

COUNCIL BILL NO. 3242

ORDINANCE NO. 2621

AN ORDINANCE AMENDING THE WOODBURN DEVELOPMENT ORDINANCE (WDO) RELATED TO SIGNIFICANT TREE PRESERVATION, REMOVAL, AND MITIGATION, AND PROTECTION DURING CONSTRUCTION (LA 21-03)

WHEREAS, the Woodburn Development Ordinance (WDO) establishes the standards that development is required to meet and that clarity of those standards is critical as the community continues to grow and prosper; and

WHEREAS, periodic revisions and updates to the Woodburn Comprehensive Plan and WDO are necessary and expected to comply with revisions to statutes and administrative rules, administer new and revised long-range plans, and address current issues; and

WHEREAS, Section 4.10.09 of the WDO requires the City Council to initiate the consideration of any potential legislative amendments to the WDO by resolution; and

WHEREAS, following a 2021 winter ice storm, the City Attorney and Community Development Director briefed the Council about existing Woodburn Development Ordinance (WDO) regulations for tree preservation and removal and presented ideas about improved enforcement provisions and fines; and

WHEREAS, on July 26, 2021, the Council in conformance with WDO 4.01.09.A, initiated Legislative Amendment 21-03 (LA 21-03) via Resolution No. 2175, directing staff to review and revise the WDO tree regulations to improve relevance and clarity; and

WHEREAS, the Planning Commission conducted six workshops about LA 21-03 between September 23, 2021, and ending July 27, 2023; and

WHEREAS, on September 28, 2023, the Planning Commission, in conformance with WDO 4.01.09B. and 4.01.10B. held a public hearing and recommended approval of the amendment; and

WHEREAS, on February 12, 2024, the City Council held a public hearing and requested this Ordinance effecting the amendment (LA 21-03); **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. For purposes of this ordinance amendment, all new text is shown as underlined (i.e. new text) and all deleted text is shown as stricken (i.e. ~~deleted text~~). After this ordinance amendment is adopted, the Community Development director shall correct the WDO to incorporate all revisions contained herein.

Section 2. The WDO is amended as specified in Exhibit A which is attached hereto.

Section 3. The legislative action taken by the Ordinance is explained and justified by the findings and analysis attached hereto and incorporated herein as Exhibit B.

Approved as to form: M. G. Feb 27, 2024
City Attorney Date

Approved: Frank J. Lonergan
Frank Lonergan, Mayor

Passed by the Council February 26, 2024
Submitted to the Mayor February 27, 2024
Approved by the Mayor February 28, 2024
Filed in the Office of the Recorder February 28, 2024

ATTEST: Heather Pierson
Heather Pierson, City Recorder
City of Woodburn, Oregon

Woodburn Development Ordinance

WDO

Adopted by Ordinance 2313 on April 9, 2002

Acknowledged December 22, 2006

Amended by Ordinance 2423 on July 28, 2007

Amended by Ordinance 2446 on September 8, 2008

Amended by Ordinance 2465 on March 24, 2010

Amended by Ordinance 2473 on December 13, 2010

Amended by Ordinance 2480 on September 26, 2011

Amended by Ordinance 2492 on September 10, 2012

Amended by Ordinance 2509 on August 12, 2013

Amended by Ordinance 2510 on September 23, 2013

Amended by Ordinance 2520 on July 28, 2014

Amended by Ordinance 2526 on February 9, 2015

Amended by Ordinance 2538 on September 26, 2016

Amended by Ordinance 2541 on November 14, 2016

Amended by Ordinance 2544 on January 9, 2017

Amended by Ordinance 2561 on July 9, 2018

Amended by Ordinance 2562 on September 10, 2018

Amended by Ordinance 2573 on June 24, 2019

Amended by Ordinance 2579 on April 13, 2020

Amended by Ordinance 2602 on May 9, 2022 (LA 21-01)

Amended by Ordinance 2603 effective June 30, 2022 (LA 21-02)

Amended by Ordinance 2621 on February 26, 2024 (LA 21-03)

LA 21-03
Ordinance No. 2621
Exhibit A
49 pages

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1.02 Definitions

Note: Terms not defined in this Section have the meaning set forth in the New Oxford American Dictionary, 2010 edition (see Section 4.02.06.B.6.)

Abutting: Touching on the edge or on the line, including at a corner. It shall include the terms adjacent, adjoining and contiguous.

Access: The place, means or way by which pedestrians or vehicles have ingress and egress to and/or from a lot or use.

Accessory Building, Structure or Use: A detached building, structure or use which is incidental and subordinate to, and supports the primary use on, the same premises.

Accommodations:

- **Bed and Breakfast Inn:** A single-family dwelling with at least one room offered to the general public for lodging on an overnight or weekly basis, with a meal provided.
- **Hotel:** A building in which rooms are offered to the general public for lodging on an overnight or weekly basis, where the primary entrance is through a lobby or foyer with internal circulation to the rooms.
- **Living Unit:** A room or suite of rooms, providing living and sleeping facilities for one or more persons where either cooking or eating and/or sanitation facilities are shared. In a rooming and boarding house, each bed rented for compensation is a "Living Unit." Note: Living unit is not synonymous with "dwelling unit."
- **Motel:** a group of attached or detached buildings, in which more than five rooms are offered to the general public for lodging on an overnight or weekly basis, where the rooms have direct access to the outside without the necessity of passing through the main lobby of a building.
- **Rooming and Boarding House:** A residential building or portion thereof with guest rooms, providing lodging or lodging and meals, for three or more persons for compensation.

ADA: The acronym refers to the federal Americans with Disabilities Act (1992) and in the context of WDO standards means compliance with contemporary federal provisions with which developers are bound to comply as standards and compliance with any contemporary supplemental state of Oregon provisions with which developers are bound to comply as standards.

Adjacent: Near, close or bordering but not necessarily contiguous with; adjoining but separated by a right-of-way.

Administrative Body: The City Council, Planning Commission, Design Review Board, or staff member having the jurisdiction to hear and decide proceedings on land use actions.

Alley: A public right-of-way not more than 20 feet wide and not less than 10 feet in width that provides vehicular access to property instead of or in addition to a public street, that intersects with a public street, and that can serve as a utility corridor. Distinct from "Shared Rear Lane".

Building, Primary: A building within which is conducted the main or principal use of the property.

Cabana: A stationary structure with two or more walls, used in conjunction with a manufactured dwelling to provide additional living space and meant to be moved with the manufactured dwelling.

Caliper: The diameter of a tree measured 6 inches above ground level for trees up to 4 inches in diameter, or 12 inches above ground level for trees 4 inches or more in diameter. Note: A “~~significant tree~~Tree, Significant” or “Significant Tree” is ~~determined by its diameter~~ measured at ~~5 feet above ground level~~differently per that definition, regardless of its caliper.

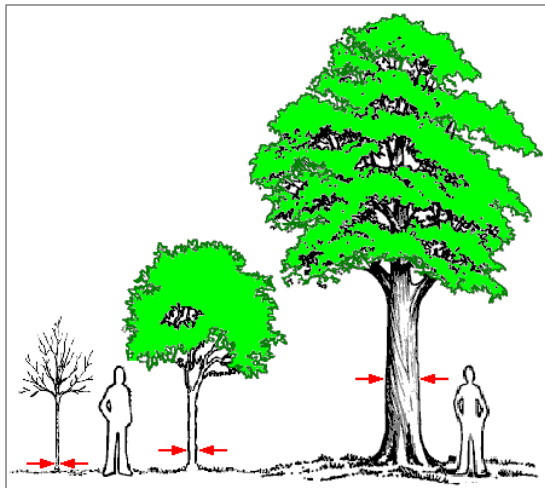


Figure 1.02C — Measurement of Caliper and Significant Tree Diameter at Breast Height (DBH) Concepts

Care services:

- Child Care: The care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of the day, in a place other than the child’s home, with or without compensation.
- Child Care Facility: A facility that provides child care, including a day nursery, nursery school, day care center, or similar unit operating under any name, but not including:
 - a facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of a church or an organized club or hobby group.
 - a facility operated by a school district or a governmental agency.
 - a facility providing care while the child’s parent remains on the premises and is engaged in an activity offered by the facility or in other non-work activity.
 - a Child Care Home.
- Child Care Home: A residential facility certified by the Oregon Child Care Division.

Diameter at Breast Height (DBH):

1. Normal context: The diameter of a tree trunk at a height of 4.5 feet above the ground. (A way to calculate DBH is to measure the circumference of the trunk and divide the value by the mathematical constant π , which is approximately 3.14.)

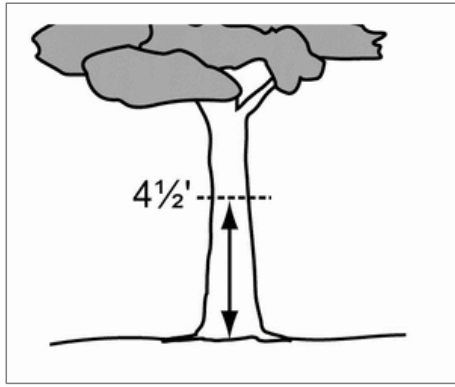


Figure 1.02H – Measuring Tree Size for Existing Trees in Normal Context

2. Angle or Slope: When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the trunk 4.5 feet along the center of the trunk axis, so that the height is the average of the shortest and the longest sides of the trunk. See Figure 1.02J.

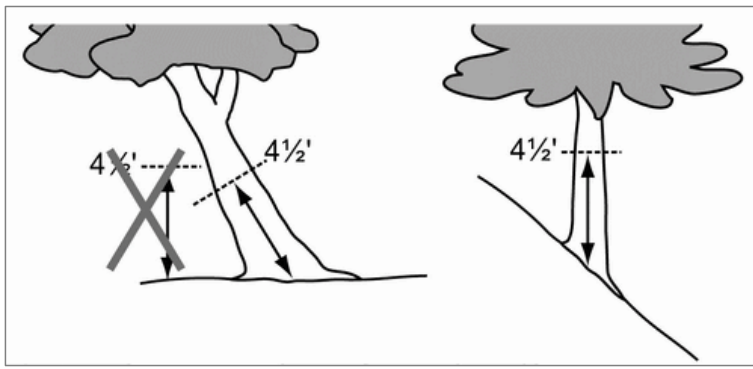


Figure 1.02J – Measuring Existing Trees with an Angle or on Slopes

3. Branched or Split Trunk: When the trunk branches or splits less than 4.5 feet from the ground, the trunk is measured at the smallest circumference below the lowest branch. See Figure 1.02K.

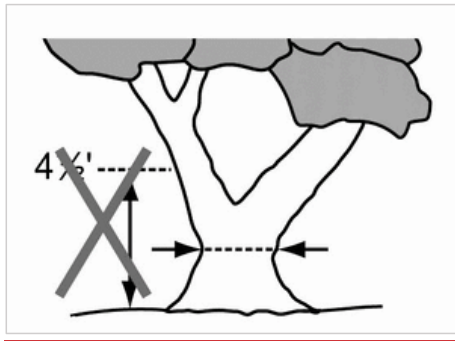


Figure 1.02K – Measuring Split Trunk Tree

4. Multi-stemmed: For multi-stemmed trees, the size is determined by measuring all the trunks and adding the total diameter of the largest trunk and half the diameter of each additional trunk; see Figure 1.02L. A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

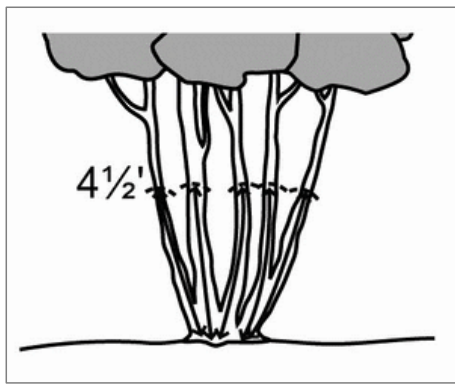


Figure 1.02L – Measuring Multi-Stemmed Trees

Director: The Director of the Community Development Department of the City of Woodburn or designee.

Door area: The area of the portion of a door, other than a garage door, that is operable, excluding the doorframe.

Driveway: A private vehicular means of access to and from a property, a parking space or area, a garage, or a use, intended to allow vehicular ingress and egress but not intended to provide the traffic circulation function of a street.

Dwellings:

- Single-Family Dwelling: A detached building constructed on a single lot, containing one dwelling unit designed exclusively for occupancy by one family.
- Triplex: Three (3) attached dwelling units on a lot.
- Accessory Dwelling Unit (ADU) – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

Note: Where it appears in the WDO, reference to dwelling or dwellings “other than multiple-family” excludes ADU unless a specific provision specifies otherwise.

