborist's report, ornamental, dwarf, and other smaller species may be permitted in locations where larger sized trees are not appropriate.
 - ii. New deciduous landscape/site trees shall be a minimum of 1.5 inch caliper at the time of planting.
 - iii. Evergreen trees shall be a minimum 6 foot height at time of planting.

- iv. As much as possible, new site trees shall be distributed throughout the project rather than clumping them in one location.
- v. New landscape/site trees shall be staked for support for at least one year.
- i. All plantings shall be maintained and dead or diseased plants replaced within 3 months of removal.

Section 9, Volume 3, Section 8.0202 is amended as follows:

**SECTION 8.0200
EXISTING AND NONCONFORMING USES AND
DEVELOPMENT**

8.0202 Design Review Standards

All design review requests shall comply with all applicable standards in the Community Development Code.

- C. The street tree planting requirements in ~~Sections 9.1020~~ 9.1023 and 9.1033.

Section 10, Volume 3, Section 9.0110 is amended as follows:

**SECTION 9.0100
BUFFERING AND SCREENING REQUIREMENTS**

9.0110 Buffering and Screening Requirements

- A. A buffer consists of a horizontal distance adjacent to the property line. The following standards apply to materials in the buffer:
 - 1. The following elements are allowed in the buffer: vertical elements such as plants, berms, fences or walls; screening; landscaping materials (including gardens); stormwater facilities such as rain gardens and bioswales; and garden elements such as arbors, trellises, fountains, ponds, yard accessories and seating. Seating must be at least 5 feet from the abutting property line. Underground, in-ground and overhead utilities are allowed in the buffer. Above-ground installation of mechanical equipment such as for heating, ventilation, renewable energy systems and air conditioning is not allowed in the buffer width.

G. When the following situations exist, the buffering and screening may be reduced or eliminated, or alternative means of providing the desired screening may be instituted.

1. Existing buffering and screening: If the subject parcel or abutting use has provided buffering and screening in compliance with this section, the buffering and screening elements already provided (such as trees, fences or walls in good condition, and plant material) may count toward required buffering and screening requirements. For existing trees:

a. Existing healthy trees of at least 2.5 inches in diameter breast height that meet the standards of **Section 9.0110(E)(1)** for eventual height and crown at maturity may count toward the trees required in **Table 9.0110(B)**. They shall be protected during construction following the standards in ~~Section 9.1015~~ **Sections 9.1022 and 9.1032**. Existing trees to be counted toward this requirement must be confirmed by a Certified Arborist or a Consulting Arborist, a Qualified Arborist or a Registered Consulting Arborist to be healthy trees.

Section 11. Volume 3, Section 9.0823 is amended as follows:

SECTION 9.0800 PARKING

9.0823 Landscaping of Parking Lots

A. Purpose. In order to reduce the visual impact of glare, headlights, and parking lot lights from the public right-of-way and adjoining properties, all parking lots and maneuvering areas shall be landscaped. Adequately landscaped parking lots will reduce the area of impervious surfaces, reduce the level of carbon dioxide in areas of heavy vehicle use, return pure oxygen to the atmosphere, and provide shade as a means of altering the micro-climate of parking lots.

B. General Provisions

1. Efforts shall be made to ~~save as many~~ keep existing ~~healthy~~ non-hazardous and non-invasive trees and shrubs on the site unless the applicant can demonstrate there is a health or non-health reason for removal as listed in Section 9.1034(D)(6) and (7). as possible.

Section 12. Volume 3, Section 9.1000 is amended as follows:

SECTION 9.1000 TREE REGULATIONS

General ~~9.1001 Purpose~~

Tree Removal/Replacement/Protection

~~9.1010 Tree Removal/Replacement/Protection—General Provisions~~

~~9.1011 Data Requirement for Tree Removal/Tree Protection Plan~~

~~9.1012 Criteria for Removal of Regulated Trees~~

~~9.1013 Review of Development on a Site with a Significant Tree or Trees~~

~~9.1014 Design Adjustments for Tree Protection~~

~~9.1015 Tree Protection During Construction~~

Street Trees

~~9.1020 Street Trees~~

~~9.1021 Spacing and Location Requirements for Street Trees~~

~~9.1022 Criteria for Master Street Tree Plans~~

Tree Pruning

~~9.1030 Pruning of Street Trees and Other Public Trees~~

~~9.1031 Pruning of Significant Trees~~

Protection and Penalties

~~9.1040 Civil Penalties~~

General

9.1001 Purpose

The City of Gresham benefits from a large number of trees consisting both of natural growth and those planted throughout the years. The retention of trees and wooded areas, and the establishment of street trees, adds to the livability of the community by enhancing its aesthetic beauty, minimizing surface water and groundwater run-off and diversion, filtering noise and air pollution, and promoting soil stability. Because uncontrolled cutting or destruction of trees within the city decreases the community's livability, it is in the public interest to preserve significant trees, to control the cutting of trees, and to protect trees from damage.

Tree Removal/Replacement/Protection

9.1010 Tree Removal/Replacement/Protection—General Provisions

- ~~A. Purpose/Applicability: It is the intent of this section to provide for the safe, orderly removal, moving, and replacement of trees on developed sites and to provide for good stewardship of woodland and forest resources. All land within the City of Gresham is subject to the Tree Removal regulations of **Section 9.1010-9.1012**, except where superseded by the provisions of **Section 9.1030** et.seq. regarding Significant Trees.~~
- ~~B. Removal of Regulated Trees: Removal of Regulated Trees as defined in **Section 3.0100** shall be reviewed under Type II procedures for compliance with the standards of **Sections 9.1010-9.1012**, except as allowed per year under the provisions of **Subsection 9.1010(B)(1)**; except for~~

all trees within 10 feet of the footprint of a proposed single family dwelling, addition, or improvement (for which the building permit serves as the tree removal permit under Subsection **9.1010(B)(2)** regardless of overlay district); except for Street Trees, Buffer Trees, and Parking Lot Trees of any size under Subsections **9.1010(B)**, **(C)**, and **(E)**; except as provided for those trees identified as Significant Trees and/or Groves in **Section 9.1014** and **Appendix 14**, Significant Trees; and except as noted in **Subsection 9.1010(E)** relating to ornamental trees of regulated size on developed lots in Special Purpose Districts.

1. — Except for tree removal requiring a Type I permit under **Section 9.1010(C)**, no Development Permit is required for removal of up to 3 regulated trees per 12-month period on commonly owned contiguous parcels of land less than 35,000 square feet in area or up to 6 regulated trees per 12-month period on commonly owned contiguous parcels greater than 35,000 square feet.
2. — Regulated trees located within 10 feet of the outer edge of the outline of a proposed single family residence or related site improvements may be removed without a separate or additional development permit after issuance of the building permit for the proposed residence. When additional trees are to be protected on the site outside the building envelope, a tree protection plan as approved by the City shall accompany the building plans and shall be enforced during all construction activities on the site. Mitigation in accordance with an approved mitigation plan for lost perimeter trees shall be completed or guaranteed prior to Final Inspection.

~~C. — Removal/Replacement of Street Trees/Buffer Trees/Parking Lot Trees: On a developed property, removal of any existing street tree, parking lot tree, or buffer tree as defined in **Section 3.0100** shall require prior City approval through a Type I procedure.~~

1. — ~~Street trees shall be replaced with a variety and in a location as approved by the Manager and at spacing intervals as required by **Section 9.1021**.~~
2. — ~~Buffer trees and parking lot trees shall be replaced in accordance with the originally approved plan (or as determined by the Manager).~~
3. — ~~On properties developed with uses other than a single family dwelling, street trees, parking lot trees and/or buffer trees shall be replaced with trees of equal caliper to the size at the time of removal up to a maximum of six inch caliper trees, or as determined by the Manager.~~
4. — ~~Street trees to be replaced along the frontage of an existing single family dwelling shall have a minimum caliper of 1 3/4 inches and shall be of a variety provided for in the Public Works Standards.~~
5. — ~~In the event of unauthorized street tree removal, including those trees along the frontage of a single family dwelling, the Manager may require replacement with trees of comparable value and size (up to 6 inch caliper) in addition to any other penalties.~~
6. — ~~Street trees that are destroyed or significantly damaged by accident shall be replaced in accordance with this section.~~
7. — ~~The City of Gresham is exempt from the permit requirement when it performs maintenance of street trees in the public rights of way, but is otherwise subject to these regulations.~~

- ~~D.— Removal of Significant Trees: Removal of Significant trees as defined in **Section 3.0100** shall be through the Type III process, as regulated by **Sections 9.1013** and **Appendix 14**, except as allowed under **Section 9.1014(C)** in association with development near a Significant Grove and under **Section A14.006** for removal of an imminent hazard. When a tree or trees identified as part of a Significant Grove are approved for removal in association with development, an equal number of a similar species, at least 2 inches in caliper, shall be planted as replacements and shall automatically be included in the Significant Grove, so as to help mitigate the loss and ensure perpetuation of the Grove for the future generations. An alternative mitigation plan may be proposed under the Type II procedure for the loss of trees in a Significant Grove allowed under **Section 9.1014(C)** due to development. The alternative plan may allow for off-site mitigation but shall also clearly demonstrate an intent to retain and enhance the Significant Grove over time.~~
- ~~E.— Tree Removal in Overlay Districts: Except as provided below, no removal of regulated trees shall be permitted within a Hillside Physical Constraint, Floodplain, or Habitat Conservation Area Overlay District without a Type II Development Permit.~~
- ~~1.— Up to three ornamental trees of regulated size, associated with landscaping on a lot developed with a single family home within an Overlay District, may be removed per 12-month period under the Type I Tree Removal Permit Procedure, with documentation of the removal date and mitigation of the removal in accordance with a revegetation plan prepared at the expense of the applicant and approved by the Manager.~~
 - ~~2.— Street Trees and Parking Lot Trees on a developed lot in an Overlay District may be cut in addition to the three per 12-month period on the remainder of the site and/or abutting right of way, but are subject to Street Tree and Parking Lot Tree replacement requirements of **Sections 9.1010(B), (C)**, and **Sections 9.1020-9.1022**.~~
 - ~~3.— Removal of a Significant Tree or Significant Trees in an Overlay District is subject to the Significant Tree procedures and standards of **Sections 9.1010(D), 9.1013-9.1015**, and **Appendix 14, Sections A14.004** and **A14.006**.~~
- ~~F.— Tree Removal on Steep Slopes: All tree removal that would result in clear cutting on slopes in excess of 15% is prohibited.~~
- ~~G.— Tree Removal on Vacant Platted Land: Vacant platted subdivision lot or partition parcel in a residential district, a lot of record with more than twice the required minimum lot area, and unimproved land within a property in its natural state before development are considered undeveloped for purposes of Tree Removal and subject to the Tree Removal regulations of **Sections 9.1010-9.1012**.~~
- ~~H.— Verification of Tree Removal Permit or Exemption: Prior to obtaining a grading permit and prior to performing any grading, ground breaking, grubbing, tree removal, or clearing activity on a development site, the owner, applicant, or representative shall obtain a tree removal permit or written verification from the Manager that no tree removal permit is required. A copy of the permit or exemption shall be kept at the site during all hours of work at the site.~~

9.1011 Data Requirements for Tree Removal/Tree Protection Plan

An applicant for a development permit for tree removal shall provide a detailed tree removal/tree protection plan. If tree health is proposed as a reason for tree removal, the removal plan shall be prepared by a qualified arborist. The plan shall include the following basic information:

- ~~A. A tree survey of regulated and/or significant trees on the site. A cluster of trees standing in close proximity (three to five foot spacing or closer) may be designated as a “stand” of trees, in which case, the predominant species estimated, number and average size must be indicated.~~
- ~~B. A tree survey of all trees on adjacent property with a DBH of 8 inches or greater that are located within 6 feet of the property line.~~
- ~~C. The credentials of the person preparing the plan.~~
- ~~D. If tree health is proposed as a reason for removal, a narrative evaluating the health of each regulated tree and/or stand, with recommendations for removal or preservation. The narrative shall indicate the proposed method of identifying trees to be preserved, such as painting, flagging, etc. and, where protective barriers are necessary, shall indicate that the barriers shall be erected before work starts.~~
- ~~E. Recommendations for tree removal procedures, tree protection, and mitigation of negative impacts. The arborist’s report and recommendations (if required) should address all stages of development from pre construction through the post construction therapeutic measures.~~
- ~~F. For Tree Removal proposed in a Special Purpose Overlay District, a consulting arborist may be required to verify the need for the tree removal. The tree removal permit request shall comply with applicable provisions of the Special Purpose Overlay District.~~
- ~~G. A report or plan may be required from a qualified arborist if information provided by the applicant is, in the interpretation of the Manager, not adequate to address those data requirements or the criteria of Section 9.1012.~~

9.1012 Criteria for Removal of Regulated Trees

- ~~A. Except for tree removal on a fully developed single family residential lot (i.e., the lot has a dwelling and is not capable of further division) and except as superseded by the provisions of Section 9.1010, removal of Regulated Trees is subject to the following criteria, conditions, and limitations:

 - ~~1. Trees shall be retained along natural drainageways and water areas to preserve riparian habitats and to minimize erosion. A mitigation plan shall accompany any tree removal or grading plan proposed along a natural drainage way.~~
 - ~~2. Trees shall be retained along property lines to serve as buffers to adjacent property. When perimeter trees are in poor health and would become a hazard after development, they may be removed, subject to approval by the City of a mitigation plan. Lost perimeter trees shall generally be replaced with a minimum 1 ¾ inch caliper trees that are a minimum of 10 feet high at the time of planting. Where buffering and screening is required under Section 9.0100 or where perimeter trees that meet the definition of “major tree” in Section 3.0100 are lost to development (including but not limited to clear cutting as defined in Article 3), replacement perimeter trees may be required beyond the basic 1-3/4 inch caliper standard, up to a maximum of 6 inch caliper trees, as determined by the Manager under the Type II procedure.~~
 - ~~3. Conifers shall be retained in sufficiently large areas and in dense stands to ensure against windthrow; and~~
 - ~~4. The Manager may require a proposed structure, to be relocated to retain trees, if the relocation can be accomplished within the required setbacks and without increasing costs~~~~

to the proposed development by more than two percent of the total improvement value, excluding land cost.

5. Any required mitigation shall be guaranteed prior to issuance of a grading permit for any portion of the site.
 6. The Manager may require a mitigation plan or windthrow assessment to be provided by a qualified arborist or a certified landscape architect.
- B.** Trees may be removed when they cannot be maintained because of their health, in which case the City may request verification by an independent consulting arborist, at the property owner's expense, to confirm the health of the trees.
- C.** Trees may be removed when the tree removal is necessary to accomplish a public purpose, such as the installation of public facilities and utilities in the right-of-way or public utility easement, or for construction of a public street, public trail, public park or public urban plaza. Perimeter trees that are removed under this section shall be replaced in accordance with the provisions of **Section 9.1012(A)(2)**.
- D.** When the tree removal proposed is clear cutting, as defined in **Article 3**, of the Community Development Code, such clear cutting shall be allowed only with the following additional conditions:
1. Landscaping shall be required to mitigate the loss of existing vegetation; and
 2. Clear cutting shall not begin until after the applicant has obtained all development permits including any building permits, final plat approval, and/or any other applicable permits necessary to assure completion of the proposed development, and after the applicant has filed with the City a financial guarantee for landscape mitigation based on an approved plan. Erosion control measures as required under **Section 9.0514** and the Building Code shall be implemented on the site prior to the commencement of any clear cutting.
- E.** Regulated Trees identified as an imminent hazard may be removed as an emergency measure for the immediate safety of persons or protection of property if it is demonstrated that moving of the potential target and pruning or other horticultural measures are not determined adequate for safety. An application for a development permit that includes photographic evidence and other documentation of the emergency (e.g., signature of Fire Marshal, Public Works Director, or Police Officer brought to the site of the emergency or documentation by a Consulting Arborist) shall be filed within 10 working days of the emergency removal of a Regulated Tree as defined in **Article 3** if the action otherwise would require a development permit (including a Type I Tree Removal Permit) but for the emergency.
- F.** Preservation and conservation of healthy wooded areas, trees, similar woody vegetation, wildlife habitat, and related natural resources is encouraged when there are feasible and prudent location alternatives on the site for proposed building structures.
- G.** Relocation of healthy trees with a DBH of 8 inches or less is encouraged over removal.

9.1013 Review of Development on a Site with a Significant Tree or Trees

- A.** When development is proposed for property that abuts the dripline of a Significant Tree or Trees or contains a Significant Tree or Trees, the property owner shall provide a tree

preservation plan prepared by a consulting arborist as defined in **Section 3.0100** that demonstrates how the Significant Tree or Trees will be preserved. The Significant Tree or Trees abutting the site shall be preserved and protected during all development activities, including preliminary grubbing and clearing.

A conservation easement shall be imposed on the site of the development to ensure on-going protection of a Significant Tree on an abutting property that overhangs a development site. The conservation easement shall be located at the dripline in a radius from the tree at the rate of one foot of horizontal distance from the tree for each one inch of diameter of the tree unless a registered consulting arborist determines that the tree can be protected adequately with less distance.

- B.** Individual Significant Trees on the site shall be preserved unless it is determined under the Type III procedure that the tree may be removed based on the criteria for tree removal found in **Appendix 14, Section A14.004**.
- C.** A preservation plan for a Significant Tree or Trees shall, at a minimum, meet the standards of **Sections 9.1011** and **9.1015**, and shall, in addition, be supplemented by the following:
 - 1.** A site plan indicating the surveyed location of the Significant Trees.
 - 2.** A narrative statement outlining the reasons any of the Significant Trees should be removed based on the removal criteria found in **Section A14.004**.
 - 3.** The methods to be used to preserve the Significant Tree.
 - 4.** A mitigation plan indicating the replacement trees or additional new trees to be placed on the site. The mitigation plan should demonstrate, to the extent possible, that the character of the site would not change as a result of development.

9.1014 Design Adjustments for Tree Protection

- A.** The Manager, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to 50 percent if necessary to retain a Significant Tree or Trees. The adjustment shall be the minimum necessary to accomplish preservation of trees on site and shall not conflict with other conditions placed on the property.
- B.** The Manager, pursuant to a Type II procedure, may grant a five percent reduction to the lot size and a ten percent reduction to the lot width and lot depth standards in approving a subdivision or partition if necessary to retain a Significant Tree or Trees.
- C.** The Manager, pursuant to a Type II procedure, may allow a property owner to cut a specific number of trees within a Significant Grove of trees if preserving those trees would:
 - 1.** Cause the loss of ten percent or more of the total number of allowed lots or units, or
 - 2.** Cause an increase of five percent or more in the cost of installing on-site utilities.
- D.** The Manager, pursuant to a Type II procedure, may allow other adjustments meeting the criteria of **Section 10.1521** (Modification of Regulations) in order to preserve any healthy tree that cannot be moved due to its size, but will contribute to the landscape character of the area and will not present a foreseeable hazard if retained.

