



**City of Woodburn**  
**Community Development Dept.**

## Memorandum

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**Date:** May 11, 2023 (Prepared May 4)  
**To:** Planning Commission  
**Through:** Chris Kerr, AICP, Community Development Director *CK*  
**From:** Colin Cortes, AICP, CNU-A, Senior Planner *CC*  
**Subject:** **Legislative Amendments of the WDO Related to Trees (LA 21-03):  
Workshop No. 5**

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### Introduction

Staff is amending the [Woodburn Development Ordinance \(WDO\)](#) to clarify and strengthen tree preservation standards related to both existing and new land developments.

The last Commission meeting about the topic was a workshop on October 13, 2022, and the Commission was scheduled to hold workshop no. 5 on April 27, but after having a meeting recess had directed staff to postpone.

## Executive Summary

### 1. Question 1: Is the present draft of strikethrough-and-underline amendments adequate?

Based on feedback from the October 13 workshop, staff edited the draft amendment to:

- Add a purpose statement (in WDO 3.06.07) that, by requiring a permit process, it would increase the likelihood of persons removing trees that they or their contractors would do so safely. (Ellsworth)
- Include in the prohibition of hatracking (in new WDO 3.06.07D.4) to include reference to “excessive pruning”. (Chair Piper)
- Provide exemption from tree removal review and permitting if the tree or trees are invasive. New Table 3.06E serves as a pre-cleared list of invasive species to remove. (Corning)
- Rename the “EZ” tier of regulations (to “T1”). (Chair Piper, Corning, & Ellsworth)
- For the tier of existing developments that are other than houses (“T2”), grant the Director discretion to allow submittal of documentation as an alternative to an arborist’s report and on what terms. (Hernandez-Mejia)
- Lastly, between the last workshop and May 11, the Community Development Director directed staff that the revised tree removal criteria (found in the Tier 2 or T2 standards on p. 155 for existing development other than houses) include building foundation breach. New text under 3.06.07F.1d. establishes the criterion.

*Continues next page*

2. Question 2: What should tree preservation and removal fees be?

Advice on what the Council should adopt as fee policy is necessary. The WDO amendment refers to fees generally, and specific fees are necessary to carry out the regulations.

Staff proposes a fee table below to sharpen focus and elicit responses by commissioners.

The draft amendments define Class S Significant Trees as 24 inches diameter at breast height to almost 36 inches and Class T as 36 inches or wider. To recap new Table 3.06T, the four tiers are:

**Tree Preservation & Removal: Sets of Standards**

| <i>Development or Use</i>           |   |
|-------------------------------------|---|
| 1. Existing development             | a. Single-family or manufactured dwelling on individual lot that is residentially zoned   |
|                                     | b. Any other development or use   |
| 2. New development or redevelopment | a. Infill/minor: Net total 1 to 4 dwellings on a lot with no land division involved   |
|                                     | b. Greenfield/major: Multiple-family dwellings; any number of dwellings in the context of land division; any other development or use |

**Draft Fees for Tree Removal and In Lieu of Planting Mitigation Tree(s): Fees per Tree**

| <i>Table 3.06T Tier:</i>               | <i>Significant Tree Class:</i>           |   |
|--|--|---|
|  | <i>S</i>                                 | <i>T</i>  |
| T1:                                    |  |   |
| Removal                                | \$100                                    | \$100   |
| In Lieu of Planting Mitigation Tree(s) | \$150                                    | \$150   |
| T2:                                    |  |   |
| Removal                                | \$200                                    | \$300   |
| In Lieu of Planting Mitigation Tree(s) | \$150                                    | \$150   |
| T3:                                    |  |   |
| Removal                                | \$400                                    | \$600   |
| In Lieu of Planting Mitigation Tree(s) | \$250                                    | \$500   |
| T4:                                    |  |   |
| Removal                                | Multiple-dwelling development:<br>\$600  | Multiple-dwelling development:<br>\$150 per inch, but capped at \$6,300 |
|  | Other than multiple-dwelling:<br>\$1,200 | Other than multiple-dwelling:<br>\$300 per inch, but capped at \$12,600 |
| In Lieu of Planting Mitigation Tree(s) | \$450                                    | \$900   |

Background: Draft Ordinance No. 2609 amending the 2008 City master fee schedule is scheduled for Council hearing and adoption April 24. Within the Planning Division fee schedule, tree fees will rise due to inflation:

- Tree removal permit application fee from \$145 to \$220.
- Significant Tree mitigation fee from \$185 to \$250.

3. Question 3: Is the Commission ready to hold a public hearing on June 22?

At the April 27 workshop, staff would like to receive Commission direction to staff to prepare for the Commission to hold a public hearing on LA 21-03 on June 22, 2023 and make its recommendation to the City Council.

### **Next Steps**

1. During this Commission workshop on LA 21-03 as a last workshop, provide majority final direction to staff regarding what the Commission does and doesn't want regarding private property tree preservation and removal.
2. Direct staff to prepare for the Commission to hold a public hearing on June 22, 2023.