Employees: All persons, including proprietors, performing work on a premises. For calculating required off-street parking, it shall be the number present during the largest shift or peak season.

Family: An individual or two or more persons related by blood, marriage, legal adoption or guardianship, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. “Family” shall include two or more handicapped persons as defined in the Fair Housing Amendments Act of 1988 living as a single housekeeping unit.

Final Action and Final Decision: The City’s final decision on a permit application for which there is either no appeal to another decision-maker within the City, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with the Woodburn Development Ordinance.

Frontage: That portion of a lot which abuts a public street.

Garage: A building, or portion of a building, which is completely enclosed and designed for the storage or parking of a vehicle.

Grade: Adjacent ground elevation is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

Greenway: For purpose of applying greenway standards, the Mill Creek Greenway as the Mill Creek Greenway Plan (2006-2007 and as amended) identifies.

Greenway trail: The mainline bicycle/pedestrian facility within a greenway, as distinct from spurs and supplemental paths and trails.

Gross Floor Area (GFA): The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior wall or from the centerline of walls separating two buildings, but not including:

1. Attic and basement space providing headroom of less than seven feet;
2. Uncovered steps or fire escapes;
3. Private garages, carports, or porches;
4. Accessory water towers or cooling towers;
5. Off-street parking or loading spaces.

Hatracking or hat-racking: To flat-cut the top or sides of a tree, severing the main branch or branches; or trimming a tree by cutting off branches and leaving a stub larger than 1 inch in diameter; or reducing the total circumference or canopy of a tree by more than a percentage.

The presumptive percentage is 25.0 percent unless a certified arborist's report documents that it may be higher without endangering the health or life of the subject tree or trees, with the limit that a report may allow for maximum 35.0 percent.

Home Occupation: A business or professional activity engaged in by a resident of a dwelling unit as a secondary use of the residence, and in conformance with the provisions of the Woodburn Development Ordinance. Such a term does not include the lease or rental of a dwelling unit (See Section 2.02.10).

House of Worship: A church, synagogue, temple, mosque or other permanently located building primarily used for religious worship. A house of worship may also include accessory buildings for related religious activities and one dwelling unit.

Interested Person: With respect to a land use action, any person or organization, or the duly authorized representative of either, having a right of appeal under the Woodburn Development Ordinance.

ITE: The acronym refers to the Institute of Transportation Engineers, which publishes both the *Trip General Handbook* (10th Ed. or as amended) and the manual *Designing Walkable Urban Thoroughfares: A Context Sensitive Approach* (2010 or as amended).

Kennel: Any lot or premises on which four or more dogs and/or cats over the age four months are kept for sale, lease, boarding or racing.

Landscaping: Areas primarily devoted to the planting and preservation of trees, shrubs, lawn and other organic ground cover, together with other natural or artificial supplements such as watercourses, ponds, fountains, decorative lighting, benches, arbors, gazebos, bridges, rock or stone arrangements, pathways, sculpture, trellises and screens.

Legal Description: The description of a subject property by either metes and bounds or in reference to a lot, or lot and block, number of a recorded subdivision or partition.

Legislative Action: Any final decision of the city that adds to, amends or repeals the City's land use regulations, comprehensive plan or related maps and does not pertain to a particular property or small set of properties.

Loading Space: An on-site space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or material.

The term includes camping trailer, motor home, park trailer, travel trailer, and truck camper.

Recreational Vehicle Park or RV Park: A plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles belonging to the general public as temporary living quarters for recreational or vacation purposes.

Recycling Center: An area or structure used for the collection and temporary storage of non-putrescible, discarded materials, which will be transported elsewhere to be reused or recycled.

Repair: The reconstruction or renewal of any part of an existing building or structure for the purposes of maintenance. The term shall not include structural alteration.

Review Area: The review area that defines the character of surrounding dwellings and immediately surrounding dwellings shall encompass the five nearest dwellings to the subject lot that are on the same street and that are within 500 feet of the subject lot.

Root Protection Zone (RPZ): A circular area around a tree that is based on the diameter of the tree. Each 1 inch diameter of tree equals 1 foot radius for the RPZ. See Figure 1.02M.

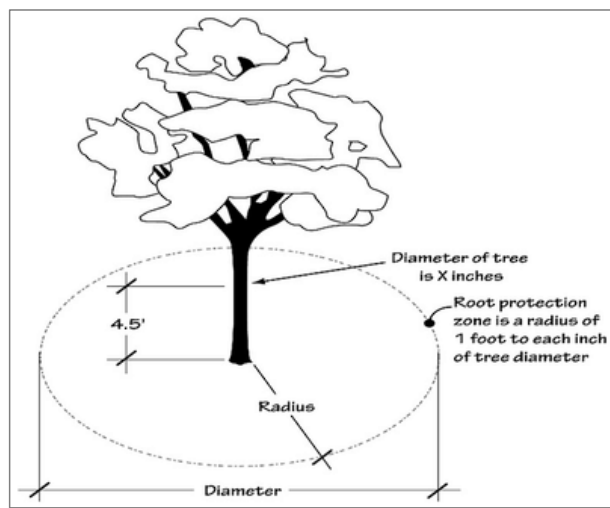


Figure 1.02M – Root Protection Zone Measurement

ROW: The acronym refers to right-of-way. Unless a WDO provision specifies otherwise, ROW excludes railroad right-of-way.

School, Elementary, Middle or High: A public or private institution offering instruction in the several branches of learning and study, in accord with the rules and regulations of the State Department of Education.

Screening: A sight-obscuring fence, architectural wall, or evergreen hedge at least 6 feet in height.

Setback, Average: For any continuous wall, “average setback” shall be as follows:

1. For a straight wall: The distance derived from dividing the sum of the closest and furthest points of the building wall from the property line by two; or
2. For an articulated wall: The location of a wall where the yard area abutting the property line (accounting for offsets and jogs) is equal to the yard area computed by multiplying the length of the wall by the standard for the allowable average setback.

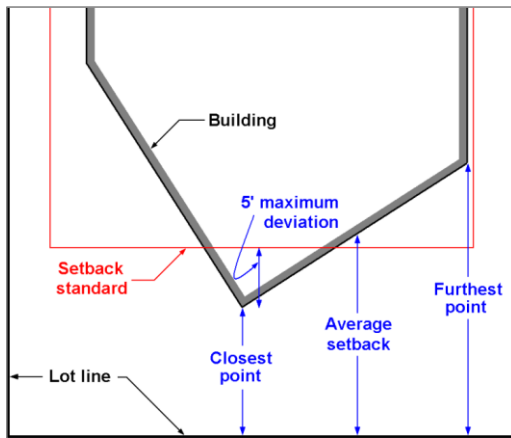


Figure 1.02F – Average Setback for a Straight Wall

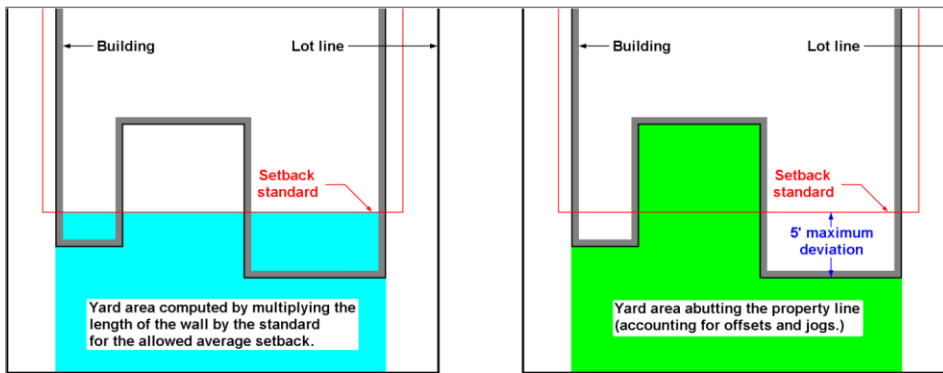


Figure 1.02G – Average Setback for an Articulated Wall

Shared Rear Lane: Similar to “Alley”, except that it remains privately maintained and a legal instrument grants the City and the public access to it.

~~Significant Tree: Any existing, healthy tree 24 inches or more in diameter, measured five feet above ground level (See Section 3.06.07).~~

Townhouse Project: One (1) or more townhouse structures constructed together with the site development area where there is land division establishing townhouse lot lines and any common area tracts.

Tree, Significant: An existing tree that is 24 inches or more in diameter at breast height, which equates to 6 feet, 3¼ inches or more in circumference, and one of two classes:

- Class S: Up to fewer than 36 inches; and
- Class T: 36 inches or wider, which may be termed a Tremendous Tree. (A diameter at breast height of 36 inches equates to 9 feet, 5 inches or more in circumference.)

("Diameter at breast height" is defined above within this Chapter 1.02).

UGB: The acronym refers to urban growth boundary. See the Comprehensive Plan and its land use map.

Use: (noun) An activity or a beneficial purpose for which a building, structure or land is designed, developed or occupied.

- Ancillary Use: An ancillary use is a use that is subsidiary to a predominant use and is either vertically integrated with, or directly linked with, the conduct of a predominant use, or is exclusively for the benefit of occupants, or employees, of a predominant use.
- Nonconforming Use: A use which met all applicable use standards imposed by applicable City or county zoning ordinance provisions when it was established, but which does not comply with the use standards of the Woodburn Development Ordinance solely because of the adoption of or amendment of the Woodburn Development Ordinance, or because annexation to the City resulted in the application of different use standards to the subject property (See also Nonconforming Development).
- Permitted Use: Those land uses permitted in a zoning district that are allowed outright, subject to the standards of the Woodburn Development Ordinance.
- Required Supporting Use: An on-site space or facility necessary to fulfill a dimensional or development standard of the Woodburn Development Ordinance, or a condition of a land use approval. Required supporting uses include access facilities, parking, loading, landscaping, and open space.

Utilities: Water, sanitary sewer, storm drainage, natural gas, electrical, wire communication service, cable television and all persons and companies supplying the same.

Vision Clearance Area (VCA): An area defined by the standards within which visual obstructions are regulated for safety purposes (See Section 3.03.06). Also known as "sight triangle".

Wall, Architectural: A brick, poured concrete, precast concrete, or CMU wall that meets the design standards of Section 3.06.06.

Wall, Common: A wall or set of walls in a single structure shared by 2 or more dwelling units. The common wall is shared for at least 25 percent of the length of the side of the building of the dwellings. The common wall may be any wall of the building, including the walls of attached garages. (This definition has no necessary relationship to any that might exist in the state building code.)

3.01 Streets, Greenways & Other Off-Street Bicycle/Pedestrian Corridors, and Bus Transit

The purpose of this Section is to provide for attractive, safe, comfortable, interesting, and efficient streets, off-street bicycle/pedestrian corridors and facilities, and transit improvements within the city, especially to include and be equitable toward Woodburn residents who cannot or do not own private vehicles or drive, to implement the Woodburn Comprehensive Plan and the Transportation System Plan (TSP), to use civil engineering of streets to reduce speeding, to guide City capital improvement projects, and to have developers upgrade nonconforming streets and construct extended and new streets and off-street bicycle/pedestrian facilities that conform. An objective is to have developers construct or fund street improvements, and other proportional share of improvements for the public, to lessen the cost of land development to the City in order to lessen taxpayer burden for landowners in the context of Oregon Ballot Measures 5 (1990) and 50 (1997). The provision of streets is guided by the applicable goals and policies of the Comprehensive Plan, the TSP, the Highway 99E Corridor Plan, creek greenway plans, the Transit Plan, and other WDO sections.

3.01.01	Applicability
3.01.02	Street General Provisions
3.01.03	Street Improvements Required for Development
3.01.04	Street Cross Sections
3.01.05	Street Layout
3.01.06	Street Names
3.01.07	Off-Street Public Bicycle/Pedestrian Corridors
3.01.08	Mill Creek Greenway
3.01.09	Bus Transit Improvements

3.01.01 Applicability

- A. Right-of-way standards apply to all public streets and public alleys.
- B. Improvement standards apply to all public and private streets, public alleys, sidewalks, landscape strips, and on and off-street public bicycle pedestrian corridors. Standards do not exclude conformance with the public works construction code that the Public Works Department administers.
- C. The Woodburn Transportation System Plan (TSP) designates the functional class of major thoroughfares and local streets.
- D. This applies to all development as Section 1.02 defines, and is not limited to partitions, subdivisions, multi-family, commercial or industrial construction, or establishment of a manufactured dwelling or recreational vehicle park; however, a lesser set of standards applies to infill residential development of 4 or fewer dwellings and where no land division or Planned Unit Development is applicable, including construction of a single-family dwelling or placement of a manufactured dwelling on an infill lot. See Section 3.01.03C.2.