9.1015 ~~Tree Protection During Construction~~

- ~~A. — No trees designated for protection or conservation shall be removed without prior written approval from the City of Gresham Planning Division.~~
- ~~B. — Tree protection shall be as recommended by a qualified arborist or, as a minimum, to include the following protective measures:
 - ~~1. — Prior to any grubbing, clearing, grading, parking, preparation or storage of materials or machinery, or other construction activity on the site, all trees to be protected on the project site and adjacent to the site shall be clearly identified and temporary fencing shall be installed at the perimeter of the dripline.~~
 - ~~2. — To assure that there is no soil compaction or removal of vegetation or tree branches within the dripline, protective fencing is required around the dripline of trees designated for retention. Protective fencing shall be of a material that cannot easily be moved, removed, or broken during construction activities. Chain link fencing a minimum of 4 feet in height is preferred. An alternative dripline fencing material secured by metal posts staked at no more than 4 feet on center around the dripline of the tree or grove may be used with the approval of the Manager.~~
 - ~~3. — No machinery repair or cleaning shall be performed within 10 feet of the dripline of any trees identified for protection.~~
 - ~~4. — Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited.~~
 - ~~5. — The City may require that a Consulting Arborist be present during any construction or grading activities that may affect the dripline of trees to be protected.~~~~
- ~~C. — Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.~~

Street Trees

9.1020 ~~Street Trees~~

- ~~A. — Street trees in the public right of way or within the yard setback and/or buffer area immediately adjacent to the right of way will be required of all new developments and for alterations to all existing developments requiring a building permit for remodel, addition, or tenant improvement.~~
- ~~B. — Street trees for all development shall be a minimum of 1 3/4 inch caliper. Street trees located within an intersection clear vision area shall be a minimum of 2 inch caliper and a minimum 6 feet head height at time of planting. Newly planted trees shall be securely staked for the first two years after planting and shall be replaced if they die or are destroyed.~~
- ~~C. — The particular variety of street tree to be planted will be reviewed and approved as part of overall project submittals.~~
- ~~D. — A Guarantee of Completion equal to 110% of the estimated cost of purchasing and installing street trees to assure installation prior to final building permit approval may be required at the~~

time of original building permit issuance and/or at the time of building permit issuance for a remodel/tenant improvement associated with a change or upgrade to the site, or an expansion or change to an existing use.

9.1021 Spacing and Location Requirements for Street Trees

- A. Street trees shall be located at least 10 feet from street lights, 15 feet from stormwater catch basins, and 5 feet from driveway cuts or underground utilities.
- B. No street trees shall be planted within 12 feet of the back of the crosswalk on the approach side of the street at street intersections or within 20 feet of the intersection of two major and/or standard arterial streets or light rail crossing area.
- C. The number of street trees required along a street frontage shall comply with the average distances as shown in **Table 9.1021A**.

Table 9.1021A Tree Spacing

Principal / Standard/Major Arterial / Boulevard ³	30 feet
Minor Arterial ³	30 feet
Major/Standard/Minor Collector ³	R – 30 feet (2 min., 3 min. if corner lot) C – 20 feet (2 min., 3 min. if corner lot) I – 20 feet
Community Street ³	R – 30 feet (2 min., 3 min. if corner lot) C – 20 feet (2 min., 3 min. if corner lot) I – 20 feet
Local: Transitional ^{1,3}	R – 30 feet (2 min., 3 min. if corner lot) C – 20 feet (2 min., 3 min. if corner lot) I – 20 feet
Local: Queuing Street/Lane Minor Access Street ³ , Cul-de-sac ^{2,3}	R – 30 feet (2 min., 3 min. if corner lot)

Table Notes:

- 1 — Includes linear section of cul-de-sac.
 - 2 — Depends on length of frontage.
 - 3 — Or as required by an approved Street Tree Plan in a PD development or in a LDR-5, LDR-7, TLDR, or TR district. For single family attached dwellings, there shall be a minimum of 1 tree per lot street frontage.
- R = residential, C = commercial, I = industrial.

On streets where there is no planter strip or where utility and/or driveway locations preclude placement of all required street trees within the right of way, street trees may be located within front and/or street side yard setback areas.

9.1022 ~~Criteria for Master Street Tree Plans~~

- ~~A. — A master street tree plan shall be submitted for approval with a tentative partition or subdivision plan, a PD plan, or design review.~~
- ~~B. — The master street tree plan shall be consistent with the following criteria:~~
- ~~1. — Shall show an even distribution of the trees, which meets the average spacing requirements identified in **Table 9.1021** for the type of use and street classification.~~
 - ~~2. — Shall identify the required number of trees. (In no case shall street trees of smaller caliper spaced at closer intervals substitute for street trees of the required size.)~~
 - ~~3. — May show minor variations in street tree spacing in order to accommodate curb cuts, utilities, street lights, and similar features. The location of such features shall be shown on the plan in relation to proposed trees.~~
 - ~~4. — May locate street trees within required front or street side yards as necessary to meet the average spacing requirement.~~
 - ~~5. — Shall identify the proposed variety of street tree (common and botanical name) and its proposed size at the time of planting. Street trees shall have the following characteristics:~~
 - ~~a. — Capable of 25 feet in height and canopy spread at maturity.~~
 - ~~b. — Selected from a list of recommended street trees provided for in the Public Works Standards.~~
 - ~~c. — Street trees shall be of a variety that can be pruned as they mature or located in such a manner so as to assure a vertical clearance of 8 feet above sidewalks and 10 feet above the street grade.~~
 - ~~6. — Street trees shall also be provided where street abuts open space and natural areas.~~
 - ~~7. — A tree staking plan shall be included with the master tree spacing plan.~~
- ~~C. — With approval of the Manager, an alternative variety of street tree may be substituted for the kind of tree shown on the approved street tree plan as long as the tree(s) satisfies **Subsections (5)(a) through (c)** above.~~

Tree Pruning

9.1030 ~~Pruning of Street Trees and other Public Trees~~

- ~~A. — Street trees shall be pruned in accordance with the most recent ANSI (American National Standards Institute) A300-1995 standards or other more recent standard arboricultural practices approved by the City. Major pruning (as identified in **Article 3**) of any street tree of regulated size within the public right of way may be required by the Manager to be performed by a Certified Arborist.~~
- ~~B. — Tree Topping as defined in **Article 3** is prohibited.~~

9.1031 Pruning of Significant Trees

Significant Trees may not be pruned more than 20% of their limb structure, nor may the root system be disturbed by more than 10% in any 12-month period without a development permit. All pruning of a Significant Tree shall be performed by a Certified Arborist in accordance with ANSI (American National Standards Institute) A300-1995 standards or other more recent standard arboricultural practices approved by the City. See **Section A14.004** for procedures and restrictions relating to pruning of Significant Trees.

Protection and Penalties

9.1040 Civil Penalties

- A. In addition to the remedies established in **Article 2**, the court may order that any trees cut in violation of **Section 9.1000** or **Appendix 14** may be confiscated by the City. The court may also order the violator, the violator's agent, and the property owner at the time of discovery of the violation to pay all costs associated with the confiscation.
- B. In addition to the remedies established in **Article 2**, any person who violates the requirements of **Section 9.1000** shall be subject to a civil penalty based on up to three times the arboricultural value of the lost tree or trees, as determined by an independent consulting arborist, the cost of the arborist review and report shall be paid to the City by the violator, the violator's agent, and the property owner at the time of discovery of the violation, along with any other developer of the site as additional amount to this penalty. The owner shall also replace the trees with like trees that equal the replacement value of the lost trees. The tree or trees shall be of the same variety as those lost, or, if appropriate, may be of a solar friendly variety as defined in the City's list of solar friendly trees.
- C. Should the property owner or (if not the property owner) the violator, the violator's agent, or any other developer damage any tree that has been designated for protection, the violator, property owner and the developer shall all be penalized \$50 per each individual point of damage to the tree. If necessary, a report prepared by a consulting arborist at the developer's expense may be required to determine the extent of the damage. Should the damage result in loss of appraised value greater than \$50, the higher of the two values shall be used.
- D. If a tree or trees are removed in violation of **Section 9.1000** and/or **Appendix 14** (e.g., no approved tree removal permit or written verification of exemption, major pruning of significant trees without a permit, or a violation of the conditions of approval of a tree removal permit), a stop work order for a period of up to 90 days may be issued by the City while appropriate mitigation and penalties are negotiated, during which time no grading or other construction activity may take place on the site.

General

9.1010 Purpose and General Standards

9.1011 Applicability

9.1012 Required, Regulated and Significant Tree Types

9.1013 Tree Dimension Standards

9.1014 Approved Tree List for Required Trees

9.1020 Standards for Single-Family Detached Dwellings, Duplexes and Single-Family Attached Dwellings

9.1021 Exemptions

During Development

9.1022 Tree Protection During Development

9.1023 Street Tree Planting During Development

9.1024 Tree Removal During Development

9.1025 Tree Replacement for Trees Removed During Development

Post-Development

9.1026 Tree Removal Post Development

9.1027 Tree Replacement Post Development

9.1030 Standards for Uses Other Than Single-Family Detached Dwellings, Duplexes, Single-Family Attached Dwellings and Parking Lots

9.1031 Exemptions

During Development

9.1032 Tree Protection During Development

9.1033 Street Tree Planting During Development

9.1034 Tree Removal During Development

9.1035 Tree Replacement During Development

Post-Development

9.1036 Tree Removal Post Development

9.1037 Tree Replacement Post Development

9.1040 Pruning of Required and Significant Trees

9.1050 Significant Trees

9.1060 Civil Penalties

9.1010 Purpose and General Standards

The city of Gresham benefits from a large number of trees consisting both of natural growth and those planted throughout the years. The retention and establishment of trees adds to the livability of the community by enhancing its aesthetic beauty, minimizing surface water and groundwater run-off and diversion, filtering noise and air pollution, and promoting soil stability. Because uncontrolled cutting or destruction of trees within the city decreases the community's livability, it is in the public interest to preserve significant trees, to control the cutting of trees, and to protect trees from damage during construction and from improper pruning.

9.1011 Applicability

It is the intent of this section to provide for tree protection and the safe, orderly removal and replacement of trees on developed and undeveloped sites, and to provide for good stewardship of the urban forest. All land within the city of Gresham is subject to the Tree Protection, Removal and Replacement regulations of Section 9.1012-9.1040. References to the term Special Purpose Overlay Districts in Section 9.1000 refer to the Floodplain Overlay District, Hillside Physical Constraint Overlay District, and the Habitat Conservation Overlay District.

Note: Most images, including photographs and illustrations that follow, are not part of the Development Code and do not act as Standards, unless labeled with a Development Code section number. These images are provided to assist the readers in envisioning the intent of the Standards.

9.1012 Required, Regulated and Significant Tree Types

The category of protected trees referenced throughout the Development Code primarily include those listed in Diagram 1.

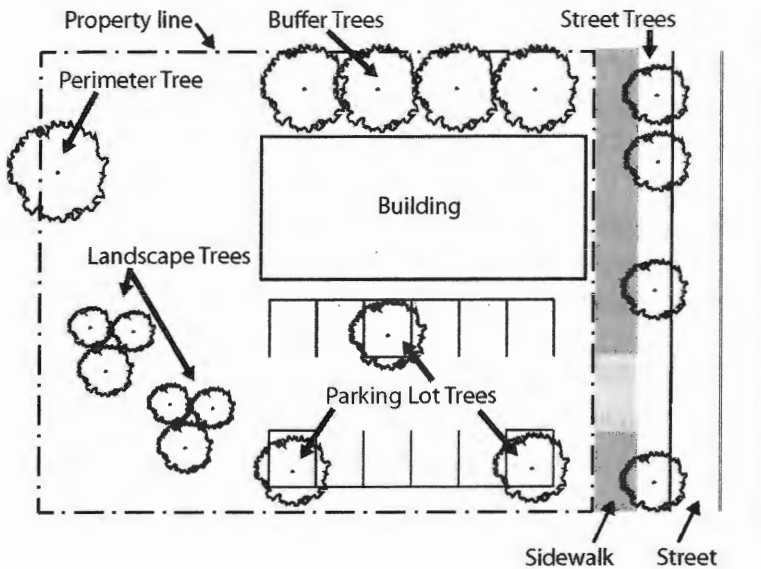
Diagram 1. Development Code protected tree types.

TREE TYPES		
REQUIRED TREES	REGULATED TREES	SIGNIFICANT TREES
<ul style="list-style-type: none"> • Street • Parking lot • Buffer • Landscape/Site • Perimeter 	<ul style="list-style-type: none"> • ≥ 8-inch diameter (including overlay trees) 	<ul style="list-style-type: none"> Designated by City with owner consent • Distinctive • Aesthetics • Function • Historical

A. Required Trees, as defined in Article 3, are illustrated in Diagram 2.A.

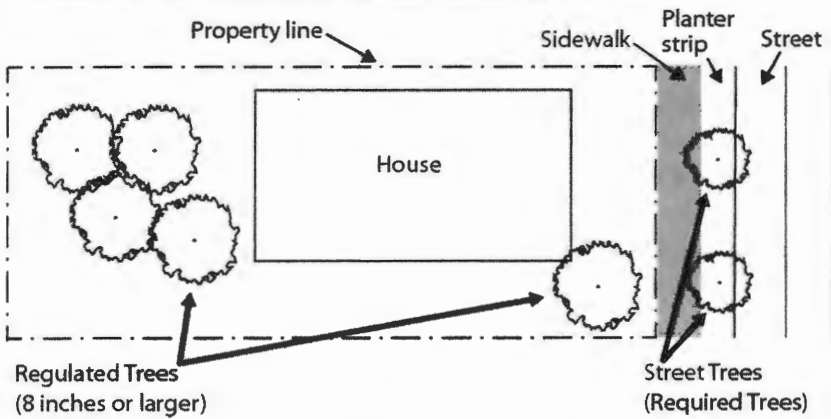
B. Regulated Trees, as defined in Article 3, are illustrated in Diagram 2.B.

Diagram 2.A. Illustration of Required Trees in Gresham’s Development Code.



- KEY**
- **Street Tree** – A tree within the right of way along a street between the curb and sidewalk or within a street median.
 - **Buffer Tree** – An evergreen or deciduous tree that has been approved as part of a buffering and screening plan.
 - **Perimeter Tree** – A tree located within 5 feet of either side of a property line. Does not include trees in the public right-of-way or within 5 feet of the public right-of-way.
 - **Landscape Tree** – A tree that was approved as part of a landscaping plan, including “site” trees per Article 7.
 - **Parking Lot Tree** – A tree that was approved as part of a parking lot plan.

Diagram 2.B. Illustration of Regulated Trees in Gresham's Development Code.



Key
Regulated Tree – A tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, including trees located in the Special Purpose Overlay Districts. Regulated Trees are not Required or Significant Trees.

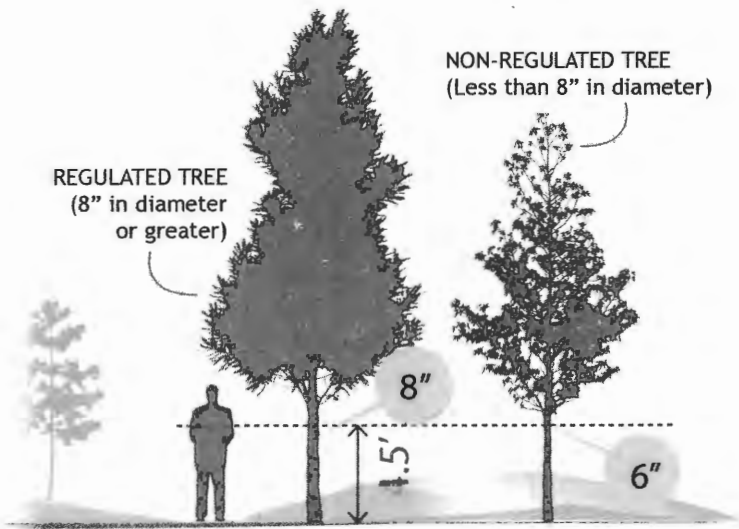


Illustration of Regulated Tree size, which is an 8-inch diameter tree measured at breast height (DBH)(4.5 feet); and what is considered a Non-Regulated Tree (less than 8 inches in diameter)

9.1013 Tree Dimension Standards

For all types of trees referenced in the Development Code, there are a number of dimension provisions related to tree replacement size as well as mature height and spread. The common tree dimension standards are listed in **Table 9.1013** of this subsection and only apply to trees that are required to be planted. The table is frequently referenced by standards in **Section 9.1000** and those found in the Design Districts. The trees must meet the minimum size requirements or approved by the Manager and shall be capable of meeting the minimum height and spread dimensions at maturity.

Table 9.1013 Minimum Size, Height and Spread Standards for Trees Planted in Accordance with the Development Code.

<u>Tree Type</u>	<u>Minimum Size (caliper inches, unless noted otherwise)</u>	<u>Minimum Height at Maturity (feet)</u>	<u>Minimum Spread at Maturity (feet)</u>
<u>Street</u>	<u>1.75</u>	<u>Per Approved Tree List</u>	<u>Per Approved Tree List</u>
<u>Street (intersection clear vision)</u>	<u>2.0</u>	<u>Per Approved Tree List</u>	<u>Per Approved Tree List</u>
<u>Parking Lot</u>	<u>2.0</u>	<u>35</u>	<u>35</u>
<u>Buffer</u>	<u>Deciduous = 2.5 Evergreen = 8 feet</u>	<u>Deciduous = 25 Evergreen = none</u>	<u>Deciduous = 25 Evergreen = none</u>
<u>Perimeter</u>	<u>1.75</u>	<u>none</u>	<u>none</u>
<u>Significant</u>	<u>2.0</u>	<u>none</u>	<u>none</u>
<u>Landscape /Site (single-family attached)</u>	<u>1.5 Evergreen = 6 feet</u>	<u>25</u>	<u>none</u>
<u>Landscape/Site (deciduous / design district)</u>	<u>2.5</u>	<u>25</u>	<u>none</u>
<u>Landscape/Site (ornamental/ design district)</u>	<u>2.0</u>	<u>none</u>	<u>none</u>

9.1014 Approved Tree List for Required Trees

To encourage trees to be planted in the right place where they can thrive and not cause unintended property damage, all Required Trees planted

within the city shall be selected from the Approved Tree List and be appropriate for the location, as approved by the Manager. Manager approval is required when a tree that is not on the Approved Tree List is proposed to be planted.

9.1020 Standards for Single-family Detached Dwellings, Duplexes and Single-family Attached Dwellings

This section provides rules for tree protection, removal and replacement that apply to the following uses or other similar uses as determined by the Manager:

- Single-family detached dwellings
- Duplexes
- Single-family attached dwellings
- Residential Homes

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1021**, tree removal provisions of **Section 9.1026** and tree replacement provisions of **Section 9.1027**.