### **Attachment(s):**

1. Draft Amending Text: Strikethrough-and-Underline (May 4, 2023; 31 pages)
2. Draft Amending Text: Draft Amending Text: Clean Copy Sections 3.06.07 & 3.06.08 Only (May 4, 2023; 11 pages)

# 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 2610 on [Month day LA 21-03], 2023

**Attachment 1  
Draft Amending Text:  
Strikethrough-and-Underline**

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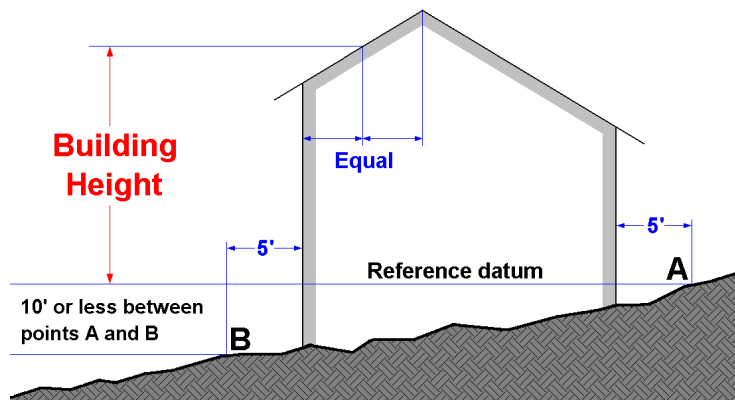


Figure 1.02A – Building Height

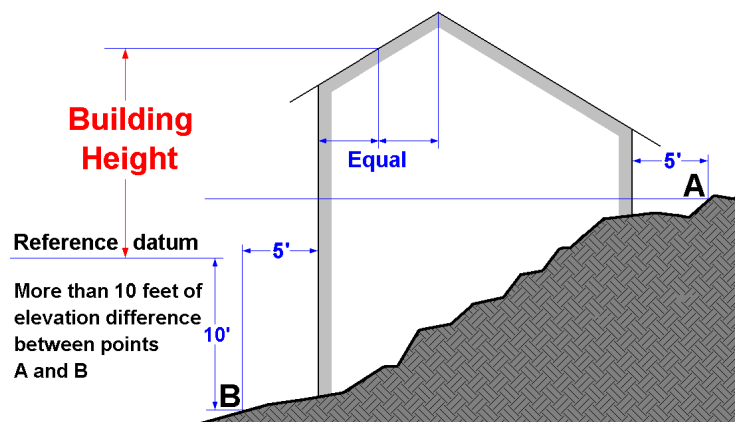


Figure 1.02B – Building Height

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, Significant”~~ is determined by its diameter measured at 5 feet above ground level, measured differently per that definition, regardless of its caliper.

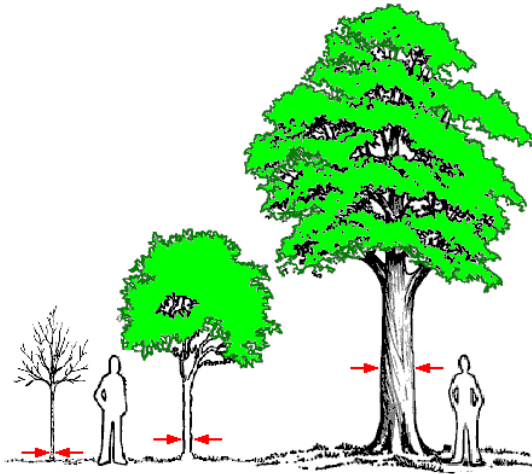


Figure 1.02C — Measurement of Caliper and Significant Tree Diameter at Breast Height Concepts

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.
- Group Care Facility: A facility that provides residential care, treatment, or training for six or more socially dependent individuals or individuals with physical disabilities or mental retardation or other developmental disabilities or mental, emotional or behavioral disturbances or alcohol or drug dependence. Note: See “Residential Care,” Residential Care Facility,” “Residential Training Facility,” “Residential Treatment Facility,” “Training,” and “Treatment” in ORS 443.400. Group Care Facility includes what is commonly called an “assisted living facility.”
- Group Home: A facility that provides residential care, treatment, or training for five or fewer socially dependent individuals or individuals with physical disabilities or mental retardation or other developmental disabilities or mental, emotional or behavioral disturbances or alcohol or drug dependence. Note: See “Residential Care,” Residential



Development Standard: The requirement of the City with respect to the quality and quantity of an improvement or activity.

Diameter at Breast Height (DBH):

1. Normal context: The diameter of any of a Class S or Class T Significant 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  $\pi$ , which is approximately 3.14.)

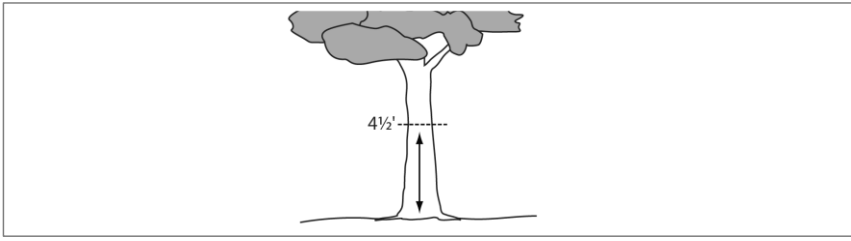


Figure 1.02H – Measuring Tree Size for Existing Trees in Normal Context

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 1.02I.