3.01.02 Street General Provisions

- A. No development shall be approved, or access permit issued, unless the internal streets, boundary streets and connecting streets are constructed to at least the minimum standards set forth in this Section, or are required to be so constructed as a condition of approval.
- B. Private streets are prohibited, except in manufactured dwelling parks, pursuant to State statute (ORS Chapter 446 and OAR 918-600). All private streets in manufactured dwelling parks shall comply with statute and WDO standards.
- C. Materials and construction shall comply with specifications of the City of Woodburn.
- D. The standards of this Section may be modified, subject to approval of a Street Adjustment, Planned Unit Development, Zoning Adjustment, or Variance. Other sections restrict where and how these application types apply.
- E. When all public improvements are due: The construction of all public improvements, their passing City inspections, and acceptance by the City are due no later than by either 5.01.06B in the context of land division final plat application to the City or by building permit issuance, except if (1) the developer applies to the City through the Public Works Department for deferral and (2) the City Administrator or designee issues a document approving and describing a bond or performance guarantee pursuant to Section 4.02.08. Administration of bonding and performance guarantees for improvements that are public defaults to the Public Works Department, and the department shall notify the Community Development Director of deferral applications and any approvals and conditions of approval.
- F. Fees in-lieu: Per Section 4.02.12.

3.01.03 Street Improvements Required for Development

A. With development, the Internal, Boundary, and Connecting streets shall be constructed to at least the minimum standards set forth below.

B. Internal Streets

Internal streets shall meet all standards of WDO and the TSP.

C. Boundary Streets

1. The minimum improvements for a Boundary Street may be termed "half-street" improvements and shall be as follows, except per subsection 2:

- a. One paved 11-foot travel lane in each direction, even though this results in required improvements being slightly more than half-street by exceeding what the applicable cross section figure would require for a half-street;
- b. On-street parking on the side of the street abutting the development, if the required cross section includes on-street parking;
- c. Curb on the side of the street abutting the development;
- d. Drainage facilities on the side of the street abutting the development;
- e. Landscape strip with street trees and lawn grass on the side of the street abutting the development; and
- f. Sidewalk on the side of the street abutting the development.

2. Infill residential development of 4 or fewer dwellings and where no land division or Planned Unit Development is applicable, per Section 3.01.01D: A developer shall:

- a. Dedicate ROW per the required cross section;
- b. Dedicate one or more streetside PUEs per Section 3.02.01B;
- c. Either construct sidewalk per the required cross section or pay fee in-lieu per Section 4.02.12;
- d. Plant a street tree or trees per Section 3.06.03A and specifically sited to conform with where a landscape strip would be per the required cross section, or pay fee in-lieu per Section 4.02.12; and
- e. Provide minimum access per Section 3.04, and where a driveway approach, apron, curb cut, or ramp within ROW is relevant, have it meet the public works construction code.

D. Connecting Streets

1. The minimum improvements for a Connecting Street shall be one paved 11-foot travel lane in each direction.
2. Connecting streets shall extend from the boundary street of a development, to the nearest intersection that meets the cross-section and improvement requirements of this Section, or 1,000 feet, whichever is less.

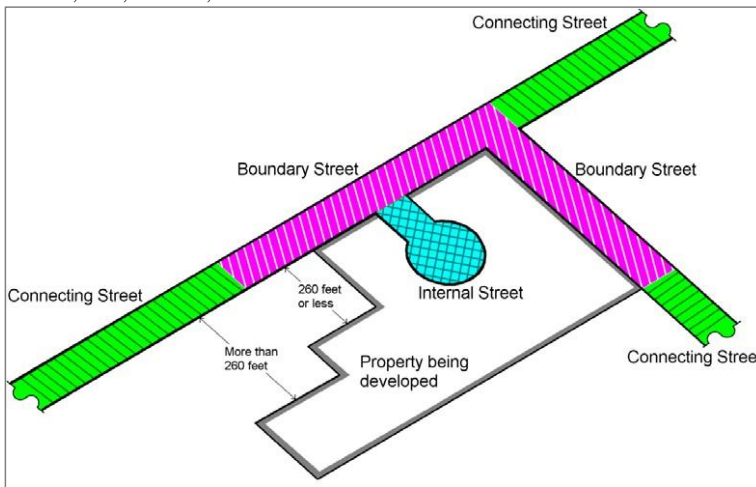


Figure 3.01A – Internal, Boundary, and Connecting Streets

- E. When the Director determines that a required improvement of a Boundary Street would not be timely, such as due to pending development of properties in the immediate vicinity or the area for Boundary Street ROW being wholly on adjacent property outside a developer's control, the developer shall pay fees in-lieu per Section 4.02.12.
- F. When the Director determines that a required improvement of a Boundary or Connecting Street would not be feasible, due to physical constraints of properties in the immediate vicinity or an inability to obtain right-of-way dedication from property outside a developer's control, the developer shall pay fees in-lieu per Section 4.02.12, the Director may approve construction of a partial-width street to the minimum standards set forth above, or a combination of both.
- G. ADA: The minimum standards of this Section 3.01 apply to development such that implementation includes constructing new or upgrading existing public improvements to be ADA-compliant.

H. Bridges / culvert crossings:

1. ROW: Required ROW shall remain such regardless of the physical width of the crossing, unless the developer obtains approval of Street Adjustment, modification through Planned Unit Development (PUD), or Variance.
2. Parking: Any parking lane(s) required by the applicable standard cross section shall remain required unless the developer obtains approval of Street Adjustment, modification through PUD, or Variance.
3. Sidewalk widths: A developer may omit from a bridge or culvert the street landscape strips, thereby resulting in curb-tight sidewalk, the minimum width of which shall be either 8 ft where there is to be no adjacent on-street parking or 9 ft where there is to be. Where the City considers a segment of a bicycle/pedestrian facility that is Class A or B to be along sidewalk, the minimum width shall widen to the class standard as applicable. Wider width shall apply where ADA per subsection G applies such that it is required.
4. Fence/railings: Where (1) a street segment is a bridge or culvert crossing, and (2) the public works construction code requires any pedestrian guardrail, handrail, fall protection railing, or safety railing, then it shall be decorative or ornamental (as examples, having an artistic pattern or resembling wrought iron), and a color other than black or charcoal. Any required fence at each end of railings shall be the same color(s).
5. Bridge sides: If the bridge sides are concrete, the surface shall be stamped or treated to resemble either cut stone or rough stone.

I. TSP and other adopted long-range plans: Where such plans identify improvements within a Boundary Street, on the subject property of a development, or abutting a side or rear boundary of the subject property, the improvement or a proportional share of the improvement shall apply as a public improvement standard for the development. Applying a proportionate share may necessitate a developer applying to modify, adjust, or vary from a standard where and as the WDO allows.

J. Off-site public improvements: To provide for the safety of the traveling public and ensure improved access to a development site consistent with Comprehensive Plan policies and WDO purposes and objectives for orderly urbanization and extension of public facilities, the Director may require off-site improvements reasonably related to a development and concurrent with it.

K. Signage: A developer shall remove prohibited signage that Section 3.10.08R identifies.

~~K.~~L. Significant Tree removal and preservation: See Section 3.06.07B.2c.

3.01.05 Street Layout

- A. Purpose: To:
1. Implement Woodburn Comprehensive Plan Policies including those regarding avoiding dead-end streets, cul-de-sacs, and out-of-direction travel;
 2. Implement the TSP including the Figure 6 “Local Street Connectivity Plan”;
 3. Shorten out-of-direction travel for emergency responders;
 4. Lessen physical vehicular access to the end of a street stub (from adjacent unimproved land where there is no driveway) that damages an improved street such as by demolishing curb or sidewalk or dragging dirt, mud, or gravel onto an improved street;
 5. Not allow outer areas of the city to have street networks so sparse such that a few major thoroughfares are burdened with almost all vehicular traffic;
 6. Encourage constructing new means of public access across on-site or adjacent creeks or creek tributaries;
 7. Prompt developers to construct alleys or shared rear lanes where they can serve for vehicular travel and access as well as and at less expensive construction cost than public streets; and
 8. Allow off-street public bicycle/pedestrian facilities to substitute for a public street, such as an Internal Street, where justified.
- B. Termination of Streets and Off-Street Bicycle/Pedestrian Facilities
1. Cul-de-sac Streets
 - a. The maximum length of a cul-de-sac street shall be 250 feet. Cul-de-sac length shall be measured along the center line from the nearest right-of-way line of the nearest intersecting street, to the point of curvature of the cul-de-sac bulb.
 - b. The minimum radius of a cul-de-sac bulb right-of-way shall be 55 feet.
 - c. The minimum improved street radius of a cul-de-sac shall be the number of feet per OFC Figure D103.1 or as amended plus the number that fits curb, planting strip and sidewalk.
 - d. The Director may require bikeway and pedestrian facilities to connect from one cul-de-sac to an adjacent cul-de-sac or street, except where the cul-de-sac abuts developed property, or where the Director determines that there is no need for a connection.
 2. Temporary Dead End Streets

Streets extensions that result in temporary dead end streets, or stub streets, shall:

 - a. Be extended to the adjoining land when it is necessary to give access to, or permit, a future division of adjoining land;
 - b. Require a barricade at the end of the street to be installed and paid for by the property owners. It shall not be removed until authorized by the City of Woodburn.
 - c. Have an all-weather sign at the temporary street terminus, installed by the

property owners, that states: “This Street is Planned for Future Extension”.

- d. If the Public Works Director in writing requires, provide either a one foot-reserve strip deeded to the City, or an alternative method for limiting access approved by the City, at the temporary end of the right-of-way.

3. Continuity of Off-Street Bicycle/Pedestrian Facilities

Public bikeway and pedestrian facilities, other than those incorporated in a street right-of-way, shall either:

- a. Provide for a continuous system, with each segment originating and terminating with a connection to a public street, a public alley, a shared rear lane, a greenway, a public park, or to a designated activity center; or
- b. Provide stubbed facilities to not preclude subsection (a.) and that may extend beyond the limits of an approved development, when such a public facility has been required by the decision-maker.

C. Block Standards

1. Block length shall not be less than 200 feet and not more than 600 feet, except where street location is precluded by any of the following;
 - a. Natural topography, wetlands, significant habitat areas or bodies of water, or pre-existing development;
 - b. Blocks adjacent to arterial streets, limited-access highways, collectors or railroads;
 - c. Residential blocks in which internal public circulation provides equivalent access.
2. In any block that is longer than 600 feet, as measured from the right-of-way line of the street to the right-of-way line of the adjacent street, a bikeway/ pedestrian facility shall be required through and near the middle of the block.
3. On any block longer than 1,200 feet, corridors per Section 3.01.07 and 3.01.08 may be required through the block at 600 foot intervals.
4. In a proposed development including partition and subdivision, or where redevelopment potential exists and a street connection is not proposed, one or more off-street bicycle/pedestrian facilities may be required as partition or subdivision connection paths or shortcut paths to connect a cul-de-sac or other public street to other public streets, to other bicycle/pedestrian facilities, or to adjoining land to allow for future connections.

D. Street Access

Residential development subject to either OFC Section D106 (100 or more multiple-family dwellings) or D107 (30 or more single-family or duplex dwellings) shall comply. Where applicability of either section to a residential development is unclear, then the presumptive standard shall be that if a development has 30 or more dwellings, it shall have two or more means of public access to any of a street, alley, or shared rear lane if a shared rear lane has a public access easement.

E. Alleys and Shared Rear Lanes:

1. Purpose: To use alleys and shared rear lanes as a means of access management for the same purposes that Section 3.04.03A lists and to have developers to construct public

alleys and shared rear lanes where they can serve for vehicular travel and access as well as and at less expensive construction cost than public streets.

2. Cross section: The alley standard cross section is Figure 3.01J.
3. For development within the RSN and RMN zoning districts, see the standards in Section 2.05.04B. For development that is outside those districts and is specifically planned unit development, see the standards in Section 3.09.06C.

