



CITY OF OREGON CITY CITY COMMISSION WORK SESSION AGENDA

Commission Chambers, 625 Center Street, Oregon City
Tuesday, July 07, 2020 at 6:00 PM

5:30 PM - EXECUTIVE SESSION OF THE CITY COMMISSION

Executive Session will be held in the Commission Chambers at City Hall beginning at 5:30 PM.

1. *Pursuant to ORS 192.660(2)(i): To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.*

6:00 PM - CITY COMMISSION WORK SESSION

CONVENE WORK SESSION AND ROLL CALL

FUTURE AGENDA ITEMS

The Commission's adopted goals and available staff resources shall be considered when recommending future agenda items. The Commission may add an item to a future agenda with consensus of the Commission.

1. List of Future Work Session Agenda Items

DISCUSSION ITEMS

2. Proposed Revisions to Oregon City Municipal Code 17.44 - Geologic Hazards
3. Citizen Involvement Committee (CIC) Draft By-Laws
4. Permitting and Notification Draft Process for Tree Removal on Institutional and City Owned Properties

CITY MANAGER'S REPORT

COMMISSION COMMITTEE REPORTS

- A. **Beavercreek Employment Area Blue Ribbon Committee** - *Commissioner Frank O'Donnell*
- B. **Brownfield Grant Committee** - *Mayor Dan Holladay*
- C. **Citizen Involvement Committee Liaison** - *Commissioner Rachel Lyles Smith*

- D. **Clackamas County Coordinating Committee (C4)** - Mayor Dan Holladay and Commissioner Rachel Lyles Smith
- E. **Clackamas Heritage Partners** - Commissioner Rocky Smith, Jr.
- F. **Downtown Oregon City Association Board** - Commissioner Denyse McGriff
- G. **Metro Policy Advisory Committee (MPAC)** - Commissioner Rachel Lyles Smith
- H. **Oregon Governor's Willamette Falls Locks Commission** - Mayor Dan Holladay
- I. **South Fork Water Board (SFWB)** - Mayor Dan Holladay, Commissioners Frank O'Donnell and Rocky Smith, Jr.
- J. **Willamette Falls and Landings Heritage Area** - Commissioner Denyse McGriff
- K. **Willamette Falls Legacy Project Liaisons** - Mayor Dan Holladay and Commissioner Frank O'Donnell

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments. Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503 657 0891

Agenda Posted at City Hall, Pioneer Community Center, Library, City Web site.

Video Streaming & Broadcasts: The meeting is streamed live on Internet on the Oregon City's Web site at www.orcity.org and available on demand following the meeting. The meeting can be viewed live on Willamette Falls Television on channel 28 for Oregon City area residents. The meetings are also rebroadcast on WFMC. Please contact WFMC at 503 650 0275 for a programming schedule



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission
From: City Manager Tony Konkol

Agenda Date: 07/07/2020

SUBJECT:

List of Future Work Session Agenda Items

BACKGROUND:

Next Month (These items may get moved depending upon various circumstances)

Canemah Encroachment ROW Discussion

Construction Excise Tax (CET)

Cross Street and Utility Pole Banners

Additional Upcoming Items (These items are in no particular order)

Abandoned Buildings

Building Code Changes

Canemah Area - Encroachments in the Right-of-Way Policy Discussion

Clackamas County Water Environmental Services (WES) Rate Differential

Clackamette Park Boat Ramp

Climate Action Plan Presentation (City of Milwaukie)

Code Enforcement Complaint Process

Marijuana Tax and Funds from the Tax Discussion

Metro Food Waste Program Requirements - Annual Review

Natural Resource Overlay District (NROD) Landslide Regulations and Updates

Park Place Area Crosswalks

Parks Special Event Fees and Application Process

Parking Rate Increase for Permitted Parking in Downtown Oregon City (Green, Purple, Orange, etc. Zones)

Policies for Non-Profits - Discussion

Public Works Upper Yard Usage

South Fork Water Board - Mountain Line Easements Vacation

Transportation Demand Management (TDM) Plan Implementation Update

Tree Policy for 100 yr. Old and Older

Water System Development Charges and Rates

Water System Risk and Resiliency Review

Willamette Falls Legacy Project Operations and Maintenance Discussion



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/07/2020
From: Public Works Director John Lewis

SUBJECT:

Proposed Revisions to Oregon City Municipal Code 17.44 - Geologic Hazards

STAFF RECOMMENDATION:

Staff is seeking direction whether to proceed with adoption of City Code relating to the Proposed Revisions of Geologic Hazard Code OCMC 17.44.