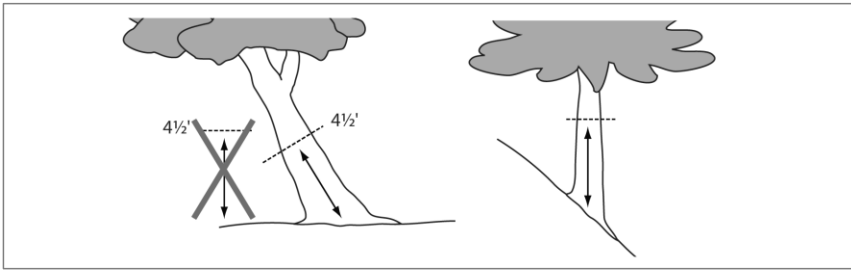


Figure 1.02I – Measuring Existing Trees with an Angle or on Slopes

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 1.02J.

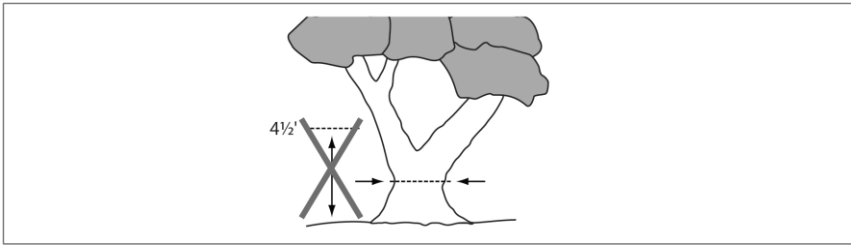
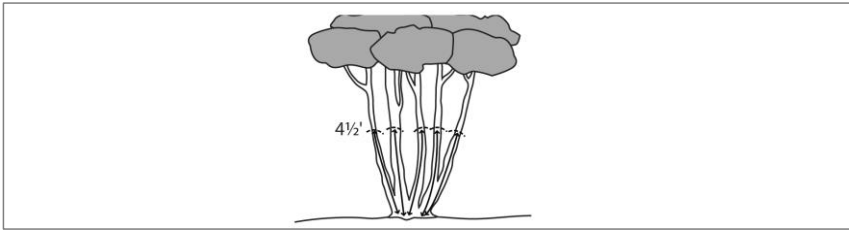


Figure 1.02J – Measuring Split Trunk Tree

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 Department of Economic and Development Services of the City of Woodburn or designee.

Driveway: A private access way 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:

- Duplex: A detached building on a single lot containing 2 dwelling units designed exclusively for occupancy by 2 families living independently of each other.
- Dwelling Unit: A building or portion of a building providing complete, independent living facilities for occupancy by one family, including permanent provisions for living, sleeping, eating, cooking and sanitation. Note: “Dwelling unit” is not synonymous with “living unit.”
- Medium Density Residential: Any building where the predominant use is multiple-family residential, nursing home, or group care facility.
- Manufactured Dwelling: Any of the following:
  1. Residential trailer: A structure constructed for movement on the public highways which has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.
  2. Mobile home: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of the Oregon mobile home law in effect at the time of construction.
  3. Manufactured home: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and

houses of similar or identical design, situated side by side and joined by common walls.

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

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.

Gross Floor Area: 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: 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).

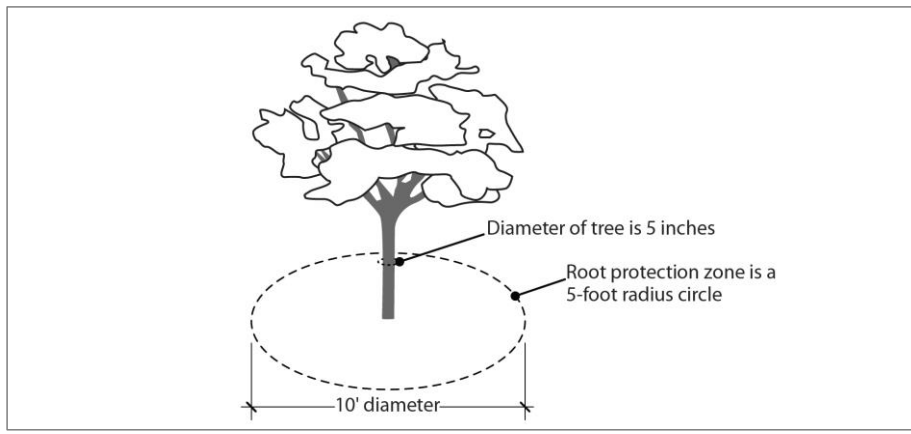
belonging to the general public as temporary living quarters for recreational or vacation purposes.

**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 an example in [Figure 1.02M](#).



**Figure 1.02M – Root Protection Zone Measurement Example**

**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 or Setback Line:** The minimum distance between a specified line and the foundation or exterior wall of a building or structure, whichever is closer.

1. For interior and corner lots, the distance shall be measured from the abutting property line.
2. In a Manufactured Dwelling Park, setbacks shall be measured from the delineation of a "Park Space."
3. For Interior Flag Lots, setbacks shall be measured from a property line, except in the case of development that abuts a flag lot driveway access easement or strip of land in fee. In that case, the setback shall be measured from the easement line or the property line,

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.