F. Local street connectivity plan:

1. Purpose: To implement Woodburn Comprehensive Plan policies and TSP Figure 6 "Local Street Connectivity Plan" and related plan text and serve purposes to improve access and circulation for walking, cycling, and rolling along as well as driving and to have developers bring about extended and new local class streets.
2. Applicability: Applicable to a development where TSP Figure 6 indicates a future street corridor into, through, along, or near a development. The Director may determine what the word "near" means.
3. Standards:
 - a. Cross section: Based on Section 3.01.04B.1, the presumptive minimum width shall be 70 feet for a full width future street corridor or 35 feet for a half-street corridor.
The Director may establish a wider standard if more than a half-street width but less than full width is within the development.
 - b. Extent: The presumptive minimum extent begins at an existing street and either connects to a different street or protects future connection. The Director may determine extent of a street connection by considering factors including:
 - (1) TSP Figures 2, 8 & 9;
 - (2) An applicable off-street bicycle/pedestrian facility in or adjacent to a development;
 - (3) Access management per Section 3.04;
 - (4) Existing and future bus transit;
 - (5) Proximity to parks and public schools;
 - (6) Context of developments in the vicinity;
 - (7) Whether a development is in a region within the UGB that has a sparse street network;
 - (8) The layout of regional public potable water, sanitary sewer, and drainage and stormwater management lines and facilities; and
 - (9) Where applicable, the ability of development to conform to subsection D above regarding two means of public access.
 - (10) Where applicable, the RCWOD that Section 2.05.05 regulates.
 - c. Future street corridor: Within the width and extent of a future street corridor where there is a street reservation easement instead of ROW, a developer shall not build buildings, install, mount, or place pre-fabricated buildings, or construct free-standing walls or structures such as carports and trash and recycling enclosures.

- d. Subsurface/underground: The Public Works Director may direct a developer's arrangement of private utility lines and facilities if and where they pass under a future street corridor.

4. Implementation: The City may implement this section in concert with Section 3.01 at large by using any of full, wider than half-street, half-street, or narrower than half-street ROW dedication. The City may instead or also use any of off-street PUE dedication or dedication of other types of public easements to identify, memorialize, and reserve future street corridors in place of ROW dedication. Where an easement or easements substitute for ROW, a public easement as a street reservation easement shall include text that identifies and memorializes the future street corridor and makes apparent the easement purpose. The Director may apply this subsection F when administering a street reservation for a street that TSP Figure 2 classifies as higher than local.

4.5. Significant Tree removal and preservation: See Section 3.06.07B.2c.

3.01.06 Street Names

- A. All public streets and private manufactured dwelling park streets shall be named, after providing the Woodburn Fire District with an opportunity to review and comment.
- B. Public and private manufactured dwelling park streets shall be named as follows:
 - 1. The street name shall not duplicate an existing street name, unless there is reasonable assurance the named streets will be connected in the future.
 - 2. New streets shall be designated with the same names as existing streets only if they fall in the same grid line and there are reasonable assurances that the street will connect with another section of the numbered street.
 - 3. Street names shall not sound like another street name or cause confusion.
 - 4. Street names that are deliberately misspelled, frivolous, or reflect the name of the developer or family members shall not be allowed.
- C. Streets shall be further named with a suffix.
 - 1. Except as indicated in the Woodburn Transportation System Plan, the following suffixes designations apply to new streets, as follows:
 - a. North/South streets shall be designated as a "Street", with the exception that major streets classified as an arterial in the Woodburn TSP may be designated as a "Road" or a "Highway".
 - b. East/West streets shall be designated as an "Avenue", with the exception that major streets classified as an arterial in the Woodburn TSP may be designated as a "Road" or "Highway".
 - c. A skewed or meandering street shall be named a "Drive".

3.06 Landscaping

The purpose of this Section is to identify the requirements for ~~site landscaping and street landscape strips~~, street trees, ~~on-site landscaping, and tree preservation and removal~~.

Landscaping enhances the beauty of the City, provides shade and temperature moderation, mitigates some forms of air and water pollution, reduces erosion, promotes stormwater infiltration, and reduces peak storm flows.

- 3.06.01 Applicability
- 3.06.02 General Requirements
- 3.06.03 Landscaping Standards
- 3.06.04 Plant Unit Value
- 3.06.05 Screening
- 3.06.06 Architectural Walls
- ~~3.06.07 Significant Trees on Private Property Preservation & Removal~~
- ~~3.06.073.06.08 Tree Protection During Construction~~

3.06.01 Applicability

The provisions of this Section shall apply:

- A. To the site area for all new or expanded multiple-family dwelling and non-residential development, parking and storage areas for equipment, materials and vehicles.
- B. Dwellings other than multiple-family need comply only with the street tree and significant tree provisions of this Section.

3.06.02 General Requirements

- A. Building plans for all uses subject to landscaping requirements shall be accompanied by landscaping and irrigation plans.
- B. All required landscaped areas shall be irrigated unless it is documented that the proposed landscaping does not require irrigation.
- C. All shrubs and ground cover shall be of a size upon installation so as to attain 80% of ground coverage within 3 years.
- D. Installation of plant materials and irrigation specified in an approved landscaping plan shall occur at the time of development and shall be a condition of final occupancy. Should site conditions make installation impractical, an acceptable performance guarantee may be approved, subject the requirements of this Ordinance (Section 4.02.08).
- E. The property owner shall be responsible for maintaining all landscaping, fences, and walls in good condition, so as to present a healthy and orderly appearance. Unhealthy and dead plants shall be removed and replaced, in conformance with the original landscape plan.
- F. The required number of plant units shall be met by a combination of plant materials listed in this Ordinance (Table 3.06B).

- C. Parking area landscape island standards: Landscape islands or peninsulas shall cap each aisle end to protect parked vehicles from moving vehicles, emphasize vehicular circulation patterns, and shade vehicles and pedestrians. Structured parking is exempted.
1. Each south, southwest, and west island or peninsula cap of a parking aisle shall be minimum 84 square feet within back of curbing, narrowest dimension 6 feet within back of curbing, and contain a tree.
 2. Remaining islands and peninsulas shall be minimum 28 square feet within back of curbing and narrowest 2 feet within back of curbing, except where subsection 3 below supersedes.
 3. There shall be no more than 10 consecutive parking spaces in a parking aisle without a mid-aisle landscape island or peninsula. For consecutive parking spaces that include one or more accessible/ADA spaces and their aisles, the maximum shall be 9 consecutive parking spaces. Mid-aisle landscape islands or peninsulas shall be to the same standards as subsection 1 above.
 4. At drive aisle crossings of walkways and wide walkways that respectively Sections 3.04.06D and 3.05.02N describe, each south, southwest, and west side shall have a landscape island or peninsula to the same standards as subsection 1 above.

3.06.04 Plant Unit Value

Plant Unit (PU) Value Table 3.06B		
Material	Plant Unit (PU) Value	Minimum Size
1. Significant tree ¹	15 PU each	24" Diameter
2. Large tree (60-120 feet high at maturity) ¹	10 PU each	10' Height or 2" Caliper
3. Medium tree (40-60 feet high at maturity) ¹	8 PU each	10' Height or 2" Caliper
4. Small tree (18-40 feet high at maturity) ¹	4-PU each	10' Height or 2" Caliper

3.06.06 Architectural Walls

- A. This Section shall apply to required architectural walls.
- B. Design Standards and Guidelines
 - 1. An architectural wall shall meet the texture, color, and articulation requirements on the face away from the proposed development.
 - 2. An architectural wall should meet the texture, color, and articulation requirements on the face toward the proposed development.
 - 3. An architectural wall shall have a minimum three inch horizontal articulation of at least one linear foot of the wall of intervals not more than 40 feet; and
 - 4. An architectural wall shall have a minimum six inch vertical articulation of at least one linear foot of the wall of intervals not more than 40 feet.
 - 5. An architectural wall shall incorporate at least two colors.
 - 6. An architectural wall shall have an earth tone coloration other than grey on at least eighty percent (80%) of the surface.
 - 7. An architectural wall shall be architecturally treated with scoring, texture, or pattern on at least eighty percent (80%) of the surface.
- C. Retaining walls should/shall meet the texture and color requirements of architectural walls in or abutting residential districts, where the texture and color requirements apply to the visible face of the retaining wall.
- D. For multiple-family dwelling development, each refuse and recycling collection facility shall have a pedestrian opening minimum 3 feet, 4 inches wide in addition to the truck gates. If the pedestrian opening is gated, the gate shall swing inward.

3.06.07 Significant Tree Preservation & Removal~~Significant Trees on Private Property~~

~~A. Purpose: The purposes of this ~~Section~~section is are to establish processes and standards which will minimize cutting or destruction of significant trees within the City. Significant trees enhance neighborhoods by creating a sense of character and permanence. In general, significant trees on private property shall be retained, unless determined to be hazardous to life or property.~~

- ~~1. Preserve significant trees as landmarks and for wayfinding;~~
- ~~2. Preserve tree canopy better within city limits and unincorporated territory that is the subject property of an annexation application;~~
- ~~3. Shade;~~
- ~~4. Ensure suitable tree replacement or funding of such when applicants remove trees;~~
- ~~5. Enhance neighborhoods by creating a sense of character and permanence;~~
- ~~6. Reduce urban heat island effect;~~
- ~~7. Retard soil erosion;~~
- ~~8. By requiring a permit process, increase the likelihood of persons removing trees that they or their contractors will do so safely;~~

9. Absorb stormwater and pollutants;

10. Maintain or raise value of property;

11. Distinguish between the contexts of existing development and new development or redevelopment;

12. Allow continued reasonable economic use of property;

13. Establish processes and standards that minimize injury or death of significant trees; and

+14. Enhance the beauty of the city.

B. The provisions of this Section apply to the removal of any significant tree and the replacement requirements for significant tree removal. Applicability:

1. Removal or preservation of any Significant Tree on private property, which is defined in Chapter 1.02 under "Tree, Significant". Applicability extends to unincorporated territory that is the subject property of an Annexation application.

2. Exemptions:

a. Invasive species that Table 3.06E lists. (A merely non-native species is not necessarily invasive.)

b. Trees grown as product in a commercial orchard, timber forest, or tree farm.

c. In the context of new development or redevelopment, trees within to-be-widened Boundary Street ROW, new street ROW, or per Section 3.01.05F a future street corridor are exempt provided that the trees are not within where a landscape strip would be per the applicable street cross section in Chapter 3.01 or a land use condition of approval.

a. However, even if exemption is applicable, (1) a removal fee or fees remain applicable, (2) the City may still apply a land use condition of approval that requires preservation of one or more ROW trees, and (3) regarding future street corridors in particular, removal shall not occur until construction of public improvements within such corridors necessitates it.

B.C. Application type: Significant Tree Removal Permit per Section 5.01.11. Any of the following land use applications may substitute if necessary anyway and the Director uses it to administer the Significant Tree preservation and removal provisions: Conditional Use, Design Review, Planned Unit Development, Preliminary Partition or Subdivision, Riparian Corridor and Wetlands Overlay District (RCWOD) Permit, Variance, and Zoning Adjustment. Neither Grading Permit approval nor building demolition permit issuance constitute approval to remove trees. A Significant Tree Removal Permit shall be reviewed as a Type I application to authorize the removal of a significant tree, subject to the following:

1. Approval of Significant Tree Removal Permits shall be held in abeyance between November 1 and May 1, to allow inspection of the deciduous trees when fully leafed.

2. For the removal of a diseased or dangerous tree, a report from a certified arborist or an arborist approved by the City shall be submitted, certifying that the tree is dead or dying, structurally unsound, or hazardous to life or property.

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~~3. If the Director is uncertain whether the arborist's opinion is valid, the Director may require a second arborist's opinion, and may require that the second opinion be done at a time when trees would be fully leafed.~~

~~4. A dangerous tree may be removed prior to obtaining a permit in an emergency, and the owner shall apply within three days for the removal permit, pursuant to this Section.~~

~~D. The issuance of a significant tree removal permit requires the property owner to replace each tree removed with one replacement tree. Each replacement tree shall be at least two inches in caliper. Each replacement tree shall be of a species not prohibited by this Section. The replacement tree shall be of the same size range at maturity as the significant tree replaced.~~General standards:-

1. Arborist's report: The applicant submitted an arborist's report by a certified arborist for the tree or trees proposed for removal that is:

- a. Dated and identifies and provides contact information for the applicant, and if different, the arborist, and the arborist's certification number;
- b. Identifies the street address or addresses of the subject property, or if none, stating such and the County tax lot number(s);
- c. Addresses the WDO tree removal and preservation provisions, with an applicant's narrative able to substitute for this part of a report;
- d. Specifies the date or dates of inspection;

- e. Includes or attaches a site plan, tree plan, land survey, or other scaled drawing plotting the tree or trees at their exact locations relative to property lines and existing development, with the Director authorized to require the applicant to submit a land survey, and circling and noting the radius of each root protection zone, which Chapter 1.02 defines;
- f. Assigns a unique identification code or number to each tree, with the included or attached plan or drawing also doing so;
- g. Identifies species by both common and taxonomic names;
- h. Identifies whether a species is deciduous or coniferous/evergreen;
- i. Quantifies diameter(s) at breast height (DBH);
- j. Describes health and structural conditions;
- k. Indicates the arborist's opinion and recommendation regarding both preservation and potential removal;
- l. Includes minimum two inspection photos per tree;
- m. Proposes how to mitigate in conformance with WDO Section 3.06.07D.2 below; and
- n. Where preservation is relevant, indicates whether an applicant or contractor intends to go by the prescriptive or discretionary standards of tree protection during construction per Section 3.06.08C.