EXECUTIVE SUMMARY:

After a presentation at City Commission on October 8, 2019, City staff reviewed existing City Municipal Code Chapter 17.44 and determined that clarifications and stronger standards could be proposed to reduce the risk to developing properties which lie in a mapped geologic hazard zone and those properties near the developing properties. Staff proposes revisions to 17.44, proposes a public meeting to inform the public, and seeks input on the proposed amendments.

BACKGROUND:

On October 8, 2019, the Department of Land Conservation and Development (DLCD) presented their new geologic hazard guide titled, "Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities." This guide was prepared by DLCD and the Oregon Department of Geology and Mineral Industries (DOGAMI) in concert with many Oregon communities, including Oregon City. DLCD and DOGAMI staff stated in their presentation that the Oregon City Code had many strengths, including being one of the first communities to adopt the current landslide maps, the Code itself, and the Declaration of Covenant Release and Indemnity for Geologic Hazards. The City Commission requested a comparison of City Code with the new Landslide Hazard Guide.

After review of the City Code and the new Landslide Hazard Guide, in conjunction with experiences with the development community, staff has determined the need for clarifications in the Code which create more clarity and provide more strength to the standards and more stringent standards in certain cases.

The requirements that trigger a Geologic Hazard Review and the exemptions that prevent the need for a review have been modified to mirror each other and to provide clarity of when a review is needed. The application requirements were amended to include the new DLCDC guide, Stormwater Management, and Construction Phasing. The waiver process is now proposed to be codified. Additional language has been added to reduce subjectivity with respect to the extension period after October 31 and before May 1, making it clearer when an extension will be allowed. More explicit definition has been proposed for the structural fill and retaining wall requirements. Density requirements are proposed to be more stringent by ensuring density is reduced for steep slopes, for mapped land slide areas, and the buffer areas for steep slopes and historic landslide locations. Stormwater management requirements are proposed to require more analysis and detail. Some other miscellaneous clarifications were made including requiring all indemnity agreements to be recorded so that they run with the property.

City staff has also provided, as recommended by DLCDC, mapped information for staff reference on where in the City geologic hazard reports have occurred and where indemnity agreements have been recorded. This information will be used in addition to the information already available for analysis on the proposed development.

Staff presented the geotechnical waiver program to the Development Stakeholder's Group on March 14, 2019. Staff also made a presentation on geologic hazards and existing City Code 17.44 on September 23, 2019 in relation to the Beaver Creek Road Concept Plan Area. Staff presented the Landslide Hazard Guide and the proposed City Code revisions to the Development Stakeholder's Group on February 13, 2020. Staff presented proposed changes to the Natural Resources Committee on June 10, 2020.

The proposed revisions have been reviewed by various City staff, the City's third-party geotechnical consultant, Foundation Engineering, and the City Attorney.

If the City Commission desires to see the proposed revisions proceed toward adoption, staff proposes to host an open house/presentation on geologic hazards with the community. This open house would serve to inform the community of the current process and the proposed revisions and receive any comments on the proposed code revisions. This presentation could be held in either July or August, with proposed code adoption as part of the overall public works code amendments legislative file in late 2020 or early 2021.

OPTIONS:

1. Proceed with a public meeting and pursue the legislative process for approval.
2. Do not proceed further.



Oregon City Municipal Code

Chapter 17.44 Geologic Hazards

Footnotes:

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Editor's note— Ord. No. 08-1014, adopted July 1, 2009, repealed Chapter 17.44 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Chapter 17.44 pertained to similar subject matter. See Ordinance Disposition List for derivation.

17.44.10 - Intent and purpose.

The intent and purpose of the provisions of this chapter are:

- A. To ensure that activities in geologic hazard areas are designed based on detailed knowledge of site conditions in order to reduce the risk of private and public losses;
- B. To establish standards and requirements for the use of lands within geologic hazard areas;
- C. To provide safeguards to prevent undue hazards to property, the environment, and public health, welfare, and safety in connection with use of lands within geologic hazard areas;
- D. To mitigate risk associated with geologic hazard areas, not to act as a guarantee that the hazard risk will be eliminated, nor as a guarantee that there is a higher hazard risk at any location. Unless otherwise provided, the geologic hazards regulations are in addition to generally applicable standards provided elsewhere in the Oregon City Municipal Code.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.25 - When required; regulated activities; permit and approval requirements.