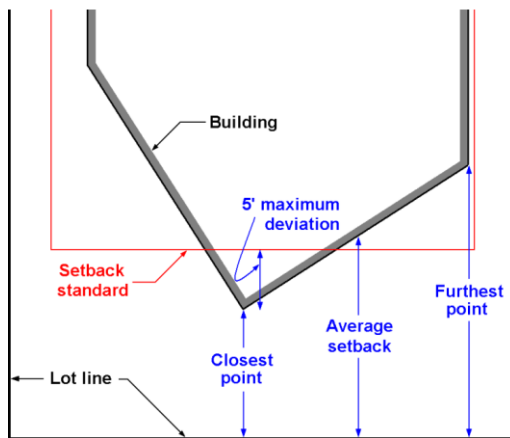


Figure 1.02F – Average Setback for a Straight Wall

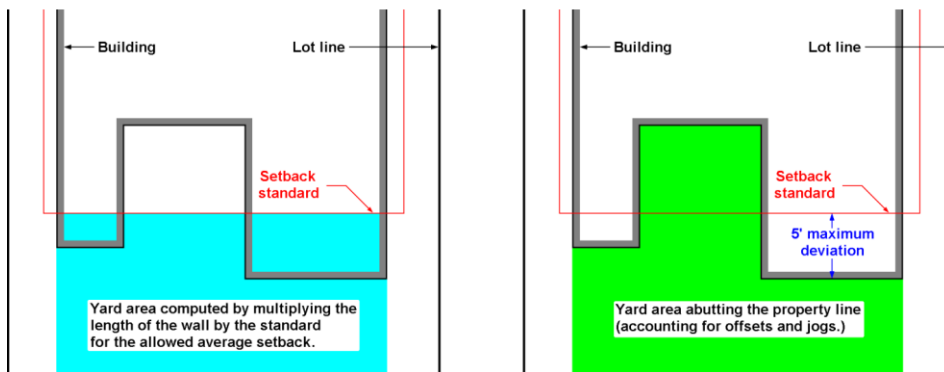


Figure 1.02G – Average Setback for an Articulated Wall

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

Street:

- Boundary Street: That portion, or portions, of a street right-of-way abutting a subject property where existing or proposed development is located within 260 feet of the subject right-of-way.
- Cul-de-sac: A dead end street having a turnaround area at the dead end.
- Park Street: A private street which affords the principal means of access to abutting individual manufactured dwelling spaces and auxiliary buildings within a manufactured dwelling park.
- Public Street: The entire width between the right-of-way lines of a public way capable of providing the principal means of access to abutting property.

Structural Alteration: Any alteration, addition or removal of any structural member of a building, or structure.

Structure: That which is built or constructed; an edifice or building of any kind; or any piece of work artificially built up or composed of parts joined together in some definite manner, regardless of whether it is wholly or partly above or below grade.

Subdivision: Note: Subdivision is defined in State statute. See ORS 92.010.

Subject Property: The real property or properties that is/are the subject of a permit application.

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. (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).

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

**3.06.06 Architectural Walls**

- A. This Section shall apply to required architectural walls in all zoning districts.
- 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.

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

A. Purpose: The purposes of this Section ~~is~~ are to:

- ~~1. establish processes and standards which will minimize cutting or destruction of significant trees within the City~~ Absorb stormwater and pollutants;
- ~~2. Allow continued reasonable economic use of property;~~
- ~~3. By requiring a permit process, increase the likelihood of persons removing trees that they or their contractors will do so safely.~~
- ~~4. Distinguish between the contexts of existing development and new development or redevelopment;~~
- ~~5. Enhance neighborhoods by creating a sense of character and permanence;~~
- ~~6. Ensure suitable tree replacement or funding of such when applicants remove trees;~~
- ~~7. Establish processes and standards that minimize injury or death of significant trees;~~
- ~~8. Maintain or raise value of property;~~
- ~~9. Preserve significant trees as landmarks and for wayfinding;~~
- ~~10. Preserve tree canopy better within city limits and unincorporated territory that is the subject property of an Annexation application;~~
- ~~11. Reduce urban heat island effect;~~
- ~~12. Retard soil erosion; and~~

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13. Shade.

~~A. 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.~~

B. Applicability:

~~1. The provisions of this Section apply to the Removal or preservation of any Significant Tree on private property, which is defined in Section 1.02 under "Tree, Significant". Applicability extends to unincorporated territory that is the subject property of an Annexation application, and the replacement requirements for significant tree removal.~~

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.~~

~~a-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 if 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. However, even if exemption is applicable, a removal fee or fees remain applicable, and regarding future street corridors in particular, removal shall not occur until construction of public improvements within such corridors necessitates it.~~

C. Application type: Significant Tree Removal Permit per Section 5.01.11. Any of the following land use applications may substitute if required anyway and the Director uses it to administer the 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.

D. General standards:

1. Arborist's report: Where required, 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 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.

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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:

- 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.
- 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.
- c. Species and minimum size at planting: Per Tables 3.06B & C.

In the context of new development or redevelopment, mitigation trees do not credit towards the minimum landscaping requirements of Chapter 3.06 at large. (Section 1.02 defines Significant Tree classes.)

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, then Section 2.05.05 would remain applicable to that area of subject property, and Section 3.06.07 provisions would either remain applicable where 2.05.05 is silent or supersede if more restrictive than 2.05.05.

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 the tree preservation and removal standards.