The Director may require a second arborist's opinion.

2. Mitigation: If the City approves removal of all or a number of the trees, mitigation shall be at minimum per tree per the below. (Chapter 1.02 defines Significant Tree classes.)
 - a. Class S: Payment of a removal fee plus either (1) mitigation planting of minimum 1 tree or (2) payment of a fee in lieu of tree planting. (Section 4.02.12 addresses fees in-lieu.)
 - b. Class T: Payment of a removal fee plus either (1) mitigation planting of minimum 2 trees or (2) payment of a fee in lieu of one or both of the tree plantings. (Section 4.02.12 addresses fees in-lieu.)
 - c. Species and minimum size at planting: Per Tables 3.06B & C.
In the context of new development or redevelopment, mitigation trees credit towards the minimum landscaping requirements of Chapter 3.06 at large.
3. Protection: In the context of new development or redevelopment, tree protection during construction shall be per Section 3.06.08.
4. Injury: Hatracking, excessive pruning, or other fatal injury or killing of a Significant Tree that precludes the applicability of tree preservation standards is prohibited. (Chapter 1.02 defines hatracking.)
5. RCWOD: If and where the Riparian Corridor and Wetlands Overlay District is applicable and if and where Sections 2.05.05 and 3.06.07 conflict, the more stringent provision of a section shall supersede.
6. Fees: Fees are per applicable City ordinances, resolutions, and administrative fee schedules.
7. Plan review: The applicant, developer, or contractor shall submit with applications for any of Tree Removal Permit, land use, and building permit reviews information as the Director determines necessary to administer tree preservation and removal standards.

<u>Significant Tree Preservation & Removal: Exemption of Invasive Species</u>	
<u>Table 3.06E ¹</u>	
<u>Common Name</u>	<u>Taxonomic Name</u>
<u>1. Cutleaf birch</u>	<u><i>Betula pendula</i></u>
<u>2. Sweet cherry</u>	<u><i>Prunus avium</i></u>
<u>3. Horse chestnut</u>	<u><i>Aesculus hippocastanum</i></u>
<u>4. Golden chain tree</u>	<u><i>Laburnum watereri</i></u>
<u>5. English hawthorn</u>	<u><i>Crataegus monogyna</i></u>
<u>6. English holly</u>	<u><i>Ilex aquifolium</i></u>
<u>7. English laurel</u>	<u><i>Prunus laurocerasus</i></u>
<u>8. Black locust</u>	<u><i>Robinia pseudoacacia</i></u>

<u>9. Norway maple</u>	<u><i>Acer platanoides</i></u>
<u>10. Sycamore maple</u>	<u><i>Acer pseudoplatanus</i></u>
<u>11. White poplar</u>	<u><i>Populus alba</i></u>
<u>12. Empress/Princess tree</u>	<u><i>Paulownia tomentosa</i></u>
<u>13. Tree-of-heaven</u>	<u><i>Ailanthus altissima</i></u>
<u>1. The table is based on the City of Portland Bureau of Planning and Sustainability (BPS) “nuisance” plant list within the June 2016 Portland Plant List, Section 4, Ranks A-C.</u>	

Significant Tree Preservation & Removal: Tiers of Standards

Table 3.06T¹

<u>Development or Use</u>		<u>Section 3.06.07 Tier of Standards</u>
<u>1. Existing development</u>	<u>a. Single-family or manufactured dwelling on individual lot that is residentially zoned</u>	<u>Tier 1 (T1)</u>
	<u>b. Undeveloped lot for which there is no land use final decision that conditions tree preservation and removal, no land use application for annexation and/or development, or no building permit application for development</u>	<u>Tier 2 (T2)</u>
	<u>c. Any other existing development or use;</u>	
<u>2. New development</u>	<u>a. Infill/minor: Net total 1 to 4 dwellings on a lot with no land division involved</u>	<u>Tier 3 (T3)</u>
	<u>b. Greenfield/major residential: Multiple-family dwellings; any number of dwellings involving land division</u>	<u>Tier 4 (T4)</u>
	<u>c. Greenfield/major other: Any other new development or use, including mixed uses</u>	
<u>1. Annexation with no new development: See instead Section 3.06.07J.</u>		
<u>2. Where it would be unclear what tier would be applicable, the Director may determine.</u>		

E. Tier 1 Standards: Where T1 is applicable per Table 3.06T a tree required by the development standards of this ordinance (Section 3.1) or as a condition of permit or land use approval shall qualify as a replacement tree. In the Neighborhood Conservation Overlay District (NCOD), the replacement tree shall be planted on the same property as the significant tree replaced. In other zones, the property owner shall choose the method of replacement. Replacement shall be accomplished by:

1. Removal criteria: The subject tree or trees are any of:
 - a. Dead, terminally diseased, or otherwise dying.
 - b. Posing danger or hazard of: collapse or fall, fall of a branch or branches, or fall of hard fruits onto persons outdoors, existing buildings, or one or more motor vehicles parked in a driveway that conforms with Section 3.04.04 and, where applicable, Section 3.05.02D.3.
 - c. Rupturing underground potable water or sanitary sewer pipe or breach of existing building foundation and per the following provisions:
 - (1) Pipe report: For rupturing, a qualified professional evaluates the site and through a pipe report determines (A) that there is a serious problem and (B) recommends necessary corrective action more than pipe repair, pipe re-routing, or root barrier installation could provide and which would result in removal of the tree(s). An arborist's report that conforms to this subsection serves as a pipe report. The Director may allow submittal of documentation

as an alternative to an arborist's report or pipe report and on what terms.

(2) Foundation report: For breach, a qualified professional, such as a structural engineer, evaluates the site and through a foundation report determines (A) that there is a serious structural problem and (B) recommends necessary corrective action more than pruning could provide and which would result in removal of the tree(s). An arborist's report that conforms to this subsection serves as a foundation report. The Director may allow submittal of documentation as an alternative to an arborist's report or foundation report and on what terms.

(3) Regarding breach, and absent a foundation report:

(a) A crack or cracks are within a foundation that is either at a crawl space or part of a slab-on-stem wall, which is a slab with footings around the perimeter of the foundation. A foundation being non-structural precludes the criterion.

(b) Water seeping through the crack or cracks is a factor in support of the criterion.

(c) That the perimeter of the trunk or trunks closest to the foundation at diameter at breast height (DBH) are either 10 feet from the foundation or closer is a factor in support of the criterion.

~~(a)~~(d) That roof gutters and downspouts above or at the foundation have been clogged and in poor condition are a factor against the criterion.

2. Exception: As a T1 exception to the general standard, an arborist's report is not required; however, to administer mitigation the Director may require an applicant to submit documented proof of DBH measurement.

~~1.3.~~ Emergency: A tree or trees that *force majeure*, especially a natural disaster, makes dangerous or hazardous to persons or existing buildings may be removed prior to issuance of a Tree Removal Permit if an emergency exists and (a) a City Council emergency ordinance recognizes it or (b) absent such ordinance, the Director recognizes it based on information to the satisfaction of the Director from the person who would remove or cause removal of the tree(s). ~~Planting one tree at a location determined by the Woodburn Community Services Department;~~
~~or~~

~~2. Paying a fee in lieu to the Woodburn Community Services Department for the planting of one tree at a future time by the City.~~

F. Tier 2 Standards: Same as T1.

G. The property owner shall pay a mitigation fee for each required replacement tree that is not planted pursuant to this Section. The applicant shall pay the mitigation fee into the City's tree fund. The amount of the mitigation fee shall be established by the City Council in the Master Fee Schedule, based on the average value of a two-inch caliper

~~tree available from local nurseries, plus planting costs.~~ Tier 3 Standards:

1. Removal criteria: Same as T1, with the limits that for a building for which the City has issued a demolition permit, the part of removal criterion (b.) about existing buildings as well as removal criterion (d.) about breach of building foundation would no longer be applicable.
2. Preservation: Development shall preserve at least 33.3 percent of all Significant Trees that do not meet removal criteria, rounding any fraction less than 1.0 up to 1. Mitigation remains required for the remaining percent.
3. Deviation: Zoning Adjustment permissible for the preservation standards.

H. Tier 4 Standards:

1. Removal criteria: Same as T1.
2. Preservation: Development shall preserve at least 50.0 percent of all Significant Trees that do not meet removal criteria, rounding any fraction less than 1.0 up to 1. Mitigation remains required for the remaining percent.
3. Deviation: Zoning Adjustment permissible for the preservation standards.

I. [Reserved.]

J. Annexation Standards:

1. Applicability:
 - a. Territory that is the subject property of an annexation application;
 - b. The annexation application does not come with additional land use application types or a building permit application that would allow for new development of the subject property upon annexation; and
 - c. Any of that the applicant requests to remove trees from the territory, that field conditions are apparent that the applicant attempts removal, or that the application is silent on the matter of tree removal and preservation.
2. Removal criteria: Upon annexation application, tree removal is prohibited from the territory to be annexed until the applicant meets this Section 3.06.07. Any applicable exemption per 3.06.07B.2 remains applicable. If tree removal is proposed or attempted, the criteria would be the same as T1.
3. Preservation: Development shall preserve all Significant Trees that do not meet removal criteria, rounding any fraction less than 1.0 up to 1.

3.06.08 Tree Protection During Construction

- A. Purpose: To reduce harm by construction; keep foliage crown, branch structure and trunk clear from direct strike and injury by equipment, materials or disturbances; to preserve roots and soil in an intact and non-compacted state; to visibly identify the root protection zone in which no soil disturbance is permitted and other activities are restricted; and to lessen injury or death from ignorant or careless acts.
- B. Applicability: To any tree that Section 3.06.07 requires to be preserved. Proposed tree protection shall meet the requirements of subsection C below, except that the Director may approve alternate protection methods.
- C. Protection methods: The site or tree plan shall demonstrate that the contractor will adequately protect trees to be preserved during construction using one of the methods described below:

 - 1. Prescriptive Standards:

 - a. RPZ encroachment: The root protection zone (RPZ) is defined and illustrated by example in Chapter 1.02. Encroachments into each RPZ that exist prior to new development or redevelopment, including buildings, other structures, pavement and utilities, may remain. New encroachments into the RPZ are permissible if:

 - (1) The total area of all new encroachments is less than 25.0 percent of the remaining RPZ area when existing encroachments are subtracted; and
 - (2) No new encroachment is closer than half the required radius distance. See Figure 3.06A below.

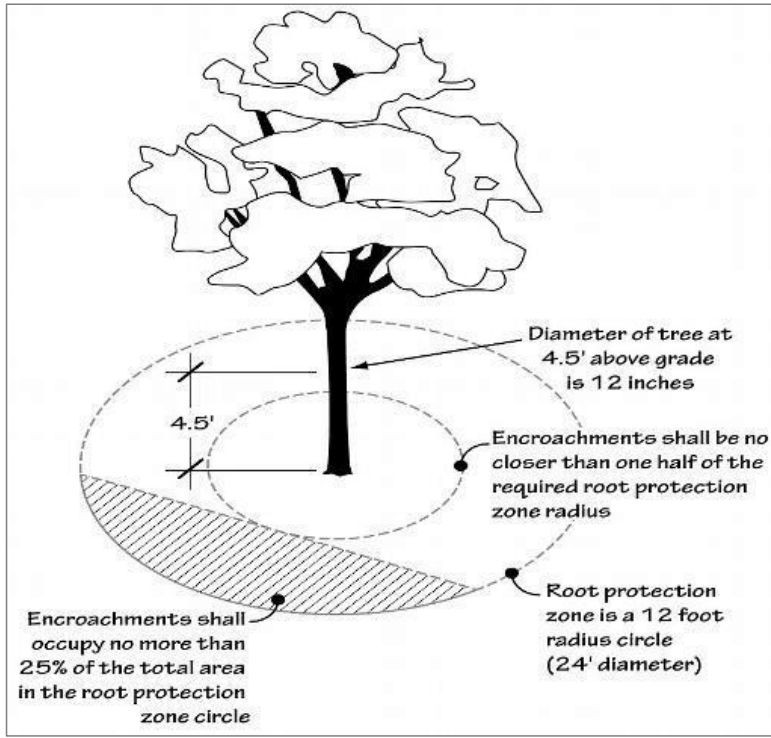


Figure 3.06A – Permissible RPZ Encroachments Example

b. Protective construction fencing:

- (1) Protective construction fencing consisting of a minimum 6-foot high metal chain link construction fence, secured with 2-foot metal posts shall be established at the edge of the RPZ and permissible encroachment area. (See Figure 3.06B below.) Substitution with high-density polyethylene (HDPE) or other rolled or soft plastic construction fencing is prohibited. Any of existing building, other structures, and existing secured and stiff fencing at least 3.5 feet tall above grade can serve as protective fencing.