9.1021 Exemptions

- A.** Removal of Regulated Trees (not “Required Trees” or “Significant Trees”) for lots developed with or in a land use district designated for development of uses listed in 9.1020 are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:
1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and
 2. The Regulated Trees are not in an overlay district; and
 3. The Regulated Trees are not designated as Significant Trees.
 4. The number of Regulated Trees removed does not exceed the following thresholds per 12-month period from the time a permit is issued:
 - a. For commonly owned, contiguous parcels less than 35,000 square feet: up to three Regulated Trees; or
 - b. For commonly owned, contiguous parcels equal to or greater than 35,000 square feet: up to six Regulated Trees.
- B.** The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks, trails and open space. Trees may be removed, or pruned in accordance with the pruning standards in **Subsection 9.1040 (A)**, when the tree removal or pruning is necessary to accomplish a public purpose, including but not limited to the installation of public facilities and utilities in the right-of-way or general utility easement, habitat restoration activities, or for construction of a public street, public trail, public park or public urban plaza.

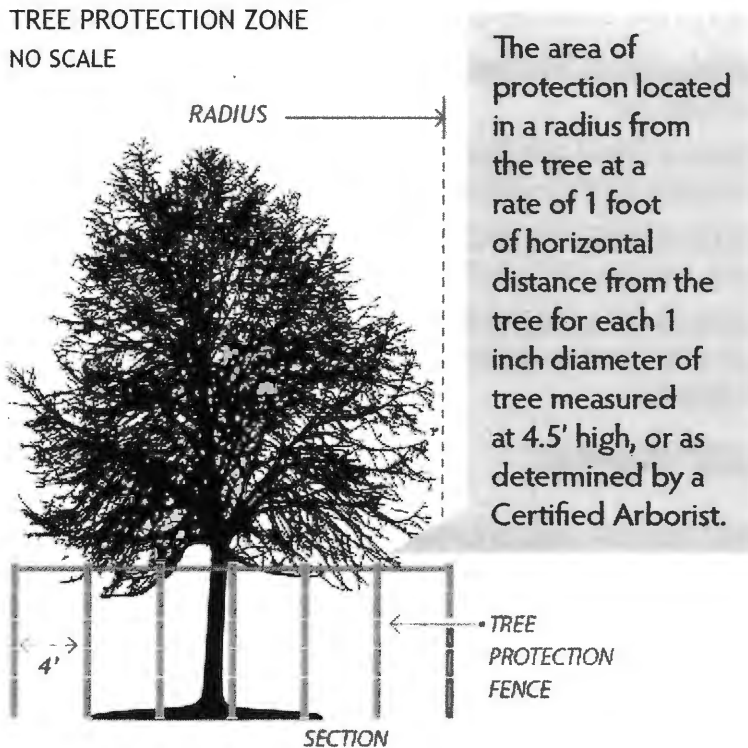
- C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or general utility easement, if such pruning is necessary and in accordance with state law to avoid contact with the electric facilities.

During Development

9.1022 Tree Protection During Development

- A. Regulated, Required and Significant Trees. An applicant for a development permit that involves construction, installation or alteration of building or other structures, including a home addition or accessory structure, that leads to construction equipment inside the protected area of Regulated, Required, or Significant Trees to remain on the site, or:
- an increase in building area or impervious surface;
 - a new driveway;
 - drilling, dredging, paving, excavating or clearing; or
 - other activities that involve construction;
- shall provide facts and evidence sufficient to enable the approval authority to make a determination in compliance with the criteria set forth in **Section 9.1022 (B) through (F)**, including submittal requirements requested on relevant submittal checklists maintained by the Manager.
- B. Regulated, Required and Significant Trees/Significant Grove to Remain. A Tree Protection Plan shall designate as protected all Regulated, Required and Significant Trees/Significant Groves that are to remain on the site after development is complete and other trees recommended for protection by the Certified Arborist preparing the plan, if a Certified Arborist is required below. The Tree Protection Plan demonstrating all proposed tree protection is required by all applicants but only required to be prepared by a Certified Arborist if activity (including but not limited to: construction equipment traffic/maneuvering, material storage, and grading) is proposed within the tree protection zone.
- A tree protection zone shall be installed with protective fencing around all Regulated, Required, and Significant Trees/Significant Grove to remain on site and shall be located in a radius from the tree at a rate of 1 foot of horizontal distance from the tree for each 1 inch diameter of tree, or as determined by a Certified Arborist. For a Significant Grove, the perimeter of the grove shall be where the area of protection is located with the radius measured from each tree located along the perimeter of the grove, or as determined by a Certified Arborist.

Figure 9.1022 Illustration of a Tree Protection Zone.



- C. Significant Tree(s).** When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s) abutting the site shall be preserved and protected as specified in Subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a certified arborist determines that the tree can be protected adequately with less distance.
- D.** No trees designated for protection or conservation shall be removed without prior written approval from the Manager.
- E.** Tree protection measures can be recommended by a Certified Arborist or, shall as a minimum, include the following protective measures:
- 1.** Prior to any grubbing, clearing, grading, parking, preparation or storage of materials or machinery, or other construction activity on the site, all trees to be protected on the project site and adjacent to the site shall be clearly identified and temporary fencing shall be installed at the perimeter of the Tree Protection Zone. Protective fencing shall be of a material that cannot easily be moved, removed, or broken during construction activities. Chain link fencing a minimum of 4 feet in height is preferred. An alternative Tree Protection Zone fencing material secured by metal posts staked at no more than 4 feet on center around the Tree Protection Zone, as illustrated in Figure 9.1022, of the tree or grove may be used with the approval of the Manager.

2. No soil compaction or removal of vegetation or tree branches within the Tree Protection Zone shall be allowed during construction, except as outlined by a Certified Arborist in a submitted Tree Protection Plan.
 3. No machinery repair or cleaning shall be performed within 10 feet of the Tree Protection Zone of any trees identified for protection.
 4. Digging a trench for placement of public or private utilities or other structure within the tree protection zone of a tree to be protected is prohibited.
 5. The City may require that a Certified Arborist be present during any construction or grading activities that may affect trees within the tree protection zone.
- F. Changes in soil hydrology and site drainage within the tree protection zone shall be minimized. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.

9.1023 Street Tree Planting During Development

- A. A street tree plan shall be submitted for approval with a tentative partition, subdivision plan, Planned Development or design review. The street tree plan shall show tree spacing, number of trees and their location and meet all required characteristics noted in the submittal requirements provided by the Manager.
- B. Street trees of a minimum 1.75-inch caliper are required when a land use or building permit requires street trees. Street trees within a clear vision area shall be a minimum of 2-inch caliper and a minimum of 6 feet tree head height at time of planting.
- C. Except for single-family attached dwellings, street trees shall be planted every 30 feet on all street classifications, with the following additional standards:
 1. On streets with a collector or higher classification, each lot, except flag lots, shall have a minimum of two trees if an interior lot and three trees if a corner lot.
 2. On Local Streets: a tree is required to be planted every 30 feet along the outer curve of a cul de sac right-of-way.
- D. For single-family attached dwellings, each lot, except flag lots, shall have a minimum of one street tree per frontage.
- E. Street trees shall be located at least 15 feet from street lights, 15 feet from stormwater catch basins, and 5 feet from driveway cuts or underground public utilities.
- F. No street trees shall be planted in the right-of-way within 12 feet of the nearside of the crosswalk on the vehicular approach side of the street at street intersections.
- G. Street trees shall be selected from the City's Approved Tree List or other varieties as approved by the Manager.
- H. The intent of the Code is that required Street Trees are planted when feasible. If site constraints make it infeasible to plant all required Street Trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required Street Tree not planted. The fee contribution shall be established by Council resolution. A tree fund contribution shall be approved by the Manager only when:
 1. One of the following conflicts exists that makes planting infeasible:

- a. One or more of the standards in Section 9.1023(E) through (F) make it infeasible to plant a tree because insufficient room remains; or
 - b. The development does not include planter strips that are at least 3 feet wide to accommodate the required street trees; or
 - c. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or
 - d. Other similar site constraints make it physically infeasible to plant the Street Tree(s), as determined by the Manager; and
2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering the sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

9.1024 Tree Removal During Development

- A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.
- B. Regulated and Required Trees within 10 feet of the footprint of a proposed single-family dwelling, addition or improvement may be removed with the issuance of a building permit.
- C. Removal of Required and Significant Trees not removed in accordance with Section 9.1024(B), except for trees in the Special Purpose Overlay Districts, shall meet the following standards:
 - 1. Buffer trees and street trees may be removed during construction but shall be replaced in accordance with Section 9.1025.
 - 2. Significant Trees shall be preserved unless the Manager determines under a Type II procedure that the tree may be removed by meeting at least one of the following criteria:
 - a. The tree needs to be removed to construct proposed improvements (including but not limited to the buildings; access for construction equipment; essential grade changes needed to implement standards common to standard engineering or architectural practices; space for driveways or other improvements; solar energy equipment) and no practical alternative exists without increasing the cost by more than 5 percent or reducing construction or development safety; or
 - b. The tree needs to be removed consistent with good urban forestry practices or cannot be maintained because of its health and has become a hazard to public safety, to the subject property or adjacent property, to personal property or to any improvements as stated in a Certified Arborist report; or
 - c. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance as stated in a certified arborist report; or
 - d. The tree needs to be removed due to a disease as stated in a certified arborist report and to accomplish a public purpose and no practical alternative exists.

D. Regulated Trees to be removed, which includes topping, during construction in excess of the thresholds in **Section 9.1021(A)**, except trees in the Special Purpose Overlay Districts, shall be reviewed under a Type II procedure.

E. All Type II tree removal permits shall adhere to the following retention criteria:

1. Trees shall be retained along Water Quality Resource Areas (as described in **Section 5.0417**) and within Habitat Conservation Area Class 1 riparian areas (as described in **Table 5.0414(A)**) according to disturbance limits described within **Section 5.0400**. A mitigation plan, prepared by a qualified natural resource specialist such as a botanist, ecologist, geomorphologist or professional wetland scientist, shall accompany any tree removal or grading plan proposed along a Water Quality Resource Areas (as described in **Section 5.0417**).
2. Conifers shall be retained in sufficiently large areas and in dense stands to ensure against wind throw.
3. The Manager may require a proposed structure to be relocated to retain trees if the relocation can be accomplished within the required setbacks and without increasing costs to the proposed development by more than 2 percent of the total improvement value, excluding land cost.
4. Any required mitigation shall be guaranteed prior to issuance of a grading permit for any portion of the site.
5. The Manager may require a mitigation plan or wind throw assessment to be provided by a Certified Arborist or a registered landscape architect.

F. When tree removal proposed is clear cutting, such clear cutting shall be allowed only when development occurs concurrently under the following conditions:

1. Shall be reviewed under a design review tree removal permit or with the issuance of a building permit when the use does not require the design review process.
2. Clear cutting shall not begin until after the applicant has obtained all development permits including the issuance of any building permits, and/or any other applicable permits necessary to ensure completion of the proposed development, and after the applicant has filed with the City a financial guarantee for landscape mitigation based on an approved plan; and
 - a. Erosion control measures as required under **Section 9.0514** and the Building Code shall be implemented on the site prior to the commencement of any clear cutting; and
 - b. Landscaping shall be required and reviewed during the design review process to mitigate the loss of existing vegetation that provides erosion control and tree canopy.

G. Tree removal in a Special Purpose Overlay District shall meet the applicable removal standards of **Section 9.1000**. All replacement requirements shall comply with applicable provisions of the Special Purpose Overlay Districts:

1. Street trees, buffer trees and landscape trees may be removed in accordance with **Subsection 9.1024(C)(1)** and shall be replaced when applicable in accordance with **Section 9.1025**; and
2. Significant Trees may be removed in accordance with **Section 9.1024(C)(2)**; and
3. For Regulated Trees:
 - a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the

official City Invasive Species List; and

- b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure; and
- c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure; and
- d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure; and
- e. Type II tree removals shall meet the standards of **Section 9.1024 (E)**, and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading; and
- f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1026(D)**. The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

9.1025 Tree Replacement for Trees Removed During Development

- A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in **Section 9.1013**:
 - 1. Buffer trees and landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager; and
 - 2. Street trees shall meet the street tree plan or the spacing requirements in **Section 9.1023**. If replanting is not feasible because of site constraints, the standards of **Section 9.1023(H)** would apply.
- B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

Post Development

9.1026 Tree Removal Post Development

- A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.

- B. The removal of the following Required Trees shall follow a Type I procedure and meet the following standards:
1. Street trees may be removed at the property owners' discretion and shall be replaced in accordance with **Section 9.1027**. Replacement is required if the planter strip is at least 3 feet wide and tree planting is feasible given the tree spacing and locational standards of **Section 9.1023**. If the planter strip is less than 3 feet or planting is not feasible, no replacement is required.
 2. Buffer trees may be removed at the property owners' discretion and shall be replaced in accordance with **Section 9.1027**.
 3. Landscape/site trees may be removed at the property owners' discretion and shall be replaced in accordance with **Section 9.1027**.
- C. Removal of Regulated Trees, which includes topping, that exceed the thresholds in **Section 9.1021** shall follow a Type II procedure.
- D. Removal of Required and Regulated Trees that meet the definition of Imminent Hazard Tree or Hazard Tree, and which cannot be retained as a Habitat Tree due to proximity of a target, such as a person or property, or that cannot be moved or altered shall meet the following standards:
1. Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning or other horticultural methods may be removed immediately. Within 10 business days after the tree is removed, an application shall be filed for a Type I tree removal permit that is accompanied by documentation of the imminent hazard, such as a photograph, a report from a Certified Arborist, a signed statement from a public safety official (such as a police or fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. An Imminent Hazard Tree removed shall not count toward the number of trees removed in a 12-month period used to determine if tree removals are exempt from a development permit in **Section 9.1021**.
 2. Removal of Required or Regulated Trees that are hazardous but do not present an imminent hazard to the safety of people or protection of property shall be reviewed under a Type I procedure, except for Significant Trees and trees in overlay districts, the removal of which shall be reviewed under a Type II procedure as required by **Section 9.1026(E)**.
- E. Tree Removals in a Special Purpose Overlay District shall meet the standards of the overlay districts and the following standards:
1. Street trees, buffer trees and landscape trees may be removed in accordance with **Section 9.1026(B)** but shall be replaced when applicable in accordance with **Section 9.1027**.
 2. Significant Trees may be removed in accordance with **Section 9.1024(C)(2)**.
 3. For Regulated Trees:
 - a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List.

- b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure.
- c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure.
- d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure.
- e. Type II tree removals shall meet the standards of **Section 9.1024 (E)**, and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading.
- f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1026(D)**. The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

F. Significant Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning less than 20 percent of the tree's foliage area or other horticultural methods may be removed immediately. The following standards apply:

- 1. Such trees shall be automatically removed from the City's Significant Tree list by the Manager.
- 2. If a Significant Tree receives major pruning or is removed, the property owner shall notify the Manager within two business days and an application shall be filed for a Type I tree removal permit. The applicant shall provide documentation of the emergency, such as a photograph, a report from a certified arborist, a signed statement from a public safety official (such as a police officer, fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. When documentation is provided by someone other than a City employee, photographic evidence of the emergency and written documentation of the imminent hazard is required:
- 3. If a Significant Tree receives major pruning or is removed, the Manager shall notify the relevant Council advisory committee(s) or subcommittee(s).

G. Except for trees removed in accordance with imminent hazard provisions in **subsection (F)** above, no person may remove a Significant Tree without obtaining a development permit through a Type II procedure. The application shall meet at least one of the following criteria:

- 1. The tree needs to be removed to construct proposed improvements and no practical alternative exists without significantly increasing cost or inconvenience, or reducing safety.
- 2. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance.

3. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

9.1027 Tree Replacement Post Development

- A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in Section 9.1013:
 1. For buffer trees and landscape/site trees, one tree shall be planted for each tree removed in accordance with the originally approved landscape or buffer plan or consistent with those plans and the current Code as approved by the Manager.
 2. For street trees, one tree shall be planted for each tree removed in accordance with the street tree master plan or the spacing requirements in Section 9.1023. If replanting is not feasible because of site constraints, as determined by the Manager, no replanting is required.
- B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

9.1030 Standards for Other Uses (Not Including Single-Family Detached Dwellings, Duplexes, Single-Family Attached Dwellings) and Parking Lots

This section provides rules for tree protection, removal and replacement that apply to parking lots, all land divisions and uses other than those listed in Section 9.1020, including but not limited to:

- Attached dwellings on a single lot
- Elderly housing and residential facilities
- Manufactured dwelling parks
- Commercial uses
- Industrial uses
- Institutional uses

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in Section 9.1031, tree removal provisions of Section 9.1036 and tree replacement provisions of Section 9.1037.

9.1031 Exemptions

- A. Removal of Regulated Trees for lots developed with or in a land use district designated for development of uses listed in 9.1030 are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:
 1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and
 2. The Regulated Trees are not in an overlay district; and
 3. The Regulated Trees are not designated as Significant Trees; and

4. The number of Regulated Trees removed shall not exceed the following thresholds per 12-month period from the time a permit is issued:

a. For commonly owned, contiguous parcels less than 35,000 square feet: up to three regulated trees; or

b. For commonly owned, contiguous parcels equal to or greater than 35,000 square feet: up to six regulated trees.

B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right of way and trees within designated City parks, trails and open space. Trees may be removed, or pruned in accordance with the pruning standards of **Subsection 9.1040 (A)**, when the tree removal or pruning is necessary to accomplish a public purpose, including the installation of public facilities and utilities in the right of way or general utility easement, habitat restoration activities, or for construction of a public street, public trail, public park or public urban plaza.

C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or general utility easement, if such pruning is necessary and in accordance with state law to avoid contact with the electric facilities.

During Development

9.1032 Tree Protection During Development

A. Regulated, Required and Significant Trees. An applicant for a development permit that involves construction, installation or alteration of building or other structures, including a home addition or accessory structure, that leads to construction equipment inside the protected area of Regulated, Required, or Significant Trees to remain on the site or:

- an increase in building area or impervious surface;
- a new driveway;
- drilling, dredging, paving, excavating or clearing; or
- other activities that involve construction

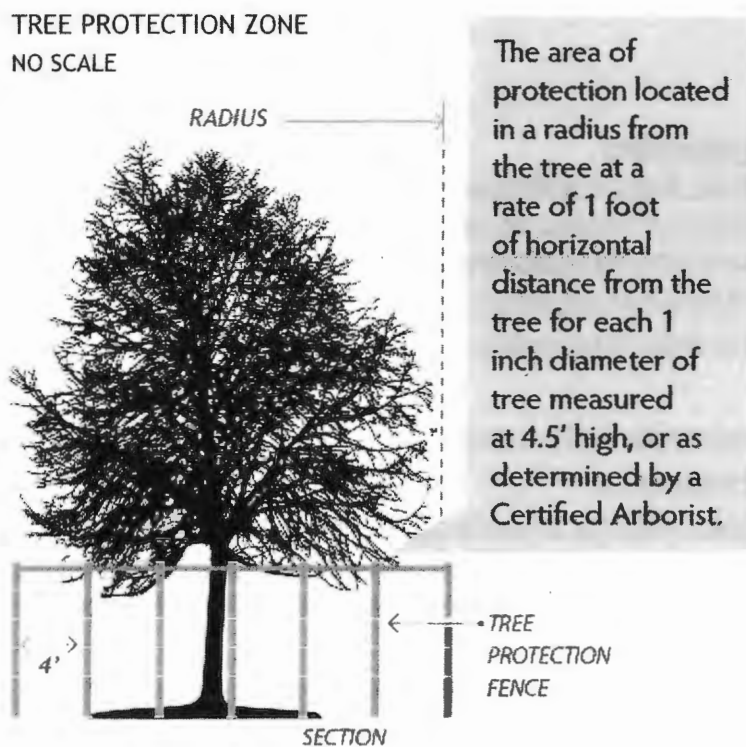
shall provide facts and evidence sufficient to enable the approval authority to make a determination in compliance with the criteria set forth in **Section 9.1032 (B) through (F)** including submittal requirements requested on relevant submittal checklists maintained by the Manager.