No person shall engage in any of the following regulated activities on areas mapped within the adopted Oregon City Geologic Hazards Overlay Zone as defined in section 17.04.515 of the Oregon City Municipal Code without first obtaining permits or approvals as required by this chapter:

- ~~A.~~ Installation or construction of a ~~new~~ accessory structure which is 500 square feet or greater in footprint;
- ~~A-B.~~ Expansion of an existing building where the new expansion is greater than 500 square feet or greater in total area or in building footprint in area;
- ~~B-C.~~ Development of land, construction, reconstruction, structural alteration, relocation or enlargement of any building or structure for which a land development, sign or building permit approval is required pursuant to the Oregon City Municipal Code;
- ~~C-D.~~ Tree removal on slopes greater than 25 percent or greater where canopy area removal exceeds 25

percent of the portion of the lot which contains 25 percent or greater slopes. For the purpose of this chapter, "tree" shall be as defined in OCMC 17.04.1315

~~D.E.~~ Excavation which ~~equal~~exceeds two feet or more in depth, or which involves twenty-five or more cubic yards of volume;

F. Fill which equals two feet or more in depth, or which involves twenty-five or more cubic yards of volume.

G. Cut or Fill combined that involves twenty-five or more cubic yards of volume.

H. Land disturbance as defined as any movement of earth, placement of earth, or movement of heavy trucks on earth, not including the right of way.

The requirements of this chapter are in addition to other provisions of the Oregon City Municipal Code. Where the provisions of this chapter conflict with other provisions of the Oregon City Municipal Code, the provisions that are the more restrictive of regulated development activity shall govern.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.30 - Procedures.

No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

- A. Where the development is part of a land use permit application, review shall occur in the manner established in Chapter 17.50 for review of land use decisions.
- B. Where the development is part of a limited land use permit application, review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.
- C. Where the development is solely part of a grading permit or building permit, the City Engineer may allow review to occur in the manner established in Title 15, Chapters 15.04 and 15.48 if the application meets Section 17.44.060 development standards.
- D. For any other proposed development not otherwise subject to review as a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for limited land use decisions.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.35 - Exemptions.

The following activities, and persons engaging in same, are EXEMPT from the provisions of this chapter.

A. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;

B. A fill which does not exceed two feet in depth or which involves less than twenty-five cubic yards of volume;

~~B.C.~~ A combined cut and fill that does not involve more than twenty-five cubic yards of volume.

D. Structural alteration of any structure of less than five hundred square feet that does not involve grading

as defined in this chapter;

- ~~C.E.~~ Installation or construction of any new structure less than five hundred square feet that does not involve grading as defined in this chapter;
- ~~D.F.~~ Installation, construction, reconstruction, or replacement of public and private utility lines in the hardscape portion of the city right-of-way, existing utility crossings, existing basalt lined drainage channels, or public easement, not including electric substations;
- ~~E.G.~~ The removal or control of noxious vegetation;
- ~~F.H.~~ Emergency actions which must be undertaken immediately to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property. The person undertaking emergency action shall notify the building official on all regulated activities associated with any building permit or City Engineer/Public Works Director on all others within one working day following the commencement of the emergency activity. If the City Engineer/Public Works Director or building official determine that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.50 - Development—Application requirements and review procedures and approvals.

Except as provided by subsection ~~CB.~~ of this section, an application for a geologic hazards overlay review shall include the following ~~requirements apply to all development proposals subject to this chapter:~~

- A. A geological assessment and geotechnical report that specifically includes, but is not limited to:
 1. Comprehensive information and data regarding the nature and distribution of underlying geology, the physical and chemical properties of existing soils and groundwater; an opinion of site geologic stability, and conclusions regarding the effect of geologic conditions on the proposed development. In addition to any field reconnaissance or subsurface investigation performed for the site, the following resources, as a minimum, shall be reviewed to obtain this information and data:
 - a. The State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geological Hazards of North Clackamas County, Oregon (1979), or in any subsequent DOGAMI mapping for the Oregon City area;
 - b. Portland State University study entitled "Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon" (1992);
 - c. Portland State University study, "Landslides in the Portland, Oregon, Metropolitan Area Resulting from the Storm of February 1996: Inventory Map, Database and Evaluation" (Burns and others, 1998);
 - d. DOGAMI Open File Report O-06-27, "Map of Landslide Geomorphology of Oregon City, Oregon, and Vicinity Interpreted from LIDAR Imagery and Aerial Photographs" (Madin and Burns, 2006);
 - ~~e.~~ "Preliminary Geologic Map of the Oregon City Quadrangle, Clackamas County, Oregon" (Madin, in press);
 - ~~f.~~ Landslide Hazards Land Use Guide for Oregon Communities (October 2019), prepared by The State of Oregon Department of Geology and Mineral Industries (DOGAMI) and the Oregon Department of Land Conservation and Development (DLCD); and
 - ~~e-g.~~ Mapped Landslide Data shall be from the City's Maps as a minimum but may be supplemented with maps from items a through f above