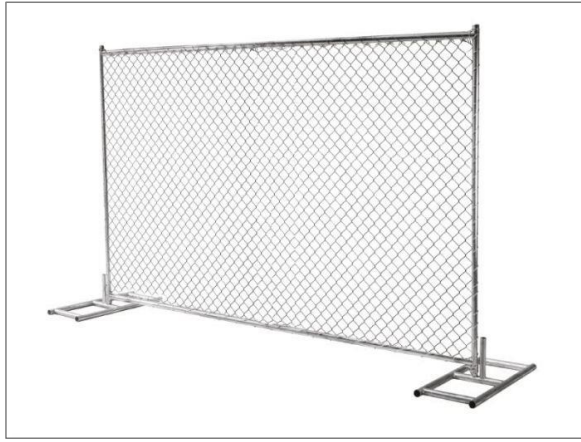


Figure 3.06B – Protective Construction Fence Panel Example

- (2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.
- c. Installation: The contractor shall install the protective construction fencing before either any ground disturbing activities including clearing and grading or the start of construction and shall remain in place until final inspection by Community Development Department staff.
- d. Prohibition: The following is prohibited within any RPZ: ground disturbance or construction activity including vehicle or equipment access, excluding access over existing streets or driveways; storage of equipment or materials including soil; temporary or permanent stockpiling; new buildings; new impervious surface; underground utilities; excavation or fill; and trenching or other construction activity.
- e. Plan review: The applicant or contractor shall submit with applications for any of Tree Removal Permit review, civil engineering plan review (led by the Public Works Department Engineering Division), grading permit review, or building permit review information as the Director determines necessary to administer standards for tree preservation and protection during construction, including a drawing or drawings necessary to constitute a tree preservation and protection plan.
- f. Sign posting: On each fenced enclosure, the applicant or contractor shall affix, mount, or post signage as follows:
- (1) Timing: From erection of protective construction fencing to passing of building permit final inspection. (Where construction is phased with Building Division approval, passing final inspection would be for the whole of the construction phase that contains the one or more fenced enclosures.)
- (2) Size: Sign face area minimum 18 by 24 inches.

- (3) Sign face copy: Background white, orange, amber (orangish yellow), or chartreuse (greenish yellow). Text minimum 2 inches tall. The default text is, "Tree preservation area: No construction staging or storage", with administrative allowance for deviation per the Director. Include a Spanish translation (in italics). The Director may establish and require conformance with a sign face template and may require a detail of such template on a plan sheet.
- (4) Weatherization: Lamination, enclosure within clear plastic sleeve, or printing on plastic fiberboard.
- (5) Number: Minimum 1 per tree, that is, where a fenced enclosure has two or more trees, that enclosure requires two or more signs.
- (6) Orientation: The sign shall face towards where construction workers and their vehicles would come when approaching the fencing. Where a fenced enclosure has two or more signs, the second and any additional signs may be spaced out along the enclosure. Sign top placed minimum height 5 feet above fence bottom.
- (7) Certification of posting: Upon posting, and if there is such a form, complete and submit to the Community Development Department a certification form that each fence location has been properly posted, attaching any additional documentation that the form requires.

2. Arborist's Discretionary Standards: When the above subsection 1 prescriptive standards are infeasible, the Director may approve alternative measures, provided that the applicant and/or contractor meet the following standards:

- a. The alternative RPZ is prepared by an arborist who has inspected the site and examined for each subject tree the diameter at breast height (DBH), location, and extent of root cover, evaluated for each the tolerance to construction impact based on its species and health, identified any past impacts within the root zone, and submitted a report to the Director. Such may be incorporated by revision into the arborist's report that Section 3.06.07 required or may be a supplement to that original submitted report.
- b. The arborist prepared and submitted a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site inspection.
- c. If the alternative methods require that the arborist be on site during construction, the applicant or contractor shall submit a copy of the arborist contract for those services prior to issuance of a Tree Removal or building permit, and a final report from the arborist documenting the inspections and verifying the viability of the tree or trees prior to final inspection by Community Development Department staff:
- d. If the alternative tree protection method involves alternative construction

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techniques, the applicant or contractor shall submit an explanation of the techniques and materials used in terms a layperson can understand.

e. The applicant or contractor shall submit a site plan sheet or sheets constituting a tree preservation and protection plan, and it shall include arborist contact information. Either the arborist shall sign the plan or the plan shall come with a document that identifies specifically the plan sheet number or numbers it accompanies and contains the affirmation or endorsement of the arborist.

D. Changes to tree protection during construction: The Director may approve contractor changes to the tree protection measures during construction as a revision to a permit provided that (1) the change does not result from unapproved, negligent, or ignorant encroachment into any RPZ, (2) the contractor demonstrates continuing to meet tree preservation and protection standards, and (3) the contractor completes whatever process the Building Division establishes for revision of an issued building permit where such permit type is relevant to the situation. When unapproved or negligent encroachment occurs, the City may pursue an enforcement action or other remedy per any of the WDO, other City ordinances such as Ordinance No. 2592 (August 9, 2021 or as amended), resolutions, or administrative policy.

- F. If the PUD plan proposes stormwater mitigation measures that exceed minimum City standards by at least 25 percent, the Commission may allow up to an additional 10 percent of the density to be transferred, upon a recommendation by the Public Works Department.
- G. If the PUD plan proposes other environmental, sustainability, or architectural enhancements, the Commission may allow up to an additional 10 percent of the density to be transferred, commensurate with the amount, quality, and community benefit of the enhancements. Such enhancements may include, but are not limited to, solar heating or electrical generation, community gardens, public art, mitigation of off-site stormwater, and greywater diversion.

3.09.04 Conceptual Development Plan

- A. PUDs require both a Conceptual Development Plan and a Detailed Development Plan. These reviews may be accomplished sequentially or as a consolidated review, at the applicant’s discretion.
- B. A Conceptual Development Plan shall include drawings and a narrative describing the surrounding neighborhood, existing site conditions, general development areas, phasing, land uses, building envelopes, architectural theme, landscaping and buffering, streets, bicycle and pedestrian circulation, common areas, utility locations, sign theme, and other information the Director may deem necessary to convey the concept plan.

3.09.05 Detailed Development Plan

- A. PUDs require both a Conceptual Development Plan and a Detailed Development Plan. These reviews may be accomplished sequentially or as a consolidated review, at the applicant’s discretion.
- B. No building, grading, access, or other development permit may be issued until a Detailed Development Plan has been approved for at least one phase of the project.
- C. Buildings shown on a Detailed Development Plan are exempt from Design Review if they are in substantial conformity to the Detailed Development Plan (see Section 3.07.01.B).
- D. A Detailed Development Plan shall include drawings and a narrative sufficient to demonstrate compliance with the Conceptual Development Plan and any conditions of approval previously imposed. A Detailed Development Plan shall provide specific information regarding the site layout, architecture, and proposed amenities. A Detailed Development Plan that proposes land uses not in the Conceptual Development Plan or that deviates by more than ten percent from any development standard in the Conceptual Development Plan for any phase, or that does not meet the standards of this Section shall not be approved. The applicant may request that the decision-maker approve such a plan as an amended Conceptual Development Plan.

3.09.06 Development Standards

A PUD is intended to allow flexibility in the development standards of Sections 2.02 through 2.04 and 3.01 through 3.11. The Detailed Development Plan may propose modified standards without a separate Street Adjustment, Zoning Adjustment, or Variance. Any standard that the City does not accept in writing as a modification shall apply to the PUD. The development standards stated

below shall not be modified through the PUD process.

A. Common area and density shall comply with Table 3.09A.

Common Area and Density Standards for Planned Unit Developments Table 3.09A				
		Transfer of Density	Residential	Mixed-Use
Common Area, Minimum	Four or fewer dwelling units	All undevelopable site area ⁶		
	Five or more dwelling units, or nonresidential uses	30 percent of gross site area, including all undevelopable site area ^{1, 5, 6}		
Improved Common Area, Minimum	Four or fewer dwelling units	None		
	Five or more dwelling units	100 square feet per dwelling unit		
	Nonresidential uses	None	None	None
Residential Density, Minimum (units per net acre)	Sites less than 20 gross acres	Pursuant to the Comprehensive Plan ²		
	Sites 20 or more gross acres	Either pursuant to the Comprehensive Plan ² or 15. ⁷		
Residential Density, Maximum (units per net acre)		Not specified ⁴		
<ol style="list-style-type: none"> 1. At least one common area shall be sized to accommodate a circle 25 feet in diameter. 2. In residential zones only. There is no minimum for non-residential zones. 3. Child care facility for 13 or more children, group home for six or more persons. 4. The maximum density is determined by setbacks, off-street parking, open space, and other requirements. Pursuant to Comprehensive Plan Policy Table 1, Note (p. 7), allowable densities may be increased through PUD above the maximum(s) of the base zone(s). 5. See Table 3.09B. 6. An existing or proposed golf course may count towards the common area minimum as follows: Of the 30 percent minimum, maximum 10 percent (1/3) if the course is public, 5 percent (1/6) if private, or 15 percent (half) if the course has a bicycle/pedestrian path with public easement and both connect to the course boundary at minimum two points allowing access across the course. 7. 15 is the standard if OAR 660-046-0020(10) "Master Planned Community" & 660-046-0205(2)(b) are applicable. 				

B. Improved Common Area

1. Common areas are deemed improved if they are provided with benches, playground equipment, gazebos, picnic facilities, or similar amenities. Lawn area by itself does not constitute improvement. Trails or paths do not constitute improvement, unless they connect to the public trail system.

2. Common meeting or recreation rooms are deemed to be improved common areas.
3. Improved common areas are subject to the performance guarantee provisions of Section 4.02.08.

C. Streets

1. A PUD shall conform to and, where possible, enhance existing or planned vehicle, pedestrian and bicycle networks, including connections and functionality. Note: See Figures 7-1 (Functional Classification Designations), 7-3 (Pedestrian Plan), and 7-4 (Bicycle Plan) of the Transportation System Plan.
2. All streets shall be public.
3. Boundary and connecting streets shall use the street sections of Section 3.01.04.
4. Internal streets may use the street sections of Section 3.01.04, or the PUD may propose other street sections, provided that the streets:
 - a. conform to the Oregon Fire Code (see Figures 3.04C and 3.04D)
 - b. include sidewalks, and
 - c. are constructed to the specifications of the Public Works Department.
5. Alley / shared rear lane: Where the PUD is not within the RSN or RMN zoning district, is 3 or more acres, includes residential use, and is proposed for a total of 20 or more lots, then one or more alleys or shared rear lanes as Section 1.02 defines shall serve minimum 20 percent of all lots and tracts.

D. Parking

If a front setback of less than 20 feet is proposed, the requirement of Section 3.05.03 for an improved parking pad for single-family and duplex dwellings may be satisfied by on-street parking or by a common off-street parking lot.

E. Signs

1. A PUD may include a sign plan to require a common architectural design and location.
2. The standards of the Mixed Use Village (MUV) zone shall apply to commercial uses in the residential zones of a Mixed-Use PUD.

F. Significant Tree preservation and removal: A PUD cannot modify Sections 3.06.07 and 3.06.08.

- C. Possible Actions at the Revocation Hearing: Depending on the situation, the City may take any of the actions described below. If the decision is to modify the permit, the City may not approve a use that is more intense than originally approved, unless the possibility of this change has been stated in the public notice. Uses or development which are alleged to have not fulfilled conditions, violate conditions or to be inconsistent with the City's approval may be subject to the following actions:
1. The City may find that the use or development is complying with the conditions of the approval. In this case, the permit shall not be altered.
 2. The City may modify the permit if it finds that the use or development does not fully comply with the conditions of approval or otherwise does not comply with what was approved, that the violations are not substantial enough to warrant revocation and that the use can comply with the original approval criteria if certain conditions are met. In this case, the City may modify the existing conditions, add new conditions to ensure compliance with the approval criteria, or refer the case to the code compliance officer for enforcement of the existing conditions.
 3. The City may revoke a permit if it finds there are substantial violations of conditions or failure to implement conditions of a permit, such that the original approval criteria for the use or development are not being met.
- D. Effect of Revocation: In the event permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date that all appeals periods have been exhausted, unless the decision provides otherwise. In the event the City Council's decision on a revocation request is appealed, the revocation action shall be automatically stayed until the appeal is resolved.

4.02.11 **Transfer of Approval Right**

Any final decision granted under this ordinance shall run with the land and shall transfer with ownership of the land, unless otherwise specified in the decision. Any conditions, time limits or other restrictions imposed with a decision shall bind all subsequent owners of the subject property.