B. Regulated, Required and Significant Trees/Significant Grove to Remain. A Tree Protection Plan shall designate as protected all Regulated, Required and Significant Trees/Significant Grove that are to remain on the site after development is complete and other trees recommended for protection by the Certified Arborist preparing the plan, if a Certified Arborist is required below. The Tree Protection Plan demonstrating all proposed tree protection is required by all applicants but only required to be prepared by a Certified Arborist if activity (including but not limited to: construction equipment traffic/maneuvering, material storage, and grading) is proposed within the tree protection zone.

A tree protection zone shall be installed with protective fencing around all Regulated, Required, and Significant Trees/Significant Grove to remain on site and shall be located in a radius from the tree at a rate of 1 foot of horizontal distance from the tree for each 1 inch diameter of tree, or as determined by a Certified Arborist. For a Significant Grove, the perimeter of the grove shall be where the area of protection is located with the radius measured from each tree located along the perimeter of the grove.

C. Significant Trees/Significant Grove. When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s)/Significant Grove abutting the site shall be preserved and protected, as specified in subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s)/Significant Grove on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a certified arborist determines that that tree can be protected adequately with less distance, or as determined by a Certified Arborist.

Figure 9.1032 Illustration of a Tree Protection Zone.



D. No trees designated for protection or conservation shall be removed without prior written approval from the Manager.

E. Tree protection measures can be recommended by a Certified Arborist or, shall as a minimum, include the following protective measures:

1. Prior to any grubbing, clearing, grading, parking, preparation or storage of materials or machinery, or other construction activity on the site, all trees to be protected on the project site and adjacent to the site shall be clearly identified and temporary fencing shall be installed at the perimeter of the Tree Protection Zone. Protective fencing shall be of a material that cannot easily be moved, removed, or broken during construction activities. Chain link fencing a minimum of 4 feet in height is preferred. An alternative Tree Protection Zone fencing material secured by metal posts staked at no more than 4 feet on center around the Tree Protection Zone, as illustrated in **Figure 9.1032**, of the tree or grove may be used with the approval of the Manager.
2. No soil compaction or removal of vegetation or tree branches within the Tree Protection Zone shall be allowed during construction, except as outlined by a Certified Arborist in a submitted Tree Protection Plan.
3. No machinery repair or cleaning shall be performed within 10 feet of the Tree Protection Zone of any trees identified for protection.
4. Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited.
5. The City may require that a Certified Arborist be present during any construction or grading activities that may affect trees within the tree protection zone.

F. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.

9.1033 Street Tree Planting During Development

- A. A street tree plan shall be submitted for approval with a tentative partition, subdivision plan, Planned Development or design review. The street tree plan shall show tree spacing, number of trees and their location and meet all required characteristics noted in the submittal requirements on relevant submittal checklists maintained by the Manager.
- B. Street trees of a minimum 1.75-inch caliper are required when a land use or building permit requires street trees. Street trees within a clear vision area shall be a minimum of 2-inch caliper and a minimum of 6 feet tree head height at time of planting.
- C. The number and spacing of required street trees shall meet the following standards:
 1. Number: On all street classifications, one tree shall be required for every 30 feet of frontage minus the clear vision area and driveways.
 2. Spacing: Trees shall be placed a minimum of 20 feet and a maximum of 40 feet apart. The spacing requirement may be modified by the Manager.
- D. Street trees shall be located at least 15 feet from street lights, 15 feet from stormwater catch basins, and 5 feet from driveway cuts or underground public utilities.
- E. No street trees shall be planted in the right-of-way within 12 feet of the nearside of the crosswalk on the vehicular approach side of the street at street intersections.

- F. Street trees shall be selected from the City’s Approved Tree List or other varieties as approved by the Manager.
- G. For new development, if site constraints make it infeasible to plant all required street trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required street tree not planted. For applications related to non-conforming development, as determined by the Manager, a contribution shall be made for each required street tree not planted, but the contribution shall be limited by the 10 percent cost limitation found in **Section 8.0202 Design Review Standards**. The fee contribution shall be established by Council resolution.
- H. The intent of the Code is that required Street Trees are planted when feasible. If site constraints make it infeasible to plant all required Street Trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required Street Tree not planted. The fee contribution shall be established by Council resolution. A tree fund contribution shall be approved by the Manager only when:
1. One of the following conflicts exists that makes planting infeasible:
 - a. One or more of the standards in **Section 9.1033(D) and (E)** make it infeasible to plant a tree because insufficient room remains; or
 - b. The development does not include planter strips that are at least 3 feet wide to accommodate the required street trees; or
 - c. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or
 - d. Other similar site constraints make it physically infeasible to plant the Street Tree(s), as determined by the Manager; and
 2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering the sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

9.1034 Tree Removal During Development

- A. All tree removal that would result in clear cutting on slopes in excess of 15 percent in the Hillside Physical Constraint Overlay District is prohibited.
- B. Removal of Required and Significant Trees, except for trees in the Special Purpose Overlay District, shall meet the following standards:
1. Buffer trees, parking lot trees, landscape/site and street trees may be removed during construction in accordance with an approved land use permit but shall be replaced in accordance with **Section 9.1035**.
 2. Perimeter Trees may be removed during construction in accordance with an approved land use permit. If no land use permit has been acquired, Perimeter Tree removal shall be reviewed under a Type I procedure. Applicants shall meet the removal standards in **Section**

9.1034(D)(6) and (7). Perimeter trees removed as a result of land division shall be replaced in accordance with Section 9.1035.

3. Significant Trees shall be preserved unless the Manager determines under a Type II procedure that the tree may be removed by meeting at least one of the following criteria:

- a. The tree needs to be removed to construct proposed improvements (including but not limited to the buildings; access for construction equipment; essential grade changes needed to implement standards common to standard engineering or architectural practices; space for driveways or other improvements; solar energy equipment; and no practical alternative exists without increasing the cost by more than 5 percent or reducing construction or development safety; or
- b. The tree needs to be removed consistent with good urban forestry practices or cannot be maintained because of its health and has become a hazard to public safety, to the subject property or adjacent property, to personal property or to any improvements as stated in a Certified Arborist report; or
- c. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance; or
- d. The tree needs to be removed due to a disease as stated in a certified arborist report and to accomplish a public purpose and no practical alternative exists.

C. Regulated Trees to be removed, which includes topping, during construction in excess of the thresholds in Section 9.1031(A), except for trees in the Special Purpose Overlay Districts, shall be reviewed under a Type II procedure.

D. All Type II tree removal permits shall adhere to the following retention criteria:

1. Trees shall be retained along Water Quality Resource Areas (as described in Section 5.0417) and within Habitat Conservation Area Class 1 riparian areas as described in Table 5.0414(A) according to disturbance limits described within Section 5.0400. A mitigation plan, prepared by a qualified natural resource specialist such as a botanist, ecologist, geomorphologist or professional wetland scientist, shall accompany any tree removal or grading plan proposed along a Water Quality Resource Areas (as described in Section 5.0417).
2. Conifers shall be retained in sufficiently large areas and in dense stands to ensure against wind throw; and
3. The Manager may require a proposed structure to be relocated to retain trees if the relocation can be accomplished within the required setbacks and without increasing costs to the proposed development by more than 2 percent of the total improvement value, excluding land cost.
4. Any required mitigation shall be guaranteed prior to issuance of a grading permit for any portion of the site.
5. The Manager may require a mitigation plan or wind throw assessment to be provided by a Certified Arborist or a registered landscape architect.
6. Health reasons to remove a Required Tree include:
 - a. The tree shows an advanced state of decline with insufficient live foliage, branches, roots or other tissue to sustain life.
 - b. The tree is infested with pests or disease that left untreated can lead to death.

c. The tree has sustained physical damage that will cause the tree to die or enter an advanced state of decline.

7. Non-Health reasons to remove a Required Tree include:

a. The tree blocks vision for motorists.

b. The tree causes sidewalk upheaval.

c. There is a crime prevention concern associated with the Required Tree that cannot be ameliorated with proper pruning techniques.

d. The tree interferes with right-of-way objects, such as driveways and light poles.

e. The tree presents a potential hazard for property or people.

f. Other reason as approved by the Manager.

E. When the tree removal proposed is clear cutting, such clear cutting shall be allowed only when development occurs concurrently under the following conditions:

1. Shall be reviewed under a design review tree removal permit or with the issuance of a building permit when the use does not require the design review process.

2. Clear cutting shall not begin until after the applicant has obtained all development permits including the issuance of any building permits, and/or any other applicable permits necessary to ensure completion of the proposed development, and after the applicant has filed with the City a financial guarantee for landscape mitigation based on an approved plan: and

a. Erosion control measures as required under Section 9.0514 and the Building Code shall be implemented on the site prior to the commencement of any clear cutting; and

b. Landscaping shall be required and reviewed during the design review process to mitigate the loss of existing vegetation that provides erosion control and tree canopy.

F. When the tree removal proposed is clear cutting for Industrial uses when development does not occur concurrently, such clear cutting shall only be allowed under the following conditions:

1. Shall be reviewed under a Type II Development Permit for tree removal and if needed, a grading permit. When the tree removal does not include grading, such as in the case of cutting trees to stumps but not removing them, then a grading permit is not required.

2. Clear cutting shall not begin until after the applicant has:

a. Filed with the City a financial guarantee for landscape mitigation based on an approved plan: and

b. Landscaping shall be required and reviewed during the Type II procedure to to mitigate the loss of existing vegetation that provides erosion control and tree canopy; and

c. Erosion control measures as required under Section 9.0514 and the Building Code shall be implemented on the site prior to the commencement of any clear cutting; and

d. Erosion control measures, such as spraying the site with hydroseed, will be required after the trees are removed.

G. Tree removal in a Special Purpose Overlay District shall meet the applicable removal standards of Section 9.1000. All replacement requirements shall comply with applicable provisions of the Special Purpose Overlay Districts:

1. Street trees, parking lot trees, buffer trees, perimeter trees and landscape trees may be removed in accordance with **Subsection 9.1034(B)** and shall be replaced when applicable in accordance with **Section 9.1035**.
2. Significant Trees may be removed in accordance with **Subsection 9.1034(B)(3)**.
3. For Regulated Trees:
 - a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List.
 - b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure.
 - c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure.
 - d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure.
 - e. Type II tree removals shall meet the standards of **Section 9.1034 (D)**, and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading.
 - f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1026(D)**. The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

9.1035 Tree Replacement During Development

- A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in **Section 9.1013**:
 1. For trees less than 24 inches in diameter:
 - a. Buffer trees, parking lot trees and landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/ buffer plan approved for the new development as determined by the Manager.
 - b. For Perimeter Trees, each tree removed shall be replaced by one replacement tree.
 - c. Street trees shall be replaced in accordance with a street tree plan or the spacing requirements in **Section 9.1033**.

2. For trees 24 inches in diameter or larger:
 - a. Buffer trees and parking lot trees shall be replaced at the rate of 1 caliper inch per 4 inches of tree removed, although in no case shall that calculation result in fewer than one replacement tree for each tree removed.
 - b. Landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager.
 - c. For Perimeter Trees, each tree removed shall be replaced at the rate of 1 caliper inch per 4 inches of tree removed, although in no case shall that calculation result in fewer than one replacement tree for each tree removed.
 - d. Street trees shall be replaced in accordance with a street tree plan or the spacing requirements in **Section 9.1033**.
- B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.
- C. The intent of the Code is that Required Trees are planted when feasible. If site constraints make it infeasible to plant all required trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of tree planting. A contribution shall be made for each required tree not planted. The fee contribution shall be set by Council resolution. Tree fund contributions related to standards in **Section 9.1035** shall be approved by the Manager only when:
 1. One of the following conflicts exists that makes the planting infeasible:
 - a. Infrastructure (such as but not limited to water lines, sewer lines, catch basins, and light poles) conflicts make it infeasible to plant a tree because insufficient room remains; or
 - b. For Street Trees, the development does not include planter strips that are at least 3 feet wide to accommodate required street trees; or
 - c. Planting all the Required Trees would create tree crowding that would affect tree health or interfere with the use of the property in a way that cannot be not be avoided by pruning or other accepted arboricultural practices; or
 - d. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or
 - e. Other similar site constraints make it physically infeasible to plant the required trees, as determined by the Manager; and
 2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering a sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

Post Development

9.1036 Tree Removal Post Development

- A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.
- B. Removal of the following Required Trees shall follow a Type I procedure and meet the following standards:
1. Street trees may be removed in accordance with the health and non-health related reasons in Section 9.1034 (D)(6) and (D)(7) and shall be replaced in accordance with Section 9.1037. Replacement is required if the planter strip is at least 3 feet wide and tree planting is feasible given the tree spacing and locational standards of Section 9.1033. If the planter strip is less than 3 feet or planting is not feasible, no replacement is required.
 2. Parking lot trees may be removed in accordance with the health and non-health related reasons in Section 9.1034 (D)(6) and (D)(7) and shall be replaced in accordance with Section 9.1037.
 3. Buffer trees may be removed in accordance with the health and non-health related reasons in Section 9.1034 (D)(6) and (D)(7) and shall be replaced in accordance with Section 9.1037.
 4. Landscape trees may be removed in accordance with the health and non-health related reasons in Section 9.1034 (D)(6) and (D)(7) and shall be replaced in accordance with Section 9.1037.
- C. Removal of Regulated Trees, which includes topping, that exceed the thresholds in Section 9.1031 shall be reviewed under a Type II procedure.
- D. Removal of Required or Regulated Trees that meet the definition of Imminent Hazard Tree or Hazard Tree, and which cannot be retained as a Habitat Tree due to proximity of a target, such as a person or property, that cannot be moved or altered, shall meet the following standards:
1. Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning or other horticultural methods may be removed immediately. Within 10 business days after the tree is removed, an application shall be filed for a Type I tree removal permit that is accompanied by documentation of the imminent hazard, such as a photograph, a report from a Certified Arborist, a signed statement from a public safety official (such as a police or fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. An Imminent Hazard Tree removed shall not count toward the number of trees removed in a 12-month period used to determine if tree removals are exempt from a development permit in Section 9.1031.
 2. Removal of Regulated or Required Trees that are hazardous but do not present an imminent hazard to the safety of people or protection of property shall be reviewed under a Type I procedure, except for Significant Trees and trees in overlay districts, the removal of which shall be reviewed under a Type II procedure, as required by Section 9.1036(E).
- E. Tree removal in a Special Purpose Overlay District shall meet the applicable removal standards of Section 9.1000. All replacement requirements shall comply with applicable provisions of the Special Purpose Overlay Districts:

1. Street trees, buffer trees, parking lot trees and landscape trees may be removed in accordance with **Section 9.1036(B)** but shall be replaced when applicable in accordance with **Section 9.1037**
2. Significant Trees may be removed in accordance with **Subsection 9.1034(B)(3)**.
3. For Regulated Trees:
 - a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List.
 - b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure.
 - c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure.
 - d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure.
 - e. Type II tree removals shall meet the standards of **Section 9.1034 (D)**, and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading.
 - f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1036(D)**. The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.
- F. Significant Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning less than 20 percent of the tree's foliage area or other horticultural methods may be removed immediately. The following standards apply:
 1. Such trees shall be automatically removed from the City's Significant Tree list by the Manager.
 2. If a Significant Tree receives major pruning or is removed, the property owner shall notify the Manager within two business days and an application shall be filed for a Type I tree removal permit. The applicant shall provide documentation of the emergency, such as a photograph, a report from a certified arborist, a signed statement from a public safety official (such as a police officer, fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. When documentation is provided by someone other than a City employee, photographic evidence of the emergency and written documentation of the imminent hazard is required:

3. If a Significant Tree receives major pruning or is removed, the Manager shall notify the relevant Council advisory committee(s) or subcommittee(s).

H. Except for trees removed during development or in accordance with imminent hazard provisions in subsection (F) above, no person may remove a Significant Tree without obtaining a development permit through a Type II procedure. The application shall meet at least one of the following criteria:

1. The tree needs to be removed to construct proposed improvements and no practical alternative exists without significantly increasing cost or inconvenience, or reducing safety.

2. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance.

3. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

9.1037 Tree Replacement Post Development

A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in Section 9.1013.

1. For trees less than 24 inches in diameter:

a. Buffer trees, parking lot trees and landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager.

b. Street trees shall be replaced in accordance with a street tree master plan or the spacing requirements in Section 9.1033.

2. For 24 inches in diameter or larger:

a. Buffer trees and parking lot trees shall be replaced at the rate of 1 caliper inch per 4 inches of tree removed, although in no case shall that calculation result in fewer than one tree.

b. Landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or as determined by the Manager.

c. Street trees shall be replaced in accordance with a street tree master plan or the spacing requirements in Section 9.1033.