**Insert new Table 3.06E here**

| <b>Tree Preservation &amp; Removal: Exemption of Invasive Species</b>   |                                      |
|---|--------------------------------------|
| <b>Table 3.06E<sup>1</sup></b>  |                                      |
| <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>    |
| 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. |                                      |

**Insert new Table 3.06T here**

| <b>Tree Preservation &amp; Removal: Tiers of Standards</b> |   |   |
|--|---|---|
| <b>Table 3.06T<sup>1-4</sup></b>                           |   |   |
| <u>Development or Use</u>                                  |   | <u>Section 3.06.07E Tier of Standards</u> |
| <u>1. Existing development</u>                             | <u>a. Single-family or manufactured dwelling on individual lot that is residentially zoned<sup>1</sup></u>                            | <u>Tier 1 (T1)</u>                        |
|  | <u>b. Any other existing development or use</u>   | <u>Tier 2 (T2)</u>                        |
| <u>2. New development</u>                                  | <u>a. Infill/minor: Net total 1 to 4 dwellings on a lot with no land division involved<sup>2</sup></u>                                | <u>Tier 3 (T3)</u>                        |
|  | <u>b. Greenfield/major: Multiple-family<sup>3</sup> dwellings; any number of dwellings in the context of land division; any other</u> | <u>Tier 4 (T4)</u>                        |

|    | <u>development or use</u>  |  |
|----|--|--|
| 1. | <u>The intent of row 1a and Tier 1 is to be applicable to existing single-family dwellings, that is, houses and manufactured homes.</u>  |  |
| 2. | <u>The intent of row 2a and Tier 3 is to be applicable to development or redevelopment that results in “middle housing” as Chapter 1.02 defines, including duplexes, triplexes, quadplexes, and townhouses.</u>  |  |
| 3. | <u>Row 2b and Tier 4 intend to be applicable to developments including apartment complexes; development of housing subdivisions, commercial retail and office properties, and industrial sites; and redeveloping, expanding, or new public K-12 school campuses.</u> |  |
| 4. | <u>If and where a development is mixed-use or has a mix of residential building types, and it is unclear how the table would be applicable, the Director may determine what tier or tiers are applicable and to what areas within a development.</u>                 |  |

E. Tier 1 Standards: Where T1 is applicable per Table 3.06T:

1. Removal: Removal of any Significant Tree is permissible for any reason; however, the maximum removal shall be 1 tree per calendar year from the subject property. As an exemption, an arborist's report is not required; however, to administer mitigation the Director may require an applicant to submit documented proof of diameter at breast height (DBH) measurement.
2. 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).

F. Tier 2 Standards:

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 onto persons or existing buildings.
  - c. Rupturing underground potable water or sanitary sewer pipe. The criterion excludes potential rupture. Citing the criterion requires documentation apart from or as a supplement to an arborist's report as a pipe rupture report to describe and illustrate the context, kind, and extent of rupture.
  - d. Breach of existing building foundation and per the following limits:
    - (1) Foundation report: 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 which would result in removal of the tree(s).
    - (a) Pruning: If instead of removal, pruning conforming to the WDO – see pruning limits under the Chapter 1.02 definition of “hatracking” –

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would be sufficient to allow the necessary corrective action, this would be a factor against the criterion.

(b) A foundation report is not required to meet the criterion; however, if an applicant submits one conforming to the above provisions, and pruning would be insufficient, these would serve to meet the criterion.

(c) An arborist's report that conforms to the above provisions serves as a foundation report.

(2) 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) The crack or cracks are at least three-sixteenths inch (3/16") wide or high. The crack or cracks being any of cosmetic only, hairline width, or resulting from foundation settling does not meet the criterion.

—W

(c) ater seeping through the crack or cracks, regardless of minimum width per above, is a factor in support of the criterion.

(d) That the perimeter of the trunk or trunks closest to the foundation at diameter at breast height (DBH) are either 2 feet from the foundation or closer is a factor in support of the criterion.

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

2. Alternative documentation: The Director may allow submittal of documentation as an alternative to an arborist's report or foundation report and on what terms.

3. Emergency: Same as T1.

G. Tier 3 Standards:

1. Removal criteria: Same as T2, 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 preservation.

H. Tier 4 Standards:

1. Removal criteria: Same as T3.

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.

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3. Deviation: Zoning Adjustment permissible for preservation.

~~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:~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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:~~

~~Planting one tree on the subject property;~~

~~Planting one tree at a location determined by the Woodburn Community Services Department; or~~

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

~~B. — 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.~~

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### **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 uninformed 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 Section 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.