2. Information and recommendations regarding existing local drainage, proposed permit activity impacts on local drainage, and mitigation to address adverse impacts;
 3. Comprehensive information about site topography;
 4. Opinion as to the adequacy of the proposed development from an engineering standpoint;
 5. Opinion as to the extent that instability on adjacent properties may adversely affect the project;
 6. Description of the field investigation and findings, including logs of subsurface conditions and laboratory testing results;
 7. Conclusions regarding the effect of geologic conditions on the proposed development, tree removal, or grading activity;
 8. Specific requirements and recommendations for plan modification, corrective grading, and special techniques and systems to facilitate a safe and stable site;
 9. Recommendations and types of considerations as appropriate for the type of proposed development:
 - a. General earthwork considerations, including recommendations for temporary and permanent cut and fill slopes and placement of structural fill;
 - b. Location of residence on lot;
 - c. Building setbacks from slopes;
 - d. Erosion control techniques applicable to the site;
 - e. Surface drainage control to mitigate existing and potential geologic hazards;
 - f. Subsurface drainage and/or management of groundwater seepage;
 - f.g. Foundations;
 - g.h. Embedded/retaining walls;
 - h.i. Management of surface water and irrigation water; ~~and~~
 - i. Impact of the development on the slope stability of the lot and the adjacent properties;
 - k. Construction phasing and implementation schedule as it relates to foundation excavation, allowance for stockpiles, imported backfill, site subsurface drainage or dewatering, provision for off season site protections;
 - l. Stormwater Management; and
 - i.m. Construction Methods
 10. Scaled drawings that describe topography and proposed site work, including:
 - a. Natural physical features, topography at two or ten-foot contour intervals locations of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six-inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities;
 - b. All of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.
 - c. A cross-section diagram, indicating depth, extent and approximate volume of all excavation and fills.
- [11.] For properties greater than one acre and any property that has any portion of its property existing within a mapped landslide, where the activity is not exempted by 17.44.35, a preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect

upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.

B. Review procedures and approvals require the following:

1. Examination to ensure that:
 - a. Required application requirements are completed;
 - b. Geologic assessment and geotechnical report procedures and assumptions are generally accepted; and
 - c. All conclusions and recommendations are supported and reasonable.
2. Conclusions and recommendations stated in an approved assessment or report shall then be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity.
3. All geologic assessments and geotechnical reports shall be reviewed by an engineer certified for expertise in geology or geologic engineering and geotechnical engineering, respectively, as determined by the city. The city will prepare a list of prequalified consultants for this purpose. The cost of review by independent review shall be paid by the applicant.

C. The City Engineer may waive one or more requirements of subsections A and B of this section if the City Engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the City Engineer shall, in the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority.

1. Waiver by City Engineer.

- a. This waiver may be provided when the City Engineer determines that the proposed development satisfies OCMC 17.44 Development Standards.
- b. This waiver shall be provided at no charge to the applicant.

2. Waiver by City's Geotechnical Consultant.

- a. This waiver is provided when the City Engineer cannot readily determine if a waiver is reasonable based on their expertise level and submitted materials. The City's geotechnical consultant has the ability to provide a waiver if the consultant can readily determine that OCMC 17.44 Development Standards are satisfied.
- a.b. This waiver shall be provided at a charge applied to the applicant based on the adopted Engineering Fee Schedule.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.60 - Development standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter. Requirements of this chapter are in addition to other provision of the Oregon City Municipal Code. Where provision of this chapter conflict with other provision of the Oregon City Municipal Code, the provisions that are more restrictive of regulated development activity shall govern.

- A. All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to

building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.