B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

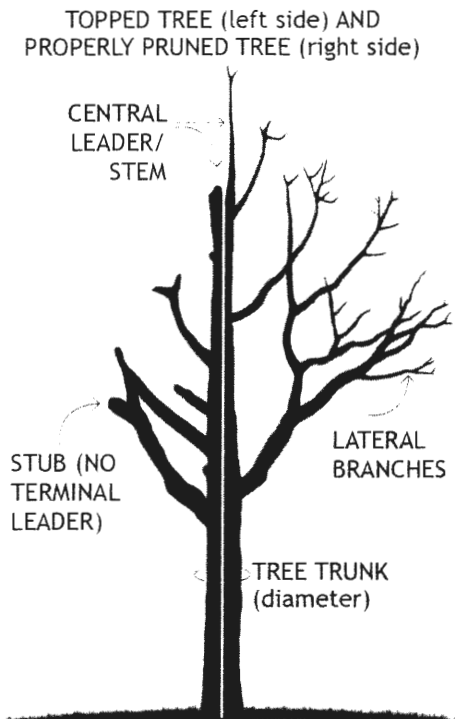
C. The intent of the Code is that Required Trees are planted when feasible. If site constraints make it infeasible to plant all required trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required street tree not planted. The fee contribution shall be set by Council resolution. Tree fund contributions related to standards in Section 9.1037 shall be approved by the Manager only when:

1. One of the following conflicts exists that makes planting infeasible:
 - a. Infrastructure (such as but not limited to water lines, sewer lines, catch basins, and light poles) conflicts make it infeasible to plant a tree because insufficient room remains; or
 - b. For Street Trees, the development does not include planter strips that are at least 3 feet wide to accommodate required street trees; or
 - c. Planting all the Required Trees would create tree crowding that would affect tree health or interfere with the use of the property in a way that cannot be not be avoided by pruning or other accepted arboricultural practices; or
 - d. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or
 - e. Other similar site constraints make it physically infeasible to plant the required trees, as determined by the Manager; and
2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering a sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

9.1040 Pruning of Required and Significant Trees

- A. Street trees shall be pruned in accordance with the most recent ANSI (American National Standards Institute) A300-1995 standards or other more recent standard arboricultural practices approved by the City. Major pruning (as identified in **Article 3**) of any street tree within the public right-of-way may be required by the Manager to be performed by a Certified Arborist.
- B. Significant Trees may not be pruned more than 20% of their limb structure, nor may the root system be disturbed by more than 10% in any 12-month period without a development permit. All pruning of a Significant Tree shall be performed by a Certified Arborist in accordance with ANSI (American National Standards Institute) A300-1995 standards or other more recent standard arboricultural practices approved by the City.
- C. Tree Topping, as defined in **Article 3**, of Required Trees must be replaced through the applicable Type I Permit.

Diagram 3: Tree Topping Diagram



9.1050 Significant Trees

9.1051 Purpose

The City has developed standards and procedures to protect trees that have been determined to be of significant value to the community because of their exceptional beauty, distinctive size or shape, association with an historic person or event, or a functional aesthetic relationship to a visual or natural resource.

The following provisions are intended to help protect the natural beauty of the City for future generations and to enhance the long-term value of those trees that meet the criteria for inclusion in the Significant Tree Inventory. Significant Tree protection rules are located in Sections 9.1022 and 9.1032. Significant Tree removal rules are located in Sections 9.1024, 9.1026, 9.1034, and 9.1036. Significant Tree pruning rules are in Section 9.1040

9.1052 Procedures for Designating, Maintaining, and De-Listing of Significant Trees and Groves

- A. The City has developed a list of Significant Trees, which may be updated on a periodic basis.
- B. The Significant Tree designation may be applied to a tree or a grove of trees and may be nominated by any person, agency, or group, with property owner's consent.
- C. The Significant Tree list shall be reviewed by the Urban Forestry Subcommittee to consider modifications. The review shall address any potential new candidates and may include a consideration criterion for inclusion on the list.

D. The Urban Forestry Subcommittee shall complete the following steps as part of the review and update:

1. Solicit Significant Tree nominations.
2. Make a physical evaluation of each potential new nominee.
3. Develop findings that evaluate the new candidates for conformance with the criteria found in Section 9.1053.
4. Solicit written consent from affected property owners for the proposed final recommendations.
5. Develop a list of recommended Significant Trees, to include any potential new candidates. The recommended list may also address the potential de-listing of any Significant Trees that no longer meet standards for inclusion on the list (see also emergency removal provisions below).
6. The Committee's recommendations shall be submitted to the Manager for review and approval pursuant to the Type II procedures.
7. In the event that a property owner wishes to remove a tree from the Significant Tree List at any time other than during the Urban Forestry Subcommittee review and update, the property owner shall be subject to a Type II procedure unless one of the following occurs:
 - a. A majority of the Urban Forestry Subcommittee determines that the tree can be removed with the written withdrawal of the owner consent, in which case the tree will automatically be de-listed.
 - b. A majority of the Urban Forestry Subcommittee determines that the tree has become a hazard in need of immediate removal, in which case the tree will automatically be de-listed; or
 - c. The tree meets the criteria for immediate removal as an imminent hazard under the provisions of Section 9.1026 or 9.1036.
8. To ensure that trees are qualified to remain on the list once designated, the Urban Forestry Subcommittee shall make a partial physical inventory and review of all trees with each Tree and Grove to receive an on-site visit and analysis at least every four years.

9.1053 Criteria for Designation of Significant Trees

A. An individual tree may be considered Significant if it is apparently in a healthy growing condition and one of the following exist:

1. The tree has a distinctive size, shape, or location, or is of a distinctive species or age which warrants a Significant status; or
2. The tree possesses exceptional beauty which warrants a Significant status; or
3. The tree is Significant due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or trees located along ridgelines; or
4. The tree has a documented association with a historical figure, property, or significant historic event.

B. A grove may be considered Significant if it is apparently in a healthy growing condition and one of the following exist:

1. The grove is relatively mature and evenly aged and has a purity of species composition or is of a rare or unusual nature; or
2. The grove has a crucial functional and/or aesthetic relationship to a natural resource; or

3. The grove has a documented association with a historic figure, property, or significant historic event.

C. In addition to **subsections (A) and (B)** above, the designation of the tree or grove of trees as Significant will not unreasonably interfere with the use of the property upon which it is located.

9.1054 Significant Tree Education and Promotion

The Council may establish public information and education programs to encourage the protection of trees. At a minimum, the City shall review its inventory of Significant Trees and notify property owners at four-year intervals by first class mail of the existence of a Significant Tree or Trees on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.

Although not mandatory, owners of Significant Trees or Groves are encouraged to file a document with Multnomah County Deed Records that identifies the presence of the Significant Tree or Trees on their property.

The City's updated list of Significant Trees and Groves shall be maintained on-line and shall also be available to the public in printed form.

9.1060 Civil Penalties

A. A violation shall have occurred when any requirement or provision of **Section 9.1000** has not been complied with. Violation of any provision of **Section 9.1000** may be subject to enforcement action by the manager, and may be enforced pursuant to **Gresham Revised Code Article 7.50**.

B. Each day a violation continues to exist shall constitute a separate violation for which a separate civil penalty may be assessed. The provisions of **Gresham Revised Code 7.50.730** through **Gresham Revised Code 7.50.760** shall apply to the imposition of civil penalties under **Section 9.1000**.

C. In addition to any other penalty provided by law and the remedies established in **Article 2** of the **Gresham Community Development Code** and **Gresham Revised Code Article 7.15**, any person determined to be responsible for violation of any of the provisions of **Section 9.1000** may be required to correct the violation.

D. The manager may enter any property in accordance with **Gresham Revised Code 7.50.500** through **Gresham Revised Code 7.50.520**, to perform an inspection in order to ensure compliance with any provision of **Section 9.1000**.

Section 13. Volume 3, Section 11.0204 is amended as follows:

SECTION 11 PROCEDURES

**Table 11.0204
Land Use Applications and Review Authorities**

Commentary: *Table 11.0204 Land Use Applications and Review Authorities will need updating to:*

- 1) Replace A14.000 references with **Section 9.1000**.
- 2) Replace Type III with Type II procedure

.....

TREES (9.1000 & A14.000)										
Code Section	Application	Pre-App Required?	Type	Mgr	HO	UFS	HRS	DC	PC	CC
9.1010	Tree removal of:									
<u>9.1000</u>	Hazard Trees	N	I	D	A					
	Hazard Trees in Overlays and Significant Trees	N	II	D	A					
9.1010	Imminent Hazard Trees	N	I	D	A					
<u>9.1000</u>										
9.1010	Tree Removal <u>during development</u> for all uses									
9.1010	Removal of Regulated Trees in excess of the number exempt from a permit and Significant Trees	N	II	D	A					
<u>9.1000</u>										
9.1010	Removal of three or fewer Regulated Trees in certain overlay districts	N	I	D	A					
<u>9.1000</u>										
9.1010	Removal of other Regulated Trees in certain overlay districts	N	II	D	A					
<u>9.1000</u>										
9.1010	Tree Removal <u>post development</u> for all uses and land designated for those uses									
9.1010	Tree Removal of Regulated Trees in excess of the number exempt from a permit and Significant Trees	N	II	D	A					
<u>9.1000</u>										
9.1010	Removal of Required Trees; and three or fewer non-native or invasive Regulated Trees in certain overlay districts	N	I	D	A					
<u>9.1000</u>										
9.1010	Removal of other Regulated Trees in certain overlay districts	N	II	D	A					
<u>9.1000</u>										

A14.000 <u>9.1000</u>	Significant Tree Designation	N	III <u>II</u>	D <u>A</u>	R				A
A14.000 <u>9.1000</u>	Significant Tree Designation Removal	N	III <u>II</u>	D <u>A</u>	R				A

Section 14. Volume 3, Appendix 5.000, Section A5.511 is amended as follows:

**APPENDIX 5.000
PUBLIC FACILITIES**

A5.511 Street Trees

Street trees located within public rights-of-way shall comply with standards provided in ~~Section 9.1020~~ 9.1023.

Section 15. Volume 3, Appendix 14 is repealed as follows:

~~**APPENDIX 14.000
SIGNIFICANT TREES**~~

General

A14.001 Purpose

Procedures

A14.002 ~~Procedures for Designating, Maintaining, and De-Listing of Significant Trees and Groves~~

Standards

A14.003 ~~Criteria for Designation of Significant Trees~~

A14.004 ~~Criteria for Removal of a Significant Tree~~

A14.005 ~~Pruning of a Significant Tree~~

A14.006 ~~Emergency Cutting or Removal of a Significant Tree~~

Education and Promotion

A14.007 ~~Education and Promotion~~

General

A14.001 Purpose

The City has developed standards and procedures to protect trees that have been determined to be of significant value to the community because of their exceptional beauty, distinctive size or shape, association with an historic person or event, or a functional aesthetic relationship to a visual or natural resource.

The following provisions are intended to help protect the natural beauty of the City for future generations and to enhance the long-term value of those trees that meet the criteria for inclusion in the Significant Tree Inventory.

Procedures

A14.002 Procedures for Designating, Maintaining, and De-Listing of Significant Trees and Groves

- A. The City has developed a list of Significant Trees, which shall be updated by the Hearings Officer on at least an annual basis.
- B. The Significant Tree designation may be applied to a tree or a grove of trees and may be nominated by any person, agency, or group, with property owner's consent.
- C. The Significant Tree list shall be reviewed by the Tree Preservation Committee at least annually to consider modifications. The annual review shall address any potential new candidates and may include a consideration criterion for inclusion on the list.
- D. The Tree Preservation Committee shall complete the following steps as part of the annual review and update:
 1. Solicit Significant Tree nominations.
 2. Make a physical evaluation of each potential new nominee.
 3. Develop findings that evaluate the new candidates for conformance with the criteria found in **Section A14.003**.
 4. Solicit written consent from affected property owners for the proposed final recommendations.
 5. Develop a list of recommended Significant Trees, to include any potential new candidates. The recommended list may also address the potential de-listing of any Significant Trees that no longer meet standards for inclusion on the list (see also emergency removal provisions below).
 6. The Committee's recommendations shall be submitted to the Hearings Officer for review and approval pursuant to the Type III procedures.
 7. In the event that a property owner wishes to remove a tree from the Significant Tree List at any time other than during the annual review, the property owner shall be subject to a Type III procedure unless one of the following occurs:
 - a. A majority of the Tree Preservation Committee determines that the tree has become a hazard in need of immediate removal, in which case the tree will automatically be de-

listed at the next Significant Tree update; or

- b. The tree meets the criteria for immediate removal as an imminent hazard under the provisions of **Section A14.006**.
8. To ensure that trees are qualified to remain on the list once designated, the Tree Preservation Committee shall make a partial physical inventory and review of all trees on an annual basis, with each Tree and Grove to receive an on-site visit and analysis at least every four years.

Standards

A14.003 Criteria for Designation of Significant Trees

- A. An individual tree may be considered Significant if it is apparently in a healthy growing condition and one of the following exist:
 1. The tree has a distinctive size, shape, or location, or is of a distinctive species or age which warrants a Significant status; or
 2. The tree possesses exceptional beauty which warrants a Significant status; or
 3. The tree is Significant due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or trees located along ridgelines; or
 4. The tree has a documented association with a historical figure, property, or significant historic event.
- B. A grove may be considered Significant if it is apparently in a healthy growing condition and one of the following exist:
 1. The grove is relatively mature and evenly aged and has a purity of species composition or is of a rare or unusual nature; or
 2. The grove has a crucial functional and/or aesthetic relationship to a natural resource; or
 3. The grove has a documented association with a historic figure, property, or significant historic event.
- C. In addition to **subsections (A) and (B)** above, the designation of the tree or grove of trees as Significant will not unreasonably interfere with the use of the property upon which it is located.

A14.004 Criteria for Removal of a Significant Tree

- A. Except for emergency removal under **Section A14.006** or in conjunction with development as provided by **Section 9.1013**, no person may cut down or remove a Significant Tree without first obtaining a development permit. The development permit for removal of a Significant Tree shall be reviewed under the Type III procedure and shall be approved if one of the following criteria is satisfied:
 1. The tree needs to be removed to construct proposed improvements and no practical alternative exists without significantly increasing cost or inconvenience, or reducing safety.
 2. The tree cannot be maintained because of its health and has become a hazard to public safety, to the subject property or adjacent property, to personal property, and to any improvements.
 3. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance.

4. ~~The tree needs to be removed to accomplish a public purpose and no practical alternative exists.~~
- B.** ~~When a development is proposed for property that contains a Significant Tree or Trees, the property owner shall have a Tree Preservation Plan prepared by a Qualified Arborist which demonstrates how the Significant Tree or Trees can be preserved. The Significant Tree or Trees shall be preserved unless it is determined under the Type III procedure that the tree may be removed based on the criteria for removal found in Section A14.004(A) and one or more of the following additional criteria:~~
1. ~~The tree needs to be removed to be consistent with good forestry practices.~~
 2. ~~The tree needs to be removed to provide access for construction equipment immediately around a proposed structure.~~
 3. ~~The tree needs to be removed to provide access to the building site for construction equipment.~~
 4. ~~The tree needs to be removed because of an essential grade change. Essential grade changes are those that are needed to implement standards common to standard engineering or architectural practice.~~
 5. ~~The tree needs to be removed because driveways, buildings, or other permanent improvements will be located where the trees are located and there is no practical alternative without increasing the cost of development by more than 5%.~~
 6. ~~The tree needs to be removed in order to install solar energy equipment.~~
 7. ~~The tree needs to be removed so that other provisions of the Gresham Community Development Plan or the Gresham Revised Code can be satisfied.~~
 8. ~~The tree cannot be maintained because of its health and has become a hazard to public safety, to the subject property or adjacent property, to personal property, and to any improvements.~~
 9. ~~The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance.~~
 10. ~~The tree needs to be removed to accomplish a public purpose and no practical alternative exists.~~

A14.005 Pruning of a Significant Tree

- A.** ~~In any 12 month period, no Significant Tree may be pruned by removing over 20 percent of the tree's limb structure or disturbing over 10 percent of the root system without first obtaining a development permit. The development permit application shall be reviewed under the Type II procedures.~~
- B.** ~~Major or Minor Pruning of up to 20 percent of the tree's limb structure shall not require a Type II development permit, but may be subject to review and recommendations of the Tree Preservation Committee.~~
- C.** ~~All approvals for removal and pruning shall contain the following conditions:~~
1. ~~The protected tree shall be removed or pruned following acceptable arboricultural standards as adopted by the City.~~

2. ~~The trees shall be removed or pruned in a manner that ensures safety to individual and public and private property.~~
3. ~~Any other conditions necessary to ensure compliance with the requirements of the Community Development Code.~~

~~A14.006 Emergency Cutting or Removal of a Significant Tree~~

- A. ~~The entire Significant Tree List shall be reviewed periodically by the Tree Preservation Committee so that each tree (and/or grove) is physically inspected at least every four years to ensure that it still meets the criteria for inclusion on the Significant Tree List.
A tree that no longer meets the criteria shall be recommended for de-listing during the next annual Significant Tree List Update.~~
- B. ~~It is the property owner's responsibility to notify the City of any changes to a Significant Tree that might necessitate a non-routine review so that it may be de-listed during the annual review if it no longer meets the criteria for inclusion, as determined by the Tree Preservation Committee.~~
- C. ~~A Significant Tree may automatically be removed from the Significant Tree list (after pruning beyond 20% or being cut down without prior permit) if the tree presents a clear and present threat to persons or property that cannot be corrected through standard arboricultural practices. For example, the tree has fallen or is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree removal permit could be obtained through the non-emergency process.~~
 1. ~~In such an emergency circumstance, the property owner shall notify the Manager within 2 business days that the Significant Tree has been removed (or has received major pruning) under the emergency provisions of this section and shall provide the required documentation of the emergency.~~
 2. ~~Documentation of the emergency shall be by signature of the City of Gresham Police Chief, Fire Marshal, Public Works Director, or consulting arborist as defined in **Section 3.0100** called to the scene of the emergency.
When documentation is provided by an arborist not acting on behalf of the City, a photograph of the emergency and analysis of the imminent hazard is required. A property owner's failure to document the emergency would require a Type III public hearing, if in the determination of the Tree Preservation Committee, there was no emergency.~~
 3. ~~It will be the Manager's responsibility to notify the Tree Preservation Committee prior to the next regularly scheduled meeting so that the tree can be taken off the official Significant Tree List at the next routine inventory sent to the Hearings Officer.~~

Education and Promotion

~~A14.007 Education and Promotion~~

~~The Council may establish public information and education programs to encourage the protection of trees. At a minimum, the City shall review its inventory of Significant Trees and notify property owners at four-year intervals by first class mail of the existence of a Significant Tree or Trees on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.~~

Although not mandatory, owners of Significant Trees or Groves are encouraged to file a document with Multnomah County Deed Records that identifies the presence of the Significant Tree or Trees on their property.

The City's updated annual list of Significant Trees and Groves shall be maintained on line and shall also be available to the public in printed form.

First reading: April 7, 2015

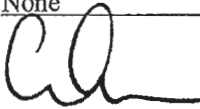
Second reading and passed: May 5, 2015

Yes: Bemis, French, Echols, Hinton, Palmero, McCormick, Stegmann

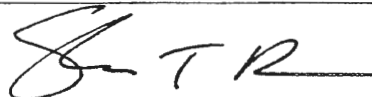
No: None

Absent: None

Abstain: None

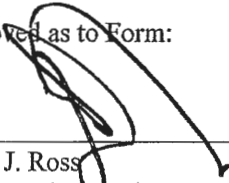


Erik Kvarsten
City Manager



Shane T. Bemis
Mayor

Approved as to Form:



David J. Ross
Senior Assistant City Attorney

BEFORE THE PLANNING COMMISSION OF THE
CITY OF GRESHAM

TYPE IV RECOMMENDATION ORDER

CPA 14-346

A Type IV Legislative Public Hearing was open on January 26, 2015, to consider proposed amendments to the Volume 3, Development Code, of the Gresham Community Development Plan regarding the **Tree Code** update.