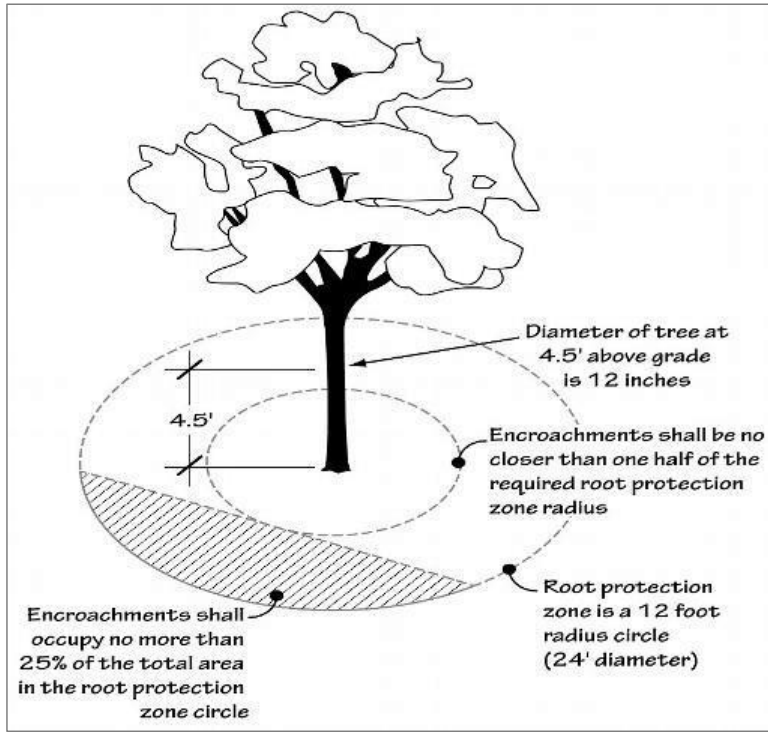


Figure 3.06A – Permissible RPZ Encroachments Example

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. 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 or building permit review information as the Director determines necessary to administer the standards for tree preservation and protection during construction, including a drawing or drawings necessary to constitute a tree preservation and protection plan.
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 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 or negligent 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 3.10. The Detailed Development Plan may propose modified standards without a separate Variance. Any standard that is not proposed for 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.

| <b>Common Area and Density Standards for Planned Unit Developments<br/>Table 3.09A</b>   |  |   |                    |                  |
|--|--|---|--------------------|------------------|
|  |  | <b>Transfer<br/>of Density</b>  | <b>Residential</b> | <b>Mixed-Use</b> |
| Common<br>Area,<br>Minimum   | Four or fewer dwelling units                           | All undevelopable site area   |                    |                  |
|  | Five or more dwelling units,<br>or nonresidential uses | 30 percent of gross site area, including all undevelopable site area <sup>1</sup> |                    |                  |
| Improved<br>Common<br>Area,<br>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)  |  | Pursuant to the Comprehensive Plan <sup>2</sup>                                   |                    |                  |
| Residential Density, Maximum (units per net acre)  |  | Not specified <sup>4</sup>  |                    |                  |
| <ol style="list-style-type: none"> <li>1. At least one common area shall be sized to accommodate a circle 25 feet in diameter.</li> <li>2. In residential zones only. There is no minimum for non-residential zones.</li> <li>3. Child care facility for 13 or more children, group home for six or more persons.</li> <li>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).</li> </ol> |  |   |                    |                  |

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.

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.

~~2-F.~~ Tree preservation and removal: A PUD cannot modify Sections 3.06.07 and 3.06.08.

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**3.09.07 Modifications to an Approved Detailed Development Plan**

- A. The Director may administratively approve minor modifications to an approved Detailed Development Plan.
- B. Major modifications are those that propose to change the proposed uses, increase density, relocate buildings, parking, or access points, reduce common area or the amenities provided in improved common area, or, in the opinion of the Director, are more than minor modifications. Major modifications to an Approved Detailed Development Plan shall be reviewed as a Modification of Conditions pursuant to Section 4.02.07.

**3.09.08 Nullification**

- A. Nullification of a PUD shall be reviewed as a Modification of Conditions pursuant to Section 4.02.07. The burden of proof is on the applicant to justify nullification of the PUD, giving substantial evidence that:
  1. Developing the property under conventional standards and regulations will not create nonconforming development;
  2. Special circumstances, such as building relationships, drainage ways, public

**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 Significant trees~~ ~~Trees~~ ~~complies-conforms~~ with ~~the provisions of this Ordinance~~ ~~(Section 3.06.04)7~~ ~~as well as the purposes of Section 3.06.07A.~~
- B. ~~Criteria~~Applicability: ~~Applications shall be reviewed for compliance with this Ordinance~~Per Sections 3.06.07B & C.
- C. ~~Criteria and Procedure~~procedure: ~~The Director shall review and approve the proposal for compliance of this Ordinance~~Per Section 3.06.07.

**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 is to allow minor variance to the development standards of this ordinance, where strict adherence to these standards is precluded by circumstances beyond the control of the applicant, and minor deviation from the standards will not unreasonably affect existing or potential uses on adjacent properties.
- 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 hardship relating to the land or structure. Factors to consider in determining whether hardship 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 property can be reasonably used similar to other properties in the same zone without the adjustment.
    - c. Whether the hardship 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.
- 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 RIS zone or less than the requirements of the state building code, whichever is more restrictive.
  - 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.
  - 6. Lot Width: Up to a ten percent reduction.

7. Lot Depth: Up to a ten percent reduction.
8. Building/Fence 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.

[... LA 21-01 ...]

24. 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 the MUV zoning district or the Gateway CG Overlay District; or zero for 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.

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## 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.