- B. All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Erosion control measures shall be installed and functional prior to any disturbances. Erosion control measures shall also be functioning and in a winterized stable condition once all land disturbance work has ceased for the year. The City Engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 30), based upon weather conditions ~~and the~~ ~~and in consultation with the~~ recommendation and direction of the project's geotechnical engineer. The City Engineer may use the expertise of a City contracted geotechnical consultant to make the decision to allow any work before May 1 or after October 31. The City Engineer has full authority to not allow any extension of work before May 1 or after October 31. In no case shall the applicant be allowed to begin work before May 1 or complete work after October 31 if the average monthly rainfall in any individual month between September and April is exceeded. ~~When allowed by the City Engineer, t~~The modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.
- C. Designs shall minimize the number and size of cuts and fills.
- D. Cut and fill slopes ~~, such as those for a street, driveway accesses, or yard area,~~ greater than seven feet in height (as measured vertically) shall be terraced. Faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut and fill slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut or fill slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.
- E. Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter. The structural fill design must be provided prior to any fill being placed onsite. The structural fill design must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
- F. Retaining walls shall be constructed in accordance with the Oregon Structural Specialty Code adopted by the State of Oregon.
1. Retaining walls that are four feet or greater, tiered walls with a total height four feet or greater, and walls on slopes steeper than 2:1 must be designed by a professional engineer which includes a stamped and signed set of plans.
 2. The construction of the wall must be inspected by the professional engineer responsible for the design and must be certified prior to the structure receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.
 - 1-3. All retaining walls required to be designed by a professional engineer shall be reviewed by the City, when expertise exists on staff, or by the City's consultant. When reviewed by the City's consultant, the applicant shall reimburse the City for time spent by the City's consultant to review the design.
- ~~F-G.~~ Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the city's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.
- H. Density shall be determined as follows:

1. Slope

- a. For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district, unless further limited by the following code section;
- b. For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
- c. For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection I.4. of this section.

2. Existing landslide (as shown in the Geologic Hazard Overlay Zone)

- a. For those areas with historic landslides where the structure or ground disturbance will be located within any portion of the mapped landslide or buffer zone, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
- I. For properties with slopes of twenty-five to thirty-five percent between grade breaks or are located within any portion of a mapped landslide and buffer zone:

1. For those portions of the property with slopes of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;
2. An individual lot or parcel with slopes between twenty-five and thirty-five percent or located within any portion of a mapped landslide and buffer zone, shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.
3. No cut into a slope of twenty-five to thirty-five percent or located within any portion of a mapped landslide and buffer zone, for the placement of a housing unit shall exceed a maximum vertical height of fifteen feet for the individual lot or parcel.
4. For those portions of the property with slopes over thirty-five percent between grade breaks:
 - a. Notwithstanding any other city land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable city requirements as well as any applicable state, federal or other requirements;
 - b. To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.
- J. The geotechnical engineer of record shall review final grading, drainage, and foundation plans and specifications and confirm in writing that they are in conformance with the recommendations provided in their report.
- K. At the city's discretion, peer review shall be required for the geotechnical evaluation/investigation report submitted for the development and/or lot plans. The peer reviewer shall be selected by the city. The applicant's geotechnical engineer shall respond to written comments provided by the city's peer reviewer prior to issuance of building permit.
- L. The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the city's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.070 - Access to property.

- A. Shared private driveways may be required if the City Engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate

private driveways are used.

- B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.
- C. Points of access to arterials and collectors shall be minimized.
- D. The City Engineer or principal planner shall verify that adequate emergency services can be provided to the site.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.080 - Utilities.

All new ~~service~~ utilities (storm sewer, sanitary sewer, potable water, and gas), both on-site and off-site, shall be placed underground and under roadbeds where practicable. All other service utilities (including, but not limited to, electric, telephone, telecom, cable, fiberoptic) shall be placed above ground on existing poles if poles exist. If no poles exist, the service lines shall be placed underground. Every effort shall be made to minimize the impact of utility construction. Underground utilities require the geologic hazards permitting and review prescribed herein when applicable.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.090 - Stormwater drainage.

The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to city standards as set out in the city's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City ~~Stormwater and Grading Design Standards Public Works Stormwater Management Design Manual and Standards Plan~~ or other adopted standards subsequently adopted by the city commission. The review authority may also impose conditions to limit the volume, velocity, or flow rate of water such that it does not negatively impact the underlying drainageway cross section. Drainage design shall be approved by the ~~C~~city ~~E~~ngineer before construction, including grading or other soil disturbance, has begun.

A geotechnical report must include analysis and solutions for infiltration facilities located in areas where these facilities could impact nearby slopes of greater than 10 percent. Infiltration shall be minimized as practicable for any site located within a Geologic Hazard Overlay. Infiltration is not allowed for any site located in areas greater than 25 percent.