The Planning Commission continued the public hearing to February 23, 2015, and made a final recommendation at the February 23, 2015 meeting.

Richard Anderson, Chair, presided at the hearing.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of this Type IV Recommendation Order.

The Planning Commission recommends **Adoption** of the proposed Development Code amendments regarding the Tree Code to the City Council based on the findings, conclusions and recommendations of the Staff Report, Addendum No. 1 and Addendum No. 2 to the staff report, with the following additional changes:

- Article 3 – Section 3.0100 Definitions: amend definition of Tree to read as follows: "A large perennial woody plant generally having a self-supporting stem, trunk, or multi-trunks and numerous branches. Hedges and arborvitae are not considered trees."
- Section 9.1022(B) and 9.1032(B) amend the last sentence to read: "For a Significant Grove, the perimeter of the grove shall be where the area of protection is located with the radius measured from each tree located along the perimeter of the grove, or as determined by a Certified Arborist."


Chair

2-23-2015
Date

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

ADDENDUM 01
TO THE STAFF REPORT
TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT
DEVELOPMENT CODE IMPROVEMENT PROJECT-6

TREE CODE UPDATE

To: Gresham Planning Commission

From: David Berniker, Urban Design & Planning Director
Tina Osterink, Natural Resources Planner

Hearing Date: Jan. 26, 2015

Report Date: Jan. 23, 2015

File: CPA 14-346

Since the staff report and Proposed Council Bill were distributed to the Planning Commission for its hearing on January 26, 2015, staff identified the need to make the following changes to Exhibit A – Draft Amendments to Volume 3, Gresham Community Development Plan.

Item #1

Section 1 of the Proposed Council Bill includes the following two definitions, one of which is proposed to be modified:

Arborist. A person possessing the education and technical competence through experience and related training to provide for or supervise the management of trees or other woody plants in a landscape setting.

Tree. A large woody plant generally having a self-supporting stem or trunk or multi-trunks and numerous branches.

Issue: Section 3.0100 provides tree-related terms that are used as a reference for implementation of tree rules found in the Development Code. The definition for Arborist and Tree includes the term “woody plant(s)”, which does not accurately define either definition and could lead to confusion during the code enforcement process. The definition of “Tree” lacks information that could help distinguish between trees and bushes/shrubs.

Findings: To ensure the tree-related definitions in Section 3.0100 are clear and objective, the reference to the term “woody plant(s)” will be omitted from the Arborist definition and will be clarified with additional code language for the definition of Tree. This will improve clarity for the public and staff when

implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying the terms Arborist and Tree in Section 3.0100 of the Development Code so they accurately reflect the intent of the tree code. This addendum proposes the following changes to the definitions, with strikethrough indicating deletions from the definition that would result from the Proposed Council Bill and double underline indicating additions to the definition that would result from the Proposed Council Bill:

Arborist. A person possessing the education and technical competence through experience and related training to provide for or supervise the management of trees ~~or other woody plants~~ in a landscape setting.

Tree. A large woody plant generally having a self-supporting stem ~~or~~, trunk or multi-trunks and numerous branches. Hedges and arborvitae are not considered trees.

Item #2

Section 12 of the Council Bill proposes modifying the rules for exemptions as they pertain to the tree code. The exemptions are found in the proposed code amendments in Section 9.1021 related to standards for single-family detached dwellings, duplexes and single-family attached dwellings and in Section 9.1031 related to standards for uses other than single-family detached dwellings, duplexes and single-family attached dwellings and parking lots.

Issue: Section 9.1021 and 9.1031 of the tree code amendments require the following modifications:

- (B) - the exemption provision in 9.1021 (B) and 9.1031 (B) should apply to maintenance of trees in City Parks, not just street trees. As shown below, the double underlined term "trees" will be added to the proposed amendment language.
- (B) – the exemption provision in 9.1021 (B) and 9.1031 (B) includes provisions regarding emergency communication systems. Exemption is not necessary because current Code procedures allow for pruning and tree removal. Leaving in that language would potentially cause confusion regarding those situations.
- (C) – the exemption provision in 9.1021 (C) and 9.1031 (C) uses the term "public utility easement" in a manner inconsistent with the rest of the Development Code, which could cause confusion. The appropriate Development Code term is "*general utility easement.*"

Findings: Section 9.1021 and 9.1031 apply modifications to current tree code exemption provisions. To ensure these exemptions accurately apply to the City of Gresham and electric utilities, modifications to 9.1021 and 9.1031 (B) and (C) in the Proposed Council Bill are proposed to address the issues described above. The changes make clear that permit requirement exemptions apply when the City of Gresham undertakes activities in the public right-of-way or in a city park. The changes also make clear when an electric utility needs to prune trees growing in the public right-of-way or general utility easement. This will improve clarity for the public and staff when implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying the exemption Sections 9.1021 and 9.1031 of the Development Code as shown below so they accurately reflect how the exemption provisions in the tree code apply. The changes are shown with strikethrough indicating deletions provisions that would result from the Proposed Council Bill and double underline indicating additions to the provisions that would result from the Proposed Council Bill.

9.1021 Exemptions

- B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks. Trees may be removed or pruned when the tree removal or pruning is necessary to accomplish a public purpose, including but not limited to ~~the pruning of trees that impede the microwave signals of an emergency communication system~~, the installation of public facilities and utilities in the right-of-way or public general utility easement, habitat restoration activities, or for construction of a public street, public trail, public park or public urban plaza.
- C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or public general utility easement, if such pruning is necessary to avoid contact with the electric facilities.

9.1031 Exemptions

- B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks. Trees may be removed or pruned when the tree removal or pruning is necessary to accomplish a public purpose, including but not limited to ~~the pruning of trees that impede the microwave signals of an emergency communication system~~, the installation of public facilities and utilities in the right-of-way or public general utility easement, habitat restoration activities, or for construction of a public street, public trail, public park or public urban plaza.
- C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or public general utility easement, if such pruning is necessary to avoid contact with the electric facilities.

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT DEVELOPMENT CODE IMPROVEMENT PROJECT-6

TREE CODE UPDATE

To: Gresham Planning Commission

From: David Berniker, Urban Design & Planning Director
Tina Osterink, Natural Resources Planner

Hearing Date: Feb. 23, 2015

Report Date: Feb. 13, 2015

File: CPA 14-346

Since the Planning Commission hearing on Jan. 26, 2015, staff modified Exhibit A – Draft Amendments to Volume 3, Gresham Community Development Plan to address suggestions made by the public and issues identified by staff. In Exhibit A, the new language added since Jan. 26 is shown in red so the public and Planning Commission can identify which provisions underwent changes. Changes include:

- All changes proposed in Addendum 01 presented by staff and reviewed by Planning Commission at the Jan. 26, 2015 hearing. These include changes to the definitions for the term Arborist and Tree; as well as text changes to the exemption language in 9.1021 and 9.1031.
- Section 3.0100 – Updated the following definitions for clarity and to better reflect how they are applied in the code.
 1. *Perimeter Tree*. Clarified that the rules for Perimeter Trees only apply when the trees are greater than 8-inches in diameter and during development of non-single family uses. These distinctions clarify how Perimeter Trees function differently than other trees in the Required Tree category.
 2. *Diameter Breast Height*. Added how to measure multi-trunk trees, which helps applicants determine a Tree Protection Zone for such tree types.
 3. *Tree Topping*. Better aligned the definition with the new topping Diagram 3 in Section 9.1040 by deleting vague and subjective terminology in the description. Added “or as determined by a Certified Arborist” to the 15 percent measurement standard to account for instances where an expert determines a scientifically supported different figure.
- Section 9.1011 – Since the Special Purpose Overlay District in the Gresham Development Code includes five overlays, language was added to clarify that all references in Section 9.1000 specifies the three that apply to this section. This will improve readability of the code.

- Section 9.1020 - Clarified the single-family uses that apply, but are not limited to Sections 9.1020 and added what rules apply to trees on vacant lots by adding the applicable Sections in 9.1000.
- Section 9.1021 – Added a cross reference to best practice pruning standards in Section 9.1040 of the tree code to ensure City maintenance work that is exempted under Subsection 9.1021(B) will result in outcomes using proper pruning practices. Similarly, pruning practices in accordance with state law was added for electric utilities that are exempted from pruning permit requirements.
- Section 9.1022 & 9.1032 - Clarified how a tree protection zone for a Significant Grove is determined. This will ensure Significant Groves are adequately protected. To clarify tree protection expectations, all references to “dripline” are replaced with the new term, “tree protection zone”. Clarified that a Certified Arborist can be used to determine the best protection methods yet provided minimum standards when arborist consultation is not required or used.
- Section 9.1024(A) & 9.1034 (A) – Clarified the intent of the rules for tree removal that is clear cutting on slopes greater than 15 percent, which is in the Hillside Physical Constraint District where the Development Code has the most restrictive provisions to protect slopes. Clear cutting provisions are still in place for other areas of the city.
- Section 9.1024(F) - Clarified how and when the rules apply when tree removal proposed is clear cutting when development occurs concurrently with the removal of trees in single-family areas.
- Section 9.1024(G) & 9.1034(G) - Clarified when review procedures for tree removal and replacement, of Required Trees and trees in the Special Purpose Overlay District, are used in various situations. The review procedure types were updated and further clarified in Table 11.0204 of Section 11 Procedures.
- Section 9.1026 & 9.1036 - Clarified language pertaining to tree removal for a) imminent hazard trees and hazard trees; b) trees in the overlay districts for various situations; and c) Significant Trees.
- Section 9.1030 - Clarified the non-single family uses that apply, but are not limited to Sections 9.1030 and added what rules apply to trees on vacant lots by adding the applicable Sections in 9.1000.
- Section 9.1033 – Added language related to site constraints for street trees and use of the tree fund for street trees planted during development, which applies to single family uses (9.1023) and non-single family uses (9.1033).
- Section 9.1034(F) - Clarified how and when the rules apply when tree removal proposed is clear cutting: a) when development occurs concurrently with the tree removal; and b) when development does not occur concurrently for industrial uses only.
- Section 9.1035 & 9.1037 – Consolidated constraint and tree fund use text to improve readability.
- Sections 9.1024, 9.1026, 9.1034, 9.1036, 9.1040 - Clarified that tree topping is considered tree removal and how it applies to Regulated and Required Trees.
- Section 9.1060 to better reflect a) how the code compliance process works; and b) the enforcement wording in the Gresham Revised Code.

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

ADDENDUM 02 TO THE STAFF REPORT TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT DEVELOPMENT CODE IMPROVEMENT PROJECT-6

TREE CODE UPDATE

To: Gresham Planning Commission

From: David Berniker, Urban Design & Planning Director
Tina Osterink, Natural Resources Planner

Hearing Date: Feb. 23, 2015

Report Date: Feb. 20, 2015

File: CPA 14-346

Since the staff report and Proposed Council Bill were distributed to the Planning Commission for its hearing on Feb. 23, 2015, staff identified the need to make the following changes to Exhibit A – Draft Amendments to Volume 3, Gresham Community Development Plan.

Item #1

Section 1 of the Proposed Council Bill includes the following definition, of which is proposed to be modified:

- **Perimeter Tree.** An existing tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, located within five 5 feet of either side of a property line. Does not include trees in a single-family area, in the public right-of-way- or within 5 feet of the public right of way.

Issue: Section 3.0100 provides tree-related terms that are used as a reference for implementation of tree rules found in the Development Code. The definition for Perimeter Tree includes the terminology “in a single-family area”, which is a vague reference and could lead to confusion during code interpretation and implementation.

Findings: To ensure the tree-related definitions in Section 3.0100 are clear and objective, the reference to the terminology “single-family area” will be omitted from the Perimeter Tree definition and will be clarified with additional code language for the definition of Perimeter Tree. This will improve clarity for the public and staff when interpreting and implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying the term Perimeter Tree in Section 3.0100 of the Development Code so it accurately reflects the intent of the tree code. This addendum proposes the following change to the definition, with a highlighted strikethrough indicating deletions from the definition that would result from the Proposed Council Bill and a highlighted double underline indicating additions to the definition that would result from the Proposed Council Bill:

- **Perimeter Tree.** An existing tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, located within ~~five~~ 5 feet of either side of a property line. Does not include trees ~~in a single-family area on developed single-family lots,~~ in the public right-of-way- or within 5 feet of the public right of way.

Item #2

Section 12 of the Council Bill proposes modifying the rules for Significant Tree(s)/Groves(s) as they pertain to tree and grove protection during development. The provisions are found in the proposed code amendments in Section 9.1022 and 9.1032.

Issue: Section 9.1022 (C) of the tree code amendments, as shown below, is missing language that is included in Section 9.1032. The modification could be corrected by specifically adding the term "Significant Grove(s)" to the existing term "Significant Tree(s)", as is noted in Subsection 9.1032 (C).

9.1022 Tree Protection During Development

C. Significant Tree(s). When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s) abutting the site shall be preserved and protected as specified in Subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a certified arborist determines that the tree can be protected adequately with less distance.

Findings: To ensure consistency with how the proposed amendments apply to Significant Grove(s), modifications to 9.1022 (C) in the Proposed Council Bill are proposed to address the issue described above. The change makes clear that tree protection rules during development related to standards for single-family detached dwellings, duplexes and single-family attached dwellings apply to Significant Grove(s) as well as Significant Tree(s). This will improve consistency with how the code is applied and clarity for the public and staff when implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying Sections 9.1022 of the Development Code as shown below so it accurately reflects how the provisions in the tree code apply. The changes are shown with a highlighted double underline indicating additions to the provisions that would result from the Proposed Council Bill.

9.1022 Tree Protection During Development

C. Significant Tree(s)/Significant Grove(s). When development is proposed for property that includes or abuts the dripline of a Significant Tree(s)/Significant Grove(s) on an abutting site, the Significant Tree(s)/Significant Grove(s) abutting the site shall be preserved and protected, as specified in subsection (B) during all development activities, including preliminary grubbing and

clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s)/Significant Grove(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a certified arborist determines that the tree can be protected adequately with less distance.

Item #3

Section 12 of the Council Bill proposes modifying the rules for land division as they pertain to the use categories that apply to Section 9.1030 and to the exemption provisions in Section 9.1031. The provisions are found in the proposed code amendments in Section 9.1030 and 9.1031.

Issue: Section 9.1030 and 9.1031 (A) of the tree code amendments, as shown below, inadvertently left out the term "all land divisions" in Section 9.0130 and incorrectly exempts "land division development" in Section 9.1031. The modification could be corrected by including the term "all land divisions" in the general category of uses found in Section 9.1030 and deleting the reference to "land division development" from Section 9.1031.

9.1030 Standards for Other Uses (Not Including Single-Family Detached Dwellings, Duplexes, Single-Family Attached Dwellings) and Parking Lots

This section provides rules for tree protection, removal and replacement that apply to parking lots and uses other than those listed in Section 9.1020, including but not limited to:

- Attached dwellings on a single lot
- Elderly housing and residential facilities
- Manufactured dwelling parks
- Commercial uses
- Industrial uses
- Institutional uses

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1031**, tree removal provisions of **Section 9.1036** and tree replacement provisions of **Section 9.1037**.

9.1031 Exemptions

A. Removal of Regulated Trees for lots developed with or in a land use district designated for development of uses listed in 9.1030 and land division development are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:

1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and
2. The Regulated Trees are not in an overlay district; and
3. The Regulated Trees are not designated as Significant Trees; and
4. The number of Regulated Trees removed shall not exceed the following thresholds per 12-month period from the time a permit is issued:

Findings: To ensure consistency with how the proposed amendments apply to land divisions, modifications to Section 9.1030 and 9.1031 in the Proposed Council Bill are proposed to address the issue described above. The change makes clear that uses in Section 9.1030 include all land divisions. This will improve consistency with how the code is applied and clarity for the public and staff when implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying Sections 9.1030 and 9.1031 of the Development Code as shown below so it accurately reflects how the provisions in the tree code apply. The changes are shown with a highlighted strikethrough indicating deleted provisions that would result from the Proposed Council Bill and highlighted double underline indicating additions to the provisions that would result from the Proposed Council Bill.

9.1030 Standards for Other Uses (Not Including Single-Family Detached Dwellings, Duplexes, Single-Family Attached Dwellings) and Parking Lots

This section provides rules for tree protection, removal and replacement that apply to parking lots, ~~all land divisions~~ and uses other than those listed in Section 9.1020, including but not limited to:

- Attached dwellings on a single lot
- Elderly housing and residential facilities
- Manufactured dwelling parks
- Commercial uses
- Industrial uses
- Institutional uses

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1031**, tree removal provisions of **Section 9.1036** and tree replacement provisions of **Section 9.1037**.

9.1031 Exemptions

A. ~~Removal of Regulated Trees for lots developed with or in a land use district designated for development of uses listed in 9.1030 and land division development~~ are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:

1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and
2. The Regulated Trees are not in an overlay district; and
3. The Regulated Trees are not designated as Significant Trees; and
4. The number of Regulated Trees removed shall not exceed the following thresholds per 12-month period from the time a permit is issued:

CERTIFICATION OF MAILING

FILE NO: CPA 14-346

PROJECT: Tree Code update

I, Tammy J. Richardson, CERTIFY THAT I HAVE MAILED THE ATTACHED NOTICE OF DECISION TO THE FOLLOWING PARTIES:

Carol Rulla
5162 SE 28th Dr.
Gresham OR 97080

Jim Buck
312 SE 15th St.
Gresham OR 97080

Shirley Craddick
4275 SE Augusta Loop
Gresham OR 97080

SIGNATURE: *Tammy J. Richardson*

DATE OF MAILING: May 8, 2015



CITY OF GRESHAM
URBAN DESIGN & PLANNING
1333 NW EASTMAN PKWY
GRESHAM OR 97030

NOTICE OF FINAL DECISION

May 8, 2015

On May 5, 2015, the Gresham City Council Approved the application of **City of Gresham (Council Order No. 656)** amending the Gresham Community Development Code Tree Regulations.

The record for this project is maintained at Gresham City Hall, City of Gresham **File No. CPA 14-346**, and may be reviewed at City Hall, Monday through Friday, 8:00 AM to 5:00 PM.

An appeal of this decision may be filed with the Land Use Board of Appeals (LUBA) within 21 days of this Notice of Decision. LUBA has the jurisdiction to review all governmental land use decisions. An appeal of a land use decision must conform to the procedures and requirements of LUBA. They may be contacted at:

LUBA
550 Capitol Street, NE – Suite #235
Salem, Oregon 97301-2552
(503) 373-1265

BEFORE THE CITY COUNCIL OF THE
CITY OF GRESHAM

IN THE MATTER OF AMENDMENTS TO VOLUME 3) Order No. 656
DEVELOPMENT CODE OF THE GRESHAM)
COMMUNITY DEVELOPMENT PLAN, REGARDING) CPA 14-346
THE DEVELOPMENT CODE IMPROVEMENT)
PROJECT-6 (DCIP-6) TREE CODE UPDATE)

On April 7, 2015, the City Council held a public hearing to take testimony on amendments to Volume 3, Development Code, of the Gresham Community Development Plan, regarding Development Code Improvement Project-6 (DCIP-6) Tree Code update.