4.02.12 **Fees in-Lieu**

- A. In lieu of public improvements:
1. Permissible if the Director allows, whether wholly in-lieu for one, some, or all of the kinds of required improvements or for some or all of a kind.
 2. Fees in lieu of public improvements are due before either building permit application or, when and where any of Partition or Subdivision Final Plat is involved, completion of recordation with the County, specifically no later than before a City official signs a plat or re-plat Mylar per Section 5.01.06C.1. A developer may request in writing to pay later, specifically by issuance of building permit, or if the Director allows, across issuance of two or more structural building permits for the subject development.

B. ~~Reserved.~~ In lieu of on-site, private improvements:

1. Same as subsection A1 above.

3.2. Administration: Per the Director.

5.01.04 Grading Permit

- A. Purpose: The purpose of this review is to ensure that grading is in compliance with the Woodburn Storm Management Plan, Woodburn Flood Plain Ordinance, Public Works Department Construction Standards and Specifications, and the State Building Code.
- B. Applicability: The requirement for a grading permit applies to any of the following activities:
 - 1. Any fill, removal, or grading of land identified within the boundaries of the regulatory floodplain,
 - 2. Any fill, removal, or grading of land identified within the Riparian Corridor and Wetlands Overlay District (RCWOD),
 - 3. Any fill, removal, or grading of land that requires a permit from the Oregon Department of State Lands,
 - 4. Any fill, removal, or grading of land area that equals or exceeds one acre, or
 - 5. Any development activity required by the WDO to submit a grading plan or permit.
- C. Criteria: Grading Permits shall be reviewed pursuant to the policies and standards of the Woodburn Storm Management Plan, Woodburn Flood Plain Ordinance, Public Works Construction Standards and Specifications, ~~and State Building Code~~, and Section 3.06.07 "Significant Tree Preservation & Removal", including 3.06.07C, as applicable.
- D. Procedure: The Director shall review the proposed grading plan to ensure compliance with City and State requirements.

5.01.05 Manufactured Dwelling Park Final Plan Approval

- A. Purpose: The purpose of this review is to ensure substantial conformance of the final plan and improvements with the conditions of the Manufactured Dwelling Park Preliminary Approval, including compliance with applicable Oregon Administrative Rules.
- B. Criteria:
 - 1. The final plan shall be submitted within two years of date of the initial approval.
 - 2. The final plan shall include all information required by the preliminary approval and shall substantially conform to all conditions of the preliminary approval and applicable Oregon Administrative Rules.
- C. Procedures: The Director shall determine whether the final plan substantially conforms to the preliminary approval, applicable State requirements, and City ordinances.

5.01.09 Riparian Corridor and Wetlands Overlay District (RCWOD) Permit

- A. Purpose: The purpose of this review procedure is to ensure that all grading, excavation, fill, and vegetation removal (other than perimeter mowing and other cutting necessary for hazard prevention) within a delineated, significant wetland, complies with applicable City and State standards and procedures, including those of ORS Chapter 196 and Chapter 227 and OAR 660-023.
- B. Criteria:
 - 1. The applicable standards of this Ordinance and the findings and action proposed by the Division of State Lands; or
 - 2. A finding, verified by the Division of State Lands, of error in delineation of the RCWOD boundary.
- C. Procedure: The Director shall review the permit and approve it upon a determination that it meets the criteria of this ordinance.

5.01.10 Sign Permit

- A. Purpose: The purpose of this review is to ensure that signs comply with standards found within the Sign Standards (Section 3.10).
- B. Criteria: Applications shall be reviewed for compliance with the sign standards of this Ordinance.
- C. Procedure: The Director shall review proposal signs for compliance to City regulations.

5.01.11 Significant Tree Removal Permit

- A. Purpose: ~~The purpose of this review is to ensure that the removal of significant trees complies with the provisions of this Ordinance (Section 3.06.04). To ensure that the removal of Significant Trees conforms with Section 3.06.07 as well as the purposes of Section 3.06.07A.~~
- B. ~~Applicability: Per Sections 3.06.07B & C. Criteria: Applications shall be reviewed for compliance with this Ordinance.~~
- C. ~~Criteria and procedure: Per Section 3.06.07. Procedure: The Director shall review and approve the proposal for compliance of this Ordinance.~~

5.01.12 Temporary Outdoor Marketing and Special Event Permit

- A. Purpose: The purpose of this review is to ensure that temporary outdoor marketing or special events conform to the standards of this Ordinance (Section 2.07.17).
- B. Criteria: Temporary Outdoor Marketing and Special Events shall conform to all standards of this Ordinance.
- C. Procedure: The Director shall review the application and shall approve a permit based on compliance with this Ordinance.

5.02.06 Zoning Adjustment

- A. Purpose: The purpose of a Type II zoning adjustment review is to provide a mechanism by which the regulations in the WDO may be adjusted if the proposed development continues to meet the intended purpose of those regulations. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the WDO..
- B. Criteria: A zoning adjustment involves the balancing of competing and conflicting interests. The following criteria will be considered in evaluating zoning adjustments.
 - 1. The adjustment is necessary to prevent unnecessary constraint relating to the land or structure. Factors to consider in determining whether constraint exists, include:
 - a. Physical circumstances over which the applicant has no control, related to the piece of property involved, that distinguish it from other land in the same zone, including but not limited to lot size, shape, and topography.
 - b. Whether the constraint was created by the applicant requesting the adjustment.
 - 2. The zoning adjustment will not be materially injurious to adjacent properties or to the use of the subject property. Factors to be considered in determining whether development is not materially injurious include, but are not limited to:
 - a. Physical impacts such development will have because of the adjustment, such as visual, noise, traffic and drainage, erosion and landslide hazards.
 - b. If the adjustment concerns joint-use parking, the hours of operation for vehicle parking shall not create a competing parking demand.
 - c. Minimal impacts occur as a result of the proposed adjustment.
 - 3. The adjustment is the minimum deviation from the standard necessary to make reasonable use of the property;
 - 4. The adjustment does not conflict with the Woodburn Comprehensive Plan. Factors to be considered include, but are not limited to:
 - a. The adjustment serves to administer or implement a Woodburn Comprehensive Plan goal or policy.
 - b. The adjustment serves to administer or implement an action item, goal, objective, policy, or strategy from an adopted long-range plan.
 - 5. The adjustment provides an alternative to the standard that meets the relevant purposes of the WDO standard and the context of the standard.
- C. Maximum Adjustment permitted:
 - 1. Lot Area: Up to a five percent reduction in the minimum lot area.
 - 2. Lot Coverage: Up to an increase of five percent in lot coverage.
 - 3. Front Yard Setback or Setback Abutting a Street: Up to a 10 percent reduction of a setback.
 - 4. Side Yard Setback: Up to a 20 percent reduction in setback, but no less than a five foot setback in a RS or R1S zone or less than the requirements of the state building code, whichever is more restrictive; however, for RM and RMN zones where a building type

or residential use side setback is dependent on tiers of building height, setback reduction as follows: For building height of:

- a. 16 feet or less, reduction to no fewer than 5 feet;
 - b. More than 16 feet and less than 28, reduction to no fewer than 5 feet; or
 - c. 28 feet or more, reduction to no fewer than 10 feet at the 28th foot and higher and to no fewer than 5 feet below the 28th foot.
5. Rear Yard Setback: Up to a 20 percent reduction in setback, but no less than a five foot setback, except in those zones permitting zero setbacks the minimum setback shall be either 5 feet or zero; however, for RM and RMN zones where a building type or residential use side setback is dependent on tiers of building height, setback reduction as follows: For building height of:
- a. 16 feet or less, reduction to no fewer than 10 feet;
 - b. More than 16 feet and less than 28, reduction to no fewer than 18 feet above the 16th foot and higher and to no fewer than 10 feet at the 16th foot and below; or
 - c. 28 feet or more, reduction to no fewer than 24 feet at the 28th foot and higher and, below the 28th foot, to no fewer than per (b.)
6. Lot Width: Up to a ten percent reduction.
7. Lot Depth: Up to a ten percent reduction.
8. Building Height: Up to a ten percent increase in height.
9. Parking Standards: Up to a five percent reduction in required parking spaces except no reduction in the number of handicapped vehicle parking spaces or in dimensional standards.
10. Joint-Use Vehicle Parking: Up to 20 percent of the required vehicle parking may be satisfied by joint use of the parking provided for another use.
11. Fences and Freestanding Walls: The location or height of a fence or free-standing wall, excluding the adjustment of any such facilities within a clear vision area, height limited to 16 percent increase.
12. Access management in RSN & RMN districts / alleys: Relating to Section 2.05.04B.2, reduce the minimum to no less than either 60 percent or 12 lots, whichever is greater.
13. Alley or shared rear lane widths (in any zoning district):
- a. ROW/tract: Reduce alley minimum ROW or shared rear lane tract width to no fewer than 16 feet.
 - b. Pavement: Reduce minimum pavement width to no fewer than 14 feet.
14. Bicycle/pedestrian corridor width:
- a. Relating to Table 3.01A corridor contexts 1b & c, reduction of corridor width to no fewer than 18 feet, or where a newly granted off-street PUE along the corridor would neither cover the entire corridor width nor preclude a row of newly planted trees, then no fewer than 16 feet.
 - b. Relating to context 3, reduction to no fewer than either 35 feet or actual extent of RCWOD relative to lot line where the actual extent is fewer than 50 feet, whichever

is less.

15. Bicycle/pedestrian facility class: Relating to Section 3.01.07D, to lower from Class B to Class C.
16. PUE:
 - a. Streetside: For each lot or tract that abuts both a street and an alley, narrowing the PUE along the street to no fewer than 3 feet minimum.
 - b. Off-street: Narrowing to no fewer than 10 ft minimum.
17. Vision clearance area: Decreasing any Figure 3.03A sight triangles to no fewer than street intersections 20 by 20 feet, driveways at streets 5 by 5 feet limited to driveways of residential development other than of multiple-family dwellings, and any of alley and shared rear lane junction with a street to 5 by 5 feet. A developer shall submit a safety analysis stamped by a civil engineer.
18. Commercial access management: Relating to Section 3.04.03D.2, to relax the standard as the Director allows.
19. Driveway width:
 - a. Triplex and Quadplex: To increase maximum one driveway along the lot street frontage, including both interior and corner lot contexts, to a maximum width of 24 feet.
 - b. 5 or more dwellings or living units, school, or house of worship: To increase maximum width to either 26 feet or, if a turn pocket is included, to a total maximum of 31 feet.
 - c. Commercial use: To increase maximum width to either 26 feet or, if a turn pocket is included, to a total maximum of 38 feet.
20. Compact parking: To raise the maximum to no more than 40 percent.
21. Drive aisle width: Relating to Table 3.05B, to narrow two-way drive aisles with parking spaces that are angled to no fewer than 20 feet or that are at 90° to no fewer than 22 feet. To narrow one-way drive aisles to no fewer than from 22 or 24 feet to 20, from 15 or 18 feet to 14, or from 12 feet to 11.
22. Lighting: Relating to Section 3.11.02B, to increase the height limit:
 - a. For wall, to no higher than 10 feet.
 - b. For poles within parking areas of developments other than of multiple-family dwellings, to no higher than 18 feet.
 - c. For other poles, to no higher than 12 feet.
 - d. For sports, to no higher than as the zoning district allows for features not used for habitation or 70 feet, whichever is less.
23. Architectural & Design Standards: Relating to Table 3.07A and for manufactured dwellings only, to adjust any standard other than minimum roof pitch and as the Director allows.
24. MUV: Relating to Table 2.03E and for side and/or rear minimum setback from property zoned other than RS, to lower to zero.

24.25. Significant Tree preservation & removal: Relating to Tier 3 (T3) and Tier 4 (T4) standards, to lower the preservation minimum percentage to 25.0 percent for T3; 35.0 percent for T4; 15.0 percent for a subject property within the MUV zoning district or the Gateway CG Overlay District; or zero for a subject property within the DDC zoning district.

D. Prohibited Adjustments:

1. Adjustments to the number of permitted dwellings and to the use of property shall be prohibited.
2. Standards established by Oregon Revised Statutes for manufactured dwellings and manufactured dwelling parks are non-variable.

5.04 Type IV (Quasi-Judicial) Decisions

5.04 General Requirements

- A. The purpose of this Section is to identify what types of actions are considered Type IV decisions. Type IV decisions involve the greatest amount of discretion and require evaluation of approval standards. These decisions are heard by the Planning Commission and City Council. The process for these land use decisions is controlled by ORS 197.763. Notice of the land use application and public hearing is published and mailed to the applicant, recognized neighborhood associations and property owners. The City Council decision is the City's final decision and is appealable to the Land Use Board of Appeals.
- B. To initiate consideration of a Type IV decision, a complete City application, accompanying information, and filing fee must be submitted to the Director. The Director will evaluate the application as outlined in this Section.