The project's civil or geotechnical engineer shall inspect any stormwater management feature and must certify that the stormwater management feature was constructed per plan and with the recommendations of the geotechnical engineer prior to receiving temporary occupancy. The certification must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.100 - Construction standards.

During construction on land subject to this chapter, the following standards shall be implemented by the developer:

- A. All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47—Erosion and

Sediment Control.

- B. No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the City Engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the City Engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.

Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013). Erosion control measures shall be in place at all times during construction to the maximum extent practicable.

- C. All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.
- D. Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the city.
- E. Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts. The City, at its discretion, is not required to but may request the examination and assessment by other State agencies to determine if impacts are acceptable.
- F. All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the City Engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the City may order work to be stopped. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §2(part), 1994)
- G. All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of thirty-five percent or less.
- H. The applicant's geotechnical engineer shall provide special inspection during construction to confirm that the subsurface conditions and assumptions made as part of their geotechnical evaluation/investigation are appropriate. This will allow for timely design changes if site conditions are encountered that are different from those anticipated. Inspection is required on a daily basis for any day that earth disturbance is occurring or after any rainfall event of ½ inch or greater.
- I. Prior to issuing an occupancy permit, the geotechnical engineer shall prepare a summary letter stating that the soils- and foundation-related project elements were accomplished in substantial conformance with their recommendations. The summary letter must contain the stamp and signature of a professional engineer licensed in the State of Oregon.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.110 - Approval of development.

The City Engineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the City Engineer's opinion, a particular development poses such a hazard, the City Engineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and

~~April~~ ~~March 30~~ ~~1st~~.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.120 - Liability.

Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the city from all liability for any damages resulting from the development approved by the city's decision. The indemnity and hold harmless agreement shall be recorded on the property and run with the property.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.130 - Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

17.44.140 - Appeal.

The review authority's decision may be appealed in the manner set forth in Chapter 17.50.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009; Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/07/2020
From: Community Development Director Laura Terway

SUBJECT:

Citizen Involvement Committee (CIC) Draft By-Laws

STAFF RECOMMENDATION:

Provide comment as needed.

EXECUTIVE SUMMARY:

The Citizen Involvement Committee (CIC) drafted by-laws to provide greater clarity. The CIC requests the City Commission review the draft by-laws and provide comment.

BACKGROUND:

The Citizen Involvement Committee (CIC) previously operated under the direction of by-laws, though when the group was codified and recognized in the Oregon City Municipal Code (OCMC) in 2015, the bylaws were replaced with OCMC 2.30. The group would like more specific guidance that by-laws would provide and have drafted the proposed for review.

Attached the Commission will find staff comments on the proposed by-laws.

It is anticipated that the draft by-laws will come before the City Commission at the next hearing for adoption by Resolution.

OPTIONS:

1. Provide comment.
2. Do not provide comment.

Citizen Involvement Committee By-Laws dated _____

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- Section 1. The name of this association will be the Citizens Involvement Committee (CIC).
- Section 2. Purpose: The purpose of the CIC will be social and civic.
- a. The CIC will serve to promote , coordinate and implement various aspects of community involvement through citizen participation.
 - b. The CIC will serve to advise the City Commission, Planning Commission, Historic Review Board and other advisory bodies to assure that citizens are involved in all phases of the planning process. The CIC is the officially recognized citizen advisory committee to meet LCDC Statewide Planning Goal 1, and as required by Goal 1, is responsible for developing, implementing, and evaluating the Citizen Involvement Program.
 - c. The CIC will provide a vehicle for maximum citizen participation in promoting the quality and livability of the neighborhoods and community.
 - d. All meetings of the CIC will be public and open to anyone with an interest in Oregon City.
- Section 3. Mission: The CIC will consider a broad range of issues affecting the livability and quality of the City's neighborhoods.
- Section 4. Vision: Working together with communities and key community stakeholders to create forums for communication that result in fair and open processes to ensure quality of life for future generations.
- Section 5. Values: We value open, honest communication, diversity, mutual trust, respect and accountability.
- Section 6. Values: We value open, honest communication, diversity, mutual trust, respect, and accountability.

Article II City Liaison

- Section 1. The position of City Liaison is a City staff position designated by the City Manager to assist the CIC and advise them of staff recommendations.
- a. The City Liaison maintains a duplicate copy of the CIC minutes for City records.
 - b. The City Liaison makes public notice of all General and Special meetings.
 - c. The City Liaison emails agendas and copies of minutes to CIC members.

- d. The City Liaison maintains a database of CIC members as provided by the neighborhood associations.

Article III. Boundaries

Section 1