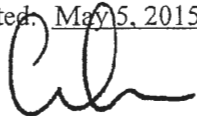
The hearing was conducted under Type IV procedures. Council President Jerry W. Hinton presided at the hearing.

The Council closed the public hearing and approved the proposed amendments, and a decision was made at the May 5, 2015 meeting.

The Council orders that these amendments are approved, and adopts the findings, conclusions, and recommendations as stated in the attached Planning Commission Recommendation Order dated February 23, 2015, and staff reports dated January 26, 2015 and February 20, 2015.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of the Order.

Dated: May 5, 2015



City Manager



Mayor

**BEFORE THE PLANNING COMMISSION OF THE
CITY OF GRESHAM**

TYPE IV RECOMMENDATION ORDER

CPA 14-346

A Type IV Legislative Public Hearing was open on January 26, 2015, to consider proposed amendments to the Volume 3, Development Code, of the Gresham Community Development Plan regarding the **Tree Code** update.

The Planning Commission continued the public hearing to February 23, 2015, and made a final recommendation at the February 23, 2015 meeting.

Richard Anderson, Chair, presided at the hearing.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of this Type IV Recommendation Order.

The Planning Commission recommends **Adoption** of the proposed Development Code amendments regarding the Tree Code to the City Council based on the findings, conclusions and recommendations of the Staff Report, Addendum No. 1 and Addendum No. 2 to the staff report, with the following additional changes:

- Article 3 – Section 3.0100 Definitions: amend definition of Tree to read as follows: “A large perennial woody plant generally having a self-supporting stem, trunk, or multi-trunks and numerous branches. Hedges and arborvitae are not considered trees.”
- Section 9.1022(B) and 9.1032(B) amend the last sentence to read: “For a Significant Grove, the perimeter of the grove shall be where the area of protection is located with the radius measured from each tree located along the perimeter of the grove, or as determined by a Certified Arborist.”



Chair

2-23-2015

Date

CITY OF
GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

STAFF REPORT
TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT

TREE CODE UPDATE

To: Gresham Planning Commission

From: David Berniker, Urban Design & Planning Director
Tina Osterink, Natural Resources Planner

Hearing Date: January 26, 2015

Report Date: December 31, 2014

File: CPA 14-346

Proposal: To adopt comprehensive plan amendments to Volume 3 (Development Code) of the Community Development Plan with text amendments relating to the Development Code Improvement Project-6 regarding the Tree Code.

Exhibits: 'A' – Draft Amendments to Volume 3, Gresham Community Development Code

Recommendation: Staff recommends adoption of the proposed comprehensive plan amendments.

EXECUTIVE SUMMARY

Background

This Development Code Improvement Project (DCIP) component, which is on the 2014 Council Work Plan, seeks to address problems with rules and processes related to the protection, removal and planting of trees in Gresham. DCIP is a multi-year project to enhance the effectiveness of the Development Code.

Rules regarding trees are currently found primarily in Development Code Section 9.1000: Tree Regulations and those for Significant Trees in Appendix 14.

The purpose of the DCIP Tree Code Update project is to clarify existing rules and address outdated tree provisions throughout the Development Code by:

- Clarifying and consolidating sections of the Tree Code to make it easy to use and understand.
- Ensure that standards for tree protection, removal and replacement are clear and objective,
- Ensure the rules for trees reflect the right tree in the right place policy.

This project began in January 2012. The planning process followed the following steps:

- Developing a work plan and public participation plan.
- Conducting research and analysis to identify issues and opportunities.
- Developing alternative approaches to the issues.
- Selecting a preferred approach.
- Drafting amendments to the Comprehensive Plan for the legislative adoption process.

Public input was sought at each stage of the process. This included community workshops, open houses, Development Group meetings, stakeholders group meetings, interviews and meetings with the Urban Forestry Subcommittee, Planning Commission and City Council.

Proposed Comprehensive Plan Amendment Overview

Text changes to the Community Development Plan are proposed. The format of the attached Exhibit 'A' is a ~~strikeout~~/underline version with comments inserted into the document to help explain the rationale for each proposed change. The overview provided below summarizes the changes.

- **Structural Code Changes:** Tree rules throughout the Development Code and within the existing Tree Regulation Section 9.1000 are difficult to find. Also, users have had difficulty understanding how the rules apply to different land uses and when they apply before, during and after development occurs on a property.

The proposed amendments would revise the layout of existing Section 9.1000, Tree Regulations and Appendix 14, Significant Trees. Key changes would:

- Separate rules for single-family uses from those in commercial, multi-family and industrial developments.
 - Clarify rules for tree protection, tree removal and tree replacement.
 - Separate rules for trees during and outside the development process.
 - Consolidate Significant Tree rules into Section 9.1000, Tree Regulations.
- **Requirements for Tree Protection:** Current tree protection rules are not clearly stated in the Tree Code, leaving applicants unsure what is needed to adequately show how they intend to protect existing trees on site and when they need to involve an arborist in the permit process. The proposed amendments would add measurable tree protection data requirements by using a fixed numerical standard for all Regulated, Required and Significant Trees during the construction

process. This measurement includes locating protective fencing in a radius from the tree at a rate of 1 foot of horizontal distance from the tree for each 1-inch diameter of tree. Under the proposed rules, applicants would only be required to have an arborist prepare a tree protection plan when there is activity or encroachment proposed within the tree protection zone (a zone around the tree that protects the tree from damage during development), which simplifies the permit process.

- **Requirements for Tree Removal:** The processes for a property owner to remove Required, Hazard and Imminent Hazard trees on their property is currently unclear and incomplete. Key proposed rules changes would:
 - Clarify rules when a Required Tree on non-single family developed property¹ can be removed by providing specific health and non-health criteria for tree removal.
 - Clarify that Imminent Hazard Trees can be removed immediately with a retroactive Type I review to follow. Imminent Hazard tree removal would not count toward the maximum number of trees allowed to be removed without a permit.
 - Clarify that Hazard Tree removal shall continue to follow a Type I review procedure; however, the removal of a dead, dying or hazardous tree would follow the normal process for removing a healthy tree.
- **Requirements for Tree Replacement:** The current code lacks clarity, specificity and flexibility to plant or replace a Required Tree. To avoid future confusion and a one-size-fits-all approach to replacement, the following proposed changes would revise tree replacement rules for Required Trees:
 - A property owner does not need to replace a required Street Tree if it is not feasible to plant a tree in that location (such as if the planter strip between curb and sidewalk is less than 3 feet wide). For non-single-family uses¹, the proposed changes allow the property owner to pay into the tree fund rather than planting that tree. Single-family property owners do not have to pay into the tree fund because their lots more often have narrow frontages, narrow planter strips and such obstacles as utilities, driveways, and power poles.
 - Trees on private property within 10 feet of the street would no longer be considered a Street Tree (a Required Tree) because this provision caused confusion and was difficult to enforce. For non-single-family uses, the tree fund described above also would be available in other circumstances (in addition to Street Trees) where a Required Tree cannot feasibly be planted or replanted after removal. Using this option would require evidence that it is infeasible to plant the tree and approval by the Manager.

STAFF REPORT ORGANIZATION

- Sections I and II identify those current Community Development Plan procedures and policies that apply to the proposal.
- Section III identifies the applicable Metro Urban Growth Management Functional Plan (UGMFP) titles that apply to the proposal.
- Section IV identifies applicable Statewide Planning Goals that apply to the proposal.
- Section V contains specific findings of fact that detail how the proposal is consistent with Sections I through III:
 - Subsection A is findings of fact for the Community Development Plan procedures.
 - Subsection B is findings of fact for the Community Development Plan policies.

¹ Uses that are not single-family detached dwellings, duplexes and single-family attached dwellings.

- Subsection C is findings of fact for the Urban Growth Management Functional Plan Titles.
- Subsection D is findings of fact for the Statewide Planning Goals.
- Sections VI and VII summarize staff conclusions and recommendations.
- Exhibit 'A' includes proposed amendments to Volume 3, Development Code, as well as commentary. The commentary provides additional findings for this proposal.

SECTION I

APPLICABLE COMMUNITY DEVELOPMENT CODE PROCEDURES

Section 11.0201	Initiation of an Application
Section 11.0203	Classification of Applications by Procedure
Section 11.0204	Review Authorities
Section 11.0600	Type IV Procedure – Legislative
Section 11.1000	Public Hearings

SECTION II

APPLICABLE COMMUNITY DEVELOPMENT PLAN GOALS & POLICIES

Section 10.014.1	Land Use Policies and Regulations
Section 10.014.2	Community Design, Trees and Other Vegetation
Section 10.014.3	Urban Forestry Management Plan
Section 10.100	Citizen Involvement
Section 10.211	Steep Slopes and Landslides

SECTION III

APPLICABLE METRO URBAN GROWTH FUNCTIONAL PLAN TITLES

Title 8	Compliance Procedures
----------------	-----------------------

SECTION IV

STATEWIDE PLANNING GOALS

Goal 1	Citizen Involvement
Goal 2	Land Use Planning

SECTION V

FINDINGS OF FACT

The proposed Community Development Plan amendments attached as Exhibit 'A' are consistent with all applicable procedures, goals and policies of the Community Development Plan and applicable titles of the Metro Urban Growth Management Functional Plan as indicated in the following findings.

A. Community Development Code Procedures

1. *Section 11.0201 – Initiation of an Application*

This section provides that only the City Council may initiate a Type IV legislative application to amend the Map or Code of the Gresham Community Development Plan. This project was initiated by the City Council when it adopted the 2012 to 2014 Council Work Plans, which included the Development Code Improvement Project-6. The 2014 Council Work Plan was adopted on Jan. 6, 2014.

2. *Sections 11.0203 and 11.0204 – Classification of Applications and Review Authorities*

These sections provide that Type IV procedures are legislative and typically involve the adoption, implementation or amendment of policy by ordinance and that they generally apply to a relatively large geographic area containing many property owners. They also provide that the Planning Commission provide a recommendation on the amendments and the City Council be the decision-making authority regarding the amendments. This project meets those conditions, is being processed under the Type IV procedures and will be heard by the City Council.

3. *Section 11.0600 – Type IV Legislative Procedures*

For a Type IV Comprehensive Plan Amendment, this section requires a submittal to the Department of Land Conservation and Development (DLCD) at least 45 days prior to the Planning Commission hearing. The Department of Land Conservation and Development, in Section 660-018-0020(1), currently requires that a local government submit changes at least 35 days prior to an evidentiary hearing. The notice was sent Nov. 28, 2014, which meets state and regional notice requirements. This section also requires that hearings be scheduled, a notice published in a newspaper of general circulation in the City and a copy of the decision be mailed to those required to receive such notice. Notice of public hearing for these proposed text amendments has been published in the *Gresham Outlook* as required by this section.

This section also requires that the Planning Commission hold a public hearing and make a recommendation to the Council for an amendment to the Community Development Code and the Community Development Plan. The Council shall hold another public hearing and make a final decision. Interested persons may present evidence and testimony relevant to the proposal. The Planning Commission will make a recommendation, and the Council will make a decision that will be based on findings of fact contained in this report and in the hearing record. A decision will be sent to those who participated in the hearings. A decision shall be made accompanied by findings and an order.

4. *Section 11.1000 - Public Hearings*

This section provides for a hearing process consistent with Section 11.1000. Both the Planning Commission and the City Council, at public hearings in conformance with provisions of this section, will consider this proposal.

B. Community Development Plan Goals and Policies (Volume II)

This section identifies the applicable Community Development Plan goals and policies. The text (*italicized*) of the policy is followed by corresponding findings and conclusions. The applicable policies are grouped by general categories.

1. *General Goals & Policies*

Section 10.014 Section 1: Land Use Policies and Regulations

Goal: Maintain an up-to-date Comprehensive Plan and implementing regulations as the legislative foundation of Gresham's land use program.

Policy 1: The City's land use program will be consistent with the state and regional requirements but also shall serve the best interests of Gresham.

Policy 2: The City's land use regulations, actions and related plans shall be consistent with and implement the Comprehensive Plan.

Policy 11: The City's land use regulations shall identify and protect designated significant natural resources. These regulations shall have sufficient flexibility to allow development to adapt to unique and difficult conditions.

Policy 26: The City shall, where practical, protect views that contribute to Gresham's identity such as Mt. Hood, the Columbia River Gorge, streams and riparian corridors and the wooded character of buttes and hillsides.

Findings

These general Goals and Policies establish the City's intent to use its Comprehensive Plan (Gresham Community Development Plan [GCDP]) as the basis for appropriate planning processes and resulting land use plans.

The proposed amendments are part of the Tree Code Update, which was requested by the City Council in its 2014 Council Work Plan. The proposed amendments address tree management and maintenance issues identified through an extensive public participation process including many public meetings with the Urban Forestry Subcommittee, the Planning Commission, City Council, residents, property owners, business owners and other interested parties.

Policies 1 and 2 are addressed because the proposed amendments are intended to meet the interests of the citizens of Gresham and implement the applicable goals and policies of the Comprehensive Plan, as described in V(B) of this staff report. The Comprehensive Plan has been found to be consistent with regional and state requirements, and the proposed amendments are consistent with these requirements as described in Section V subsection C and Section V subsection D.

The proposed amendments will serve the interests of the City by updating current tree-related code provisions that will over time create a high-quality urban forest citywide.

Policies 11 and 26 are addressed because the proposed amendments provide tree protection provisions to preserve and protect all functional aspects of the urban forest, including Significant Trees adopted by City Council and trees on the forested buttes and in the streamside riparian corridors.

Conclusion

The proposed amendments address the Goal and applicable Policies because they are part of the Tree Code Update project, which was requested by the Gresham City Council in 2012 to address tree code issues citywide. The City Council endorsed the project by adopting it in its 2012, 2013, and 2014 Council Work Plans. They conform to State law, Metro and Gresham's Community Development Plan, as described in Sections II, III and IV of this staff report.

The proposal is consistent with the applicable general Goals and Policies listed in this section.

Section 10.014 Section 2: Community Design, Trees and Other Vegetation

Goal: Protect and enhance the environmental and aesthetic contribution of trees and other vegetation.

Policy 1: The City shall establish regulations to protect and, when necessary, restore trees and other vegetation to support community aesthetics, maintenance and/or improvement of water quality, erosion control and stability of slopes and unstable soils.

Policy 2: The City shall condition development approval to require preservation of existing trees and mitigation of the consequences of tree/vegetation removal.

Policy 3: The city shall protect environmental quality and public safety by:

- a. *Regulating removal of trees and other vegetation on steep slopes, within floodplains, natural resource (Goal 5) overlay areas, water quality resource overlay areas and in tree groves and other forested areas.*

- b. *Instituting regulations and practices to prevent and immediately resolve hazards such as falling limbs and trunks and dangerous conditions caused by tree removal such as blow-down, landslides, soil erosion, and altered hydrology.*

Policy 4: The City shall require:

- a. *Installation of trees and other landscaping with all development, including single- family homes, residential subdivisions, major partitions, multi-family development, manufactured home parks, institutional, commercial, and industrial land uses, and*
- b. *Tree types and other plant materials installed as conditions of development approval are appropriate for the site conditions in which they are planted to ensure development of viable landscapes and not adversely affect adjacent property owners.*

Policy 5: The City shall require tree planting and other landscaping within and adjacent to parking lots to provide shade, aesthetic enhancement and buffering and screening of parking areas from dissimilar land uses.

Policy 7: The City shall require compliance with its tree regulations and conditions of development approval, and shall establish and enforce regulations whenever necessary to preserve trees, ensure development occurs per city standards and to deter vandalisms and unauthorized removal of city trees.

Policy 9: The City shall ensure its various codes, regulations and standards relating to landscaping, site development, tree protection and removal are consistent with and supportive of one another.

Findings

This general Goal is addressed with the revised tree code amendments, which are intended to improve environmental and aesthetic contribution of trees and other vegetation throughout the city by providing clear rules and processes regarding the protection, removal and replacement of trees.

Policies 1, 2 and 3 are addressed as the proposed amendments include updated tree provisions to protect, preserve and enhance environmental quality, public safety and trees during site development. The proposed amendments include clearer rules about when trees can be removed. They also clarify that tree removal in environmental overlay districts must be mitigated following the requirements for those overlay districts. Regarding safety, the amendments also include updated and clearer provisions for removing trees that present hazards. Under the proposed rules, trees that present an imminent hazard may be removed immediately, and there is no limit to the number of imminent hazard trees that can be removed. Some tree removal provisions also allow for safety to be considered in justifying tree removal.

Policies 4, 5, 7 and 9 are addressed with specific provisions to ensure that various codes, regulations and standards relating to landscaping, site development and tree removal are made more effective by making them clear to the public and implementable by City staff. The proposed amendments retain requirements for tree planting for all types of development and refer to an Approved Tree List to encourage the right tree be planted in the right place. These include Street Trees, Buffer Trees and Parking Lot Trees. The proposed amendments continue to require compliance with the tree rules and retain and update a section that allows civil penalties for violations (including unauthorized removal).

Conclusion

The tree related goals and policies have been addressed through proposed amendments. Therefore, the proposal is consistent with the applicable goals and policies listed in this section.

Section 10.014 Section 3: Urban Forestry Management Plan

Goal 1: Create a high-quality urban forest in Gresham.

Goal 2: Establish proactive public tree maintenance and management practices.

Policy 1: Protect, preserve and enhance Gresham's urban forest.

Policy 2: Maximize tree-canopy cover to expand Gresham's urban forest.

Policy 3: Maximize the ecological, environmental and economic benefits of the urban forest.

Policy 4: Manage the urban forest to maximize community benefits for all.

Findings

The Goals are addressed with the proposed tree code amendments, which are intended to create a high-quality urban forest in Gresham. Many of the proposed amendments apply to public tree care, including care of public Street Trees by private property owners.

Policies 1, 2, 3, and 4 are addressed with specific provisions for tree preservation citywide before, during and after development occurs. The updated provisions for tree replacement will help maximize tree canopy and the benefits for trees throughout the City. As noted in findings for Section 10.014 Section 2, the proposed amendments include clear rules about tree protection, removal and replacement in environmental areas as well as developed areas. The Code provisions also provide economic benefits by encouraging trees in residential and commercial districts, making them more attractive.

Conclusion

The tree related goals and policies have been addressed through proposed code amendments. Therefore, the proposal is consistent with the applicable goals and policies listed in this section.

2. Citizen Involvement Goals & Policies

Section 10.100 Citizen Involvement

Goal: The City shall provide opportunities for citizens to participate in all phases of the planning process by coordinating citizen involvement functions; effectively communicating information; and facilitating opportunities for input.