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**3.06.07 Significant Tree Preservation & Removal**

- A. Purpose: The purposes of this section are to:
  - 1. Absorb stormwater and pollutants;
  - 2. Allow continued reasonable economic use of property;
  - 3. By requiring a permit process, increase the likelihood of persons removing trees that they or their contractors will do so safely.
  - 4. Distinguish between the contexts of existing development and new development or redevelopment;
  - 5. Enhance neighborhoods by creating a sense of character and permanence;
  - 6. Ensure suitable tree replacement or funding of such when applicants remove trees;
  - 7. Establish processes and standards that minimize injury or death of significant trees;
  - 8. Maintain or raise value of property;
  - 9. Preserve significant trees as landmarks and for wayfinding;
  - 10. Preserve tree canopy better within city limits and unincorporated territory that is the subject property of an Annexation application;
  - 11. Reduce urban heat island effect;
  - 12. Retard soil erosion; and
  - 13. Shade.
  
- B. Applicability:
  - 1. Removal or preservation of any Significant Tree on private property, which is defined in Section 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 if 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. However, even if exemption is applicable, a removal fee or fees remain applicable, and regarding future street corridors in particular, removal shall not occur until construction of public improvements within such corridors necessitates it.

**Attachment 2  
Draft Amending  
Text: Clean Copy  
Sections 3.06.07  
& 3.06.08 Only**

C. Application type: Significant Tree Removal Permit per Section 5.01.11. Any of the following land use applications may substitute if required anyway and the Director uses it to administer the 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.

D. General standards:

1. Arborist's report: Where required, 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 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 3.06.07 **D.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 3.06.08 **C**.

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:
  - 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.
  - 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.
  - c. Species and minimum size at planting: Per Tables 3.06B & C.

In the context of new development or redevelopment, mitigation trees do not credit towards the minimum landscaping requirements of Chapter 3.06 at large. (Section 1.02 defines Significant Tree classes.)

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, then Section 2.05.05 would remain applicable to that area of subject property, and Section 3.06.07 provisions would either remain applicable where 2.05.05 is silent or supersede if more restrictive than 2.05.05.
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 the tree preservation and removal standards.

[Insert new Table 3.06E here]

| <b>Tree Preservation &amp; Removal: Exemption of Invasive Species</b>   |                               |
|---|-------------------------------|
| <b>Table 3.06E<sup>1</sup></b>  |                               |
| Common Name   | Taxonomic Name                |
| 1. Cutleaf birch  | <i>Betula pendula</i>         |
| 2. Sweet cherry   | <i>Prunus avium</i>           |
| 3. Horse chestnut   | <i>Aesculus hippocastanum</i> |
| 4. Golden chain tree  | <i>Laburnum watereri</i>      |
| 5. English hawthorn   | <i>Crataegus monogyna</i>     |
| 6. English holly  | <i>Ilex aquifolium</i>        |
| 7. English laurel   | <i>Prunus laurocerasus</i>    |
| 8. Black locust   | <i>Robinia pseudoacacia</i>   |
| 9. Norway maple   | <i>Acer platanoides</i>       |
| 10. Sycamore maple  | <i>Acer pseudoplatanus</i>    |
| 11. White poplar  | <i>Populus alba</i>           |
| 12. Empress/Princess tree   | <i>Paulownia tomentosa</i>    |
| 13. Tree-of-heaven  | <i>Ailanthus altissima</i>    |
| 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. |                               |

[Insert new Table 3.06T here]

| <b>Tree Preservation &amp; Removal: Tiers of Standards</b>  |  |                                    |
|---|--|------------------------------------|
| <b>Table 3.06T<sup>1-4</sup></b>  |  |                                    |
| Development or Use  |  | Section 3.06.07E Tier of Standards |
| 1. Existing development   | a. Single-family or manufactured dwelling on individual lot that is residentially zoned <sup>1</sup>   | Tier 1 (T1)                        |
|   | b. Any other existing development or use   | Tier 2 (T2)                        |
| 2. New development  | a. Infill/minor: Net total 1 to 4 dwellings on a lot with no land division involved <sup>2</sup>   | Tier 3 (T3)                        |
|   | b. Greenfield/major: Multiple-family <sup>3</sup> dwellings; any number of dwellings in the context of land division; any other development or use | Tier 4 (T4)                        |
| <p>1. The intent of row 1a and Tier 1 is to be applicable to existing single-family dwellings, that is, houses and manufactured homes.</p> <p>2. The intent of row 2a and Tier 3 is to be applicable to development or redevelopment that results in “middle housing” as Chapter 1.02 defines, including duplexes, triplexes, quadplexes, and townhouses.</p> <p>3. Row 2b and Tier 4 intend to be applicable to developments including apartment complexes; development of housing subdivisions, commercial retail and office properties, and industrial sites; and redeveloping, expanding, or new public K-12 school campuses.</p> <p>4. If and where a development is mixed-use or has a mix of residential building types, and it is unclear how the table would be applicable, the Director may determine what tier or tiers are applicable and to what areas within a development.</p> |  |                                    |

E. Tier 1 Standards: Where T1 is applicable per Table 3.06T:

1. **Removal:** Removal of any Significant Tree is permissible for any reason; however, the maximum removal shall be 1 tree per calendar year from the subject property. As an exemption, an arborist’s report is not required; however, to administer mitigation the Director may require an applicant to submit documented proof of diameter at breast height (DBH) measurement.
2. **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).