5.04.01 Annexation

5.04.02 Comprehensive Plan Map Change, Owner Initiated

5.04.03 Formal Interpretation of the Woodburn Development Ordinance

5.04.04 Official Zoning Map Change, Owner Initiated

5.04.01 Annexation

- A. Purpose: The purpose of this Type IV review is to provide a procedure to incorporate contiguous territory into the City in compliance with state requirements, Woodburn Comprehensive Plan, and Woodburn Development Ordinance.
- B. Mandatory Pre-Application Conference: Prior to requesting annexation to the City, a Pre-Application Conference (Section 4.01.04) is required. This provides the city an opportunity to understand the proposed annexation and an opportunity to provide information on the likely impacts, limitations, requirements, approval standards, and other information that may affect the proposal.
- C. Criteria:
 - 1. Compliance with applicable Woodburn Comprehensive Plan goals and policies regarding annexation.
 - 2. Territory to be annexed shall be contiguous to the City and shall either:
 - a. Link to planned public facilities with adequate capacity to serve existing and future development of the property as indicated by the Woodburn Comprehensive Plan; or
 - b. Guarantee that public facilities have adequate capacity to serve existing and future development of the property.
 - 3. Annexations shall show a demonstrated community need for additional territory and development based on the following considerations:
 - a. Lands designated for residential and community uses should demonstrate substantial conformance to the following:

- 1) The territory to be annexed should be contiguous to the City on two or more sides;
 - 2) The territory to be annexed should not increase the inventory of buildable land designated on the Comprehensive Plan as Low or Medium Density Residential within the City to more than a 5-year supply;
 - 3) The territory proposed for annexation should reflect the City's goals for directing growth by using public facility capacity that has been funded by the City's capital improvement program;
 - 4) The site is feasible for development and provides either:
 - a) Completion or extension of the arterial/collector street pattern as depicted on the Woodburn Transportation System Plan; or
 - b) Connects existing stub streets, or other discontinuous streets, with another public street.
 - 5) Annexed fulfills a substantial unmet community need, that has been identified by the City Council after a public hearing. Examples of community needs include park space and conservation of significant natural or historic resources.
- b. Lands designated for commercial, industrial and other uses should demonstrate substantial conformance to the following criteria:
- 1) The proposed use of the territory to be annexed shall be for industrial or other uses providing employment opportunities;
 - 2) The proposed industrial or commercial use of the territory does not require the expansion of infrastructure, additional service capacity, or incentives that are in excess of the costs normally borne by the community for development;
 - 3) The proposed industrial or commercial use of the territory provides an economic opportunity for the City to diversify its economy.

D. Procedures:

1. An annexation may be initiated by petition based on the written consent of:
 - a. The owners of more than half of the territory proposed for annexation and more than half of the resident electors within the territory proposed to be annexed; or
 - b. One hundred percent of the owners and fifty percent of the electors within the territory proposed to be annexed; or
 - c. A lesser number of property owners.
2. If an annexation is initiated by property owners of less than half of property to be annexed, after holding a public hearing and if the City Council approves the proposed annexation, the City Council shall call for an election within the territory to be annexed. Otherwise no election on a proposed annexation is required.
3. The City may initiate annexation of an island (ORS 222.750), with or without the consent of the property owners or the resident electors. An island is an unincorporated territory surrounded by the boundaries of the City. Initiation of such an action is at the discretion of the City Council.

4. The Significant Tree preservation and removal provisions of Section 3.06.07 are applicable to unincorporated territory that is the subject property of an Annexation application.

- E. Zoning Designation for Annexed Property: All land annexed to the City shall be designated consistent with the Woodburn Comprehensive Plan, unless an application to re-designate the property is approved as part of the annexation process.
- F. The timing of public improvements is as follows:
 - 1. Street dedication is required upon annexation.
 - 2. Dedication of public utility easements (PUE) is required upon annexation.
 - 3. Street improvements are required upon development.
 - 4. Connection to the sanitary sewer system is required upon development or septic failure.
 - 5. Connection to the public water system is required upon development or well failure.
 - 6. Connection to the public storm drain system is required upon development.

5.04.02 Comprehensive Plan Map Change, Owner Initiated

- A. Purpose: The purpose of an Owner Initiated Comprehensive Map Change is to provide a process for the consideration of a change in use designation on the Woodburn Comprehensive Plan, initiated by the property owner.
- B. Criteria: The applicant shall demonstrate the following:
 - 1. Proof that the current Comprehensive Plan Map is in error, if applicable.
 - 2. Substantial evidence showing how changes in the community warrant the proposed change in the pattern and allocation of land use designations.
 - 3. Substantial evidence showing how the proposed change in the land use designation complies with:
 - a. Statewide Planning Goals and Oregon Administrative Rules;
 - b. Comprehensive Plan goals and policies; and
 - c. Sustains the balance of needed land uses within the Woodburn Urban Growth Boundary.
 - 4. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
 - a. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or
 - b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
 - c. Altering land use designations, densities, or design requirements to reduce demand

Analyses & Findings

Legislative Amendment Provisions

4.01 Decision-Making Procedures ...

4.01.02E. Type V Decisions (Legislative): Type V decisions involve legislative actions where the City Council enacts or amends the City's land use regulations, comprehensive plan, Official Zoning Map or some component of these documents. Type V decisions may only be initiated by the City Council. The Planning Commission holds an initial public hearing on the proposal before making a recommendation to the City Council. The City Council then holds a final public hearing and renders a decision. Public notice is provided for all public hearings (Section 4.01.14). The City Council's decision is the City's final decision and is appealable to LUBA within 21 days after it becomes final.

The City Council on July 26, 2021 passed Resolution No. 2175 initiating Legislative Amendment 21-03. The Planning Commission will have held a public hearing on August 10, 2023, or a later date certain, prior to making a formal recommendation to the City Council regarding LA 21-03.

✓ The provisions are met.

ORS 227.186 Notice to property owners of hearing on certain zone change; form of notice; ...

(3) ... at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective. ...

(9) For purposes of this section, property is rezoned when the city:

(a) Changes the base zoning classification of the property; or

(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

LA 21-03 involves none of comprehensive plan text amendment, comprehensive plan map amendment, zone change (a.k.a. rezoning). It also involved no amendment of any land uses of any of the zoning districts, including nothing that limits or prohibits land uses that zoning districts currently allow, so additional notice per Oregon Ballot Measure 56 (1998) codified in Oregon Revised Statutes (ORS) 227.186 was not applicable. Staff issued notices of public hearing pursuant to state law and Woodburn Development Ordinance (WDO) 4.01.14C & D and sent a required notice of proposed amendment to the Oregon Department of Land Conservation and Development (DLCD) on May 23, 2022, which DLCD confirmed received as agency file number 002-22.

✓ The provisions are met.

Legislative Intent

The Woodburn Development Ordinance (WDO) establishes the standards that land development is required to meet, and relevance and clarity of standards is critical as the city grows. Periodic revisions and updates to the WDO are necessary and expected to comply with revisions to statutes and administrative rules, administer new and revised long-range plans, and address current issues.

A winter ice storm pummeled the city and its tree canopy during Presidents' Day weekend that was approximately February 12-15, 2021.

The City Council on February 22, 2021 passed Ordinance No. 2584 that waived the tree removal fee and removed the requirement for an applicant to submit a report by a certified arborist for tree removals in the aftermath of the ice storm. This emergency ordinance was effective for three months only.

N. Robert Shields, City Attorney and the Community Development Director on July 26, 2021 briefed the Council about existing WDO tree preservation and removal regulations and presented ideas about improved enforcement provisions and fines. On August 9, 2021, the Council passed Ordinance No. 2592 establishing an enhanced penalty for intentional violations of the tree permit requirements of both the WDO and the street tree ordinance.

The Council on July 26, 2021 also passed Resolution No. 2175 initiating Legislative Amendment 21-03.

Staff held Planning Commission workshops about LA 21-03 on:

- September 23, 2021
- April 28, 2022
- July 28, 2022
- October 13, 2022
- May 11, 2023, and
- July 27, 2023.

The Planning Commission held a public hearing on September 28, 2023 and recommended that the City Council approve LA 21-03 and its related fees.

The strikethrough-and-underline edits related to tree preservation and removal are based on:

1. Existing regulations being limited to existing properties and totally lacking inclusion of new developments, resulting in *ad hoc* Significant Tree preservation efforts by Community Development Department staff development by development;
2. Difficulties posed by existing listed reasons to remove trees from existing properties being too lax and too open to interpretation, complicating fair and predictable administration of regulations relevant to Significant Tree Removal Permit applications;
3. Daily, in-depth Community Development Department staff experience with review of land use applications and land developments;
4. Needing to revise and add definitions to the WDO to administer revised Significant Tree preservation and removal regulations;
5. Revising and adding preservation and removal regulations that are clearer and more objective;
6. Revising and adding regulations that are tailored to context, that of existing properties and of new developments or redevelopments, through “tiers” of regulations;
7. Establishing a tier for new developments of houses and “middle housing” that is less stringent than for other new developments – out of abundance of caution and consistency of how the WDO regulates such housing types relative to the middle housing mandate resulting from 2019 Oregon House Bill 2001 (HB 2001), Oregon Department of Land Conservation and Development (DLCD) rule-making resulting in Oregon Administrative Rules (OAR) 660-046, and the subsequent LA 21-02 amendment adopted as Ordinance No. 2602 (June 2022), though staff believes that for tree preservation and removal regulations neither statute nor ORS requires such;
8. Being more stringent for new developments and redevelopments than for existing properties;
9. Being more lax with homeowners than landlords;
10. Anticipating and lessening conflict of tree preservation with Transportation System Plan (TSP) long-range planning through Figures 2 “Functional Roadway Classification” & 6 “Local Street Connectivity Plan” for extended and new streets and WDO 3.01 requirements for extended and new rights-of-ways (ROWs) and street improvements;
11. Adapting the best relevant parts of City of Portland, Oregon Title 11 “Trees”, particularly the following Chapters amended by City of Portland Ordinance No. 191030 effective November 11, 2022:
 - 11.50.040 “Tree Preservation Standards”,
 - 11.50.070 “Tree Plan Submittal Requirements”, and
 - 11.60.030 “Tree Protection Specifications”;
12. Exempting from scrutiny the same invasive species as found in the City of Portland Bureau of Planning and Sustainability (BPS) “nuisance” plant list within the June 2016 Portland Plant List, Section 4, Ranks A-C – species that are not merely non-native;
13. Anticipating and regulating tree removal for territory under review for annexation into city limits;

14. Anticipating and providing for reasonable situations warranting exemption from preservation and for emergencies; and
15. Responding to direction from the Planning Commission across at least six workshops.

Note that separate ordinances that the Public Works Department administers regulate maintenance and removal of existing street trees, the ones found in rights-of-way (ROWs), usually within landscaped strips between curbs and sidewalks. The WDO already regulates additional street trees that developers are to plant. This amendment project scope excludes existing and new street trees and is limited to off-street trees (on private property).

Among the Council [2019-21 strategic goals](#), two appear relevant to this amendment project:

- “Create an inclusive environment where residents participate and are engaged in the community (that is vibrant, safe and active).”

A way to serve the goal is strengthening standards that preserving off-street trees (on private property), which are larger and taller the longer they remain. Preserved trees create an environment that is attractive, calming, cooling, and hospitable to wildlife.

This in turn, particularly during summer and especially during heat waves, helps cool the town and give people confidence they can travel outdoors, keeping up personal physical activity, being safer from heat injuries, and more likely to engage with other people.

- “Grow and support strategic partnerships for economic health.”

A way to serve the goal is strengthening tree preservation standards for both existing and new developments to shade those walking and provide them psychological protection from passing vehicles, calm those driving, help spatially define streets through canopy, absorb stormwater and pollutants, reduce the urban heat island effect, raise value of property, and maintain wildlife habitat.

Preserving trees, which are larger and taller the longer they remain, create an environment that is attractive, calming, cooling, and hospitable to wildlife. This in turn would raise property values, increasing assessable value, and better attract landowner investments in property.

It seems only one Woodburn Comprehensive Plan policy is directly applicable: J-1.1 from p. 40:

“Trees within designated floodplains and riparian corridors shall be preserved. Outside of designated floodplains and riparian corridors, developers should be required to leave standing trees in developments where feasible.”

Major objectives are to:

- Correct the defects of existing tree removal and preservation regulations revealed by (1) the aftermath of the February 2021 ice storm, and (2) Community Development Department staff daily, in-depth experience with review of land use applications and land developments; and
- Respond well to Council direction to improve tree removal and preservation regulations as it expressed by passing Resolution No. 2175 on July 26, 2021.