Policy 1: The City shall ensure the opportunity for citizen participation and input when preparing and revising policies, plans and implementing regulations.

Policy 2: The City shall consider the interests of the entire community and the goals and policies of the Comprehensive Plan when making decisions.

Policy 10: The City shall ensure the opportunity for the public to be involved in all phases of planning projects and issues.

Policy 11: The City shall ensure that the public has complete and timely access to all public information concerning land use projects and issues. This includes private development proposals once they are in the formal application process.

Findings

The public involvement goals and policies establish the City's intent that its citizens have opportunities throughout a planning project to be informed and to affect proposals.

A key part of involving citizens in this project was coordination with the Urban Forestry Subcommittee (UFS). The UFS is a group of citizens that advises City Council on urban forestry issues. It has been a strong advocate of the City developing the City's first comprehensive, sustainable and integrated approach to management of trees in Gresham. The subcommittee has been involved throughout this project including during the identification of issues, developing solutions for dealing with them and reviewing both the draft plan and text amendments. Their suggestions have been incorporated as described in the code amendments of attached Exhibit A.

Public outreach began on the Tree Code in the winter of 2012 and included a City web page and an interested parties list. The following measures were taken to inform citizens and involve them in this project:

2012

- Urban Forestry Subcommittee: Monthly work sessions
- Natural Resources and Sustainability Committee meeting: 9/12
- Neighborhood Coalition meeting: 6/12
- Community Forum: 8/15
- Development Group: 7/26
- Planning Commission: 7/23
- City Council work session: 10/9

2013

- Urban Forestry Subcommittee: Monthly work sessions
- Natural Resources and Sustainability Committee meetings: 5/15
- Planning Commission meeting: 5/13
- Community Forums: 5/1
- Developer Focus Group: 7/26
- Fred Meyer Stakeholder Focus Group: 9/6
- Neighborhood Coalition: 9/10
- City Council work session: 8/20

2014

- Urban Forestry Subcommittee: Monthly work sessions
- Natural Resources and Sustainability Committee meetings: 5/21, 12/11
- Planning Commission meetings: 4/14, 11/24
- Neighborhood Coalition meetings: 4/8, 12/9
- Community Forums: 3/12
- Business Stakeholder meetings: April 2014
- Development Group meeting: 4/17
- City Council work session: 7/8

Conclusion

The Citizen Involvement Goal and its policies are met by the combination of UFS meetings, Natural Resources and Sustainability meetings, Planning Commission meetings, City Council work sessions, presentations to neighborhood groups and community forums for the interested public as well as providing information on the proposal on the City's Web site.

The proposal is consistent with the applicable citizen involvement goals and policies listed in this section.

3. Natural Hazard Goals and Policies

Section 10.211 – Steep Slopes and Landslides

Goal: Protect life and property from hazards associated with landslides and unstable soils

Policy 4: Removal of trees on slopes over 15% shall be restricted to prevent clear cutting and to limit removing trees with a trunk diameter of 8 inches and greater.

Policy 5: City development standards for slopes of 15% or greater shall limit the amount of site area that can be graded, cleared of vegetation, or otherwise disturbed.

Findings

This general Goal is supported through provisions in the Tree Code that involve protecting and expanding the tree canopy, particularly through reforestation efforts that include erosion control along steep slopes.

The Natural Hazard Goal has been addressed through the proposed Tree Code rules to maximize tree canopy cover to expand Gresham's urban forest, use large canopy trees in appropriate areas and provide clear rules regarding removal of invasive trees and mitigation related to the removal.

Policies 4 and 5: The proposed amendments retain and clarify rules prohibiting clear cutting in high-slope areas and limit removal of trees 8 inches in diameter and larger.

Conclusion

The proposal is consistent with the applicable natural hazard goal listed in this section.

The natural resource policies have been addressed through proposed code amendments that preserve and mitigate any potential negative impacts on Gresham's natural resources from development projects.

The proposal is consistent with the applicable natural resource policies listed in this section.

C. Metro Urban Growth Management Functional Plan

Title 8 Compliance Procedures

Findings

Section 3.07.820 of this title requires that at least 45 days prior to the first evidentiary hearing on an amendment to a comprehensive plan or land use regulation that the City submit the proposed amendments to Metro. Metro may review the amendments and can request that the City provide an analysis of compliance with the Functional Plan.

The City submitted the proposed amendments Nov. 28, 2014, which meets the 45 day requirement. Metro has not contacted the city regarding the proposed amendments or requested an analysis.

Conclusion

The City submitted the proposed amendments to the state and Metro. Because Metro has not requested an analysis of compliance, it is assumed the proposed amendments are consistent with the Functional Plan.

D. Statewide Planning Goals

1. Goal 1 – Citizen Involvement

Goal 1: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Findings

Goal 1 requires municipalities adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the ongoing land-use planning process.

The Tree Code Update project has followed the City of Gresham Public Participation Guide and City goals and policies regarding citizen involvement as detailed in Section V.B.2 of this staff report. The project provided significant opportunity for the public to comment on and shape the recommendations throughout the process. Three community forums were held with the express purpose of educating the public about the project and to gain input. A total of 26 public meetings were held over the course of the two-year project.

Conclusion

Goal 1 is met by utilizing a public participation plan consistent with the City's Public Participation Guidelines and Citizen Involvement Goals and Policies.

2. Goal 2 – Land Use Planning

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. The goal also specifies components of a citizen involvement program.

Findings

Goal 2 requires the actions of jurisdictions and government agencies (in regards to land use) to be consistent with Comprehensive Plans adopted by cities, counties and regional governments. The Goal also describes considerations to be made as part of the development and adoption of Comprehensive Plans.

Gresham already has a State acknowledged Comprehensive Plan. The proposal here is a modification of that Plan and its Implementation Policies. The proposed code amendments include a new set of findings regarding tree regulations consistent with those new findings. The prior findings and conclusions of this Section of the staff report illustrate how the proposed modifications comply with the City's Comprehensive Plan, which is acknowledged by the state.

Conclusion

Goal 2 is met by showing conformance of the proposed amendments with the City's acknowledged comprehensive plan.

SECTION VI CONCLUSION

The proposed Comprehensive Plan amendments attached as Exhibit 'A' are consistent with applicable Goals and Policies of the Community Development Plan, the applicable Development Code procedures of the Community Development Plan; applicable Metro Urban Growth Management Functional Plan Code; and Statewide Planning Goals as indicated by findings contained or referenced in Section V of this report.

SECTION VII RECOMMENDATION

Staff recommends **adoption** of the proposed comprehensive plan amendments to the City Council as contained in the attached Exhibit 'A'.

End of Staff Report

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

ADDENDUM 01
TO THE STAFF REPORT
TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT
DEVELOPMENT CODE IMPROVEMENT PROJECT-6

TREE CODE UPDATE

To: Gresham Planning Commission

From: David Berniker, Urban Design & Planning Director
Tina Osterink, Natural Resources Planner

Hearing Date: Jan. 26, 2015

Report Date: Jan. 23, 2015

File: CPA 14-346

Since the staff report and Proposed Council Bill were distributed to the Planning Commission for its hearing on January 26, 2015, staff identified the need to make the following changes to Exhibit A – Draft Amendments to Volume 3, Gresham Community Development Plan.

Item #1

Section 1 of the Proposed Council Bill includes the following two definitions, one of which is proposed to be modified:

Arborist. A person possessing the education and technical competence through experience and related training to provide for or supervise the management of trees or other woody plants in a landscape setting.

Tree. A large woody plant generally having a self-supporting stem or trunk or multi-trunks and numerous branches.

Issue: Section 3.0100 provides tree-related terms that are used as a reference for implementation of tree rules found in the Development Code. The definition for Arborist and Tree includes the term “woody plant(s)”, which does not accurately define either definition and could lead to confusion during the code enforcement process. The definition of “Tree” lacks information that could help distinguish between trees and bushes/shrubs.

Findings: To ensure the tree-related definitions in Section 3.0100 are clear and objective, the reference to the term “woody plant(s)” will be omitted from the Arborist definition and will be clarified with additional code language for the definition of Tree. This will improve clarity for the public and staff when

implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying the terms Arborist and Tree in Section 3.0100 of the Development Code so they accurately reflect the intent of the tree code. This addendum proposes the following changes to the definitions, with strikethrough indicating deletions from the definition that would result from the Proposed Council Bill and double underline indicating additions to the definition that would result from the Proposed Council Bill:

Arborist. A person possessing the education and technical competence through experience and related training to provide for or supervise the management of trees ~~or other woody plants~~ in a landscape setting.

Tree. A large woody plant generally having a self-supporting stem ~~or~~, trunk or multi-trunks and numerous branches. Hedges and arborvitae are not considered trees.

Item #2

Section 12 of the Council Bill proposes modifying the rules for exemptions as they pertain to the tree code. The exemptions are found in the proposed code amendments in Section 9.1021 related to standards for single-family detached dwellings, duplexes and single-family attached dwellings and in Section 9.1031 related to standards for uses other than single-family detached dwellings, duplexes and single-family attached dwellings and parking lots.

Issue: Section 9.1021 and 9.1031 of the tree code amendments require the following modifications:

- (B) - the exemption provision in 9.1021 (B) and 9.1031 (B) should apply to maintenance of trees in City Parks, not just street trees. As shown below, the double underlined term "trees" will be added to the proposed amendment language.
- (B) – the exemption provision in 9.1021 (B) and 9.1031 (B) includes provisions regarding emergency communication systems. Exemption is not necessary because current Code procedures allow for pruning and tree removal. Leaving in that language would potentially cause confusion regarding those situations.
- (C) – the exemption provision in 9.1021 (C) and 9.1031 (C) uses the term "public utility easement" in a manner inconsistent with the rest of the Development Code, which could cause confusion. The appropriate Development Code term is "*general utility easement.*"

Findings: Section 9.1021 and 9.1031 apply modifications to current tree code exemption provisions. To ensure these exemptions accurately apply to the City of Gresham and electric utilities, modifications to 9.1021 and 9.1031 (B) and (C) in the Proposed Council Bill are proposed to address the issues described above. The changes make clear that permit requirement exemptions apply when the City of Gresham undertakes activities in the public right- of- way or in a city park. The changes also make clear when an electric utility needs to prune trees growing in the public right-of-way or general utility easement. This will improve clarity for the public and staff when implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying the exemption Sections 9.1021 and 9.1031 of the Development Code as shown below so they accurately reflect how the exemption provisions in the tree code apply. The changes are shown with strikethrough indicating deletions provisions that would result from the Proposed Council Bill and double underline indicating additions to the provisions that would result from the Proposed Council Bill.

9.1021 Exemptions

- B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks. Trees may be removed or pruned when the tree removal or pruning is necessary to accomplish a public purpose, including but not limited to ~~the pruning of trees that impede the microwave signals of an emergency communication system~~, the installation of public facilities and utilities in the right-of-way or public general utility easement, habitat restoration activities, or for construction of a public street, public trail, public park or public urban plaza.
- C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or public general utility easement, if such pruning is necessary to avoid contact with the electric facilities.

9.1031 Exemptions

- B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks. Trees may be removed or pruned when the tree removal or pruning is necessary to accomplish a public purpose, including but not limited to ~~the pruning of trees that impede the microwave signals of an emergency communication system~~, the installation of public facilities and utilities in the right-of-way or public general utility easement, habitat restoration activities, or for construction of a public street, public trail, public park or public urban plaza.
- C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or public general utility easement, if such pruning is necessary to avoid contact with the electric facilities.

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

ADDENDUM 02 TO THE STAFF REPORT TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT DEVELOPMENT CODE IMPROVEMENT PROJECT-6

TREE CODE UPDATE

To: Gresham Planning Commission

From: David Berniker, Urban Design & Planning Director
Tina Osterink, Natural Resources Planner

Hearing Date: Feb. 23, 2015

Report Date: Feb. 20, 2015

File: CPA 14-346

Since the staff report and Proposed Council Bill were distributed to the Planning Commission for its hearing on Feb. 23, 2015, staff identified the need to make the following changes to Exhibit A – Draft Amendments to Volume 3, Gresham Community Development Plan.

Item #1

Section 1 of the Proposed Council Bill includes the following definition, of which is proposed to be modified:

- **Perimeter Tree.** An existing tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, located within five 5 feet of either side of a property line. Does not include trees in a single-family area, in the public right-of-way– or within 5 feet of the public right of way.

Issue: Section 3.0100 provides tree-related terms that are used as a reference for implementation of tree rules found in the Development Code. The definition for Perimeter Tree includes the terminology “in a single-family area”, which is a vague reference and could lead to confusion during code interpretation and implementation.

Findings: To ensure the tree-related definitions in Section 3.0100 are clear and objective, the reference to the terminology “single-family area” will be omitted from the Perimeter Tree definition and will be clarified with additional code language for the definition of Perimeter Tree. This will improve clarity for the public and staff when interpreting and implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying the term Perimeter Tree in Section 3.0100 of the Development Code so it accurately reflects the intent of the tree code. This addendum proposes the following change to the definition, with a highlighted strikethrough indicating deletions from the definition that would result from the Proposed Council Bill and a highlighted double underline indicating additions to the definition that would result from the Proposed Council Bill:

- **Perimeter Tree.** An existing tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, located within five 5 feet of either side of a property line. Does not include trees ~~in a single-family area on developed single-family lots~~, in the public right-of-way- or within 5 feet of the public right of way.

Item #2

Section 12 of the Council Bill proposes modifying the rules for Significant Tree(s)/Groves(s) as they pertain to tree and grove protection during development. The provisions are found in the proposed code amendments in Section 9.1022 and 9.1032.

Issue: Section 9.1022 (C) of the tree code amendments, as shown below, is missing language that is included in Section 9.1032. The modification could be corrected by specifically adding the term "Significant Grove(s)" to the existing term "Significant Tree(s)", as is noted in Subsection 9.1032 (C).

9.1022 Tree Protection During Development

C. Significant Tree(s). When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s) abutting the site shall be preserved and protected as specified in Subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a certified arborist determines that the tree can be protected adequately with less distance.

Findings: To ensure consistency with how the proposed amendments apply to Significant Grove(s), modifications to 9.1022 (C) in the Proposed Council Bill are proposed to address the issue described above. The change makes clear that tree protection rules during development related to standards for single-family detached dwellings, duplexes and single-family attached dwellings apply to Significant Grove(s) as well as Significant Tree(s). This will improve consistency with how the code is applied and clarity for the public and staff when implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying Sections 9.1022 of the Development Code as shown below so it accurately reflects how the provisions in the tree code apply. The changes are shown with a highlighted double underline indicating additions to the provisions that would result from the Proposed Council Bill.

9.1022 Tree Protection During Development

C. Significant Tree(s)/Significant Grove(s). When development is proposed for property that includes or abuts the dripline of a Significant Tree(s)/Significant Grove(s) on an abutting site, the Significant Tree(s)/Significant Grove(s) abutting the site shall be preserved and protected, as specified in subsection (B) during all development activities, including preliminary grubbing and

clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s)/Significant Grove(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a certified arborist determines that the tree can be protected adequately with less distance.

Item #3

Section 12 of the Council Bill proposes modifying the rules for land division as they pertain to the use categories that apply to Section 9.1030 and to the exemption provisions in Section 9.1031. The provisions are found in the proposed code amendments in Section 9.1030 and 9.1031.

Issue: Section 9.1030 and 9.1031 (A) of the tree code amendments, as shown below, inadvertently left out the term "all land divisions" in Section 9.0130 and incorrectly exempts "land division development" in Section 9.1031. The modification could be corrected by including the term "all land divisions" in the general category of uses found in Section 9.1030 and deleting the reference to "land division development" from Section 9.1031.

9.1030 Standards for Other Uses (Not Including Single-Family Detached Dwellings, Duplexes, Single-Family Attached Dwellings) and Parking Lots

This section provides rules for tree protection, removal and replacement that apply to parking lots and uses other than those listed in Section 9.1020, including but not limited to:

- Attached dwellings on a single lot
- Elderly housing and residential facilities
- Manufactured dwelling parks
- Commercial uses
- Industrial uses
- Institutional uses

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1031**, tree removal provisions of **Section 9.1036** and tree replacement provisions of **Section 9.1037**.

9.1031 Exemptions

A. Removal of Regulated Trees for lots developed with or in a land use district designated for development of uses listed in 9.1030 and land division development are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:

1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and
2. The Regulated Trees are not in an overlay district; and
3. The Regulated Trees are not designated as Significant Trees; and
4. The number of Regulated Trees removed shall not exceed the following thresholds per 12-month period from the time a permit is issued:

Findings: To ensure consistency with how the proposed amendments apply to land divisions, modifications to Section 9.1030 and 9.1031 in the Proposed Council Bill are proposed to address the issue described above. The change makes clear that uses in Section 9.1030 include all land divisions. This will improve consistency with how the code is applied and clarity for the public and staff when implementing the Development Code. This also helps ensure compatibility with the goals and policies related to trees and other vegetation in the Comprehensive Plan.

Recommendation: Staff recommends modifying Sections 9.1030 and 9.1031 of the Development Code as shown below so it accurately reflects how the provisions in the tree code apply. The changes are shown with a highlighted strikethrough indicating deleted provisions that would result from the Proposed Council Bill and highlighted double underline indicating additions to the provisions that would result from the Proposed Council Bill.

9.1030 Standards for Other Uses (Not Including Single-Family Detached Dwellings, Duplexes, Single-Family Attached Dwellings) and Parking Lots

This section provides rules for tree protection, removal and replacement that apply to parking lots, ~~all land divisions~~ and uses other than those listed in Section 9.1020, including but not limited to:

- Attached dwellings on a single lot
- Elderly housing and residential facilities
- Manufactured dwelling parks
- Commercial uses
- Industrial uses
- Institutional uses

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1031**, tree removal provisions of **Section 9.1036** and tree replacement provisions of **Section 9.1037**.

9.1031 Exemptions

A. ~~Removal of Regulated Trees for lots developed with or in a land use district designated for development of uses listed in 9.1030 and land division development~~ are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:

1. ~~The Regulated Trees are not subject to conditions of approval from a previous development permit; and~~
2. ~~The Regulated Trees are not in an overlay district; and~~
3. ~~The Regulated Trees are not designated as Significant Trees; and~~
4. ~~The number of Regulated Trees removed shall not exceed the following thresholds per 12-month period from the time a permit is issued:~~



U.S. POSTAGE >> PITNEY BOWE



ZIP 97030 \$ 002.87
02 1W
0001382305 MAY 08 2015

DEPT OF

MAY 11 2015

**LAND CONSERVATION
AND DEVELOPMENT**

**CITY OF
GRESHAM**

Urban Design & Planning
1333 NW Eastman Parkway
Gresham, Oregon 97030-3813
www.greshamoregon.gov

DLCD
Attn: Plan Amendment Specialist
635 Capitol St., NE #150
Salem, OR 97301-2540