F. Tier 2 Standards:

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 onto persons or existing buildings.
  - c. Rupturing underground potable water or sanitary sewer pipe. The criterion excludes potential rupture. Citing the criterion requires documentation apart from or as a supplement to an arborist's report as a pipe rupture report to describe and illustrate the context, kind, and extent of rupture.
  - d. Breach of existing building foundation and per the following limits:
    - (1) Foundation report: 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 which would result in removal of the tree(s).
      - (a) Pruning: If instead of removal, pruning conforming to the WDO – see pruning limits under the Chapter 1.02 definition of "hatracking" – would be sufficient to allow the necessary corrective action, this would be a factor against the criterion.
      - (b) A foundation report is not required to meet the criterion; however, if an applicant submits one conforming to the above provisions, and pruning would be insufficient, these would serve to meet the criterion.
      - (c) An arborist's report that conforms to the above provisions serves as a foundation report.
    - (2) 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) The crack or cracks are at least three-sixteenths inch (3/16") wide or high. The crack or cracks being any of cosmetic only, hairline width, or resulting from foundation settling does not meet the criterion.
      - (c) Water seeping through the crack or cracks, regardless of minimum width per above, is a factor in support of the criterion.
      - (d) That the perimeter of the trunk or trunks closest to the foundation at diameter at breast height (DBH) are either 2 feet from the foundation or closer is a factor in support of the criterion.
      - (e) That roof gutters and downspouts above or at the foundation have been clogged and in poor condition are a factor against the criterion.
2. Alternative documentation: The Director may allow submittal of documentation as an alternative to an arborist's report or foundation report and on what terms.

3. Emergency: Same as T1.

G. Tier 3 Standards:

1. Removal criteria: Same as T2, 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 preservation.

H. Tier 4 Standards:

1. Removal criteria: Same as T3.
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 preservation.

**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 uninformed 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 protects 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 Section 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.

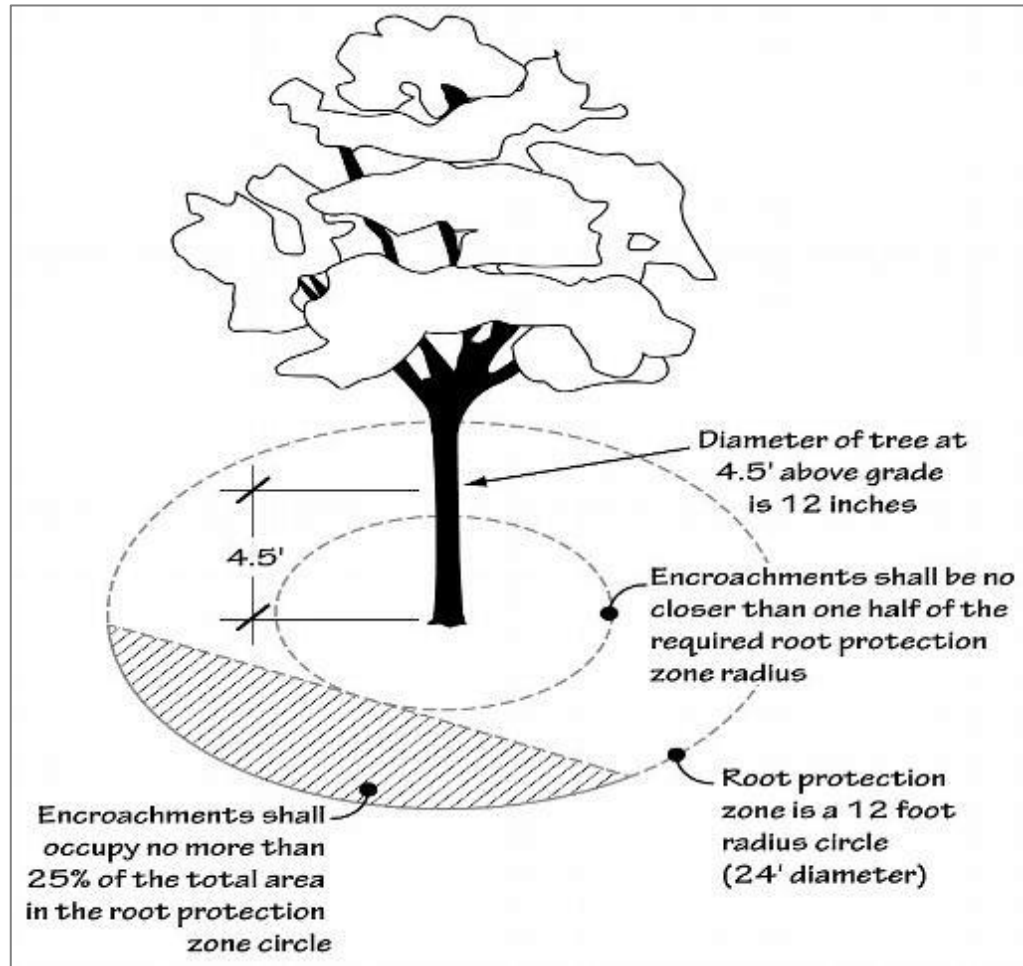


Figure 3.06A – Permissible RPZ Encroachments Example

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. 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 or building permit review information as the Director determines necessary to administer the standards for tree preservation and protection during construction, including a drawing or drawings necessary to constitute a tree preservation and protection plan.
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 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 or negligent encroachment into any RPZ, (2) the contractor demonstrates continuing to meet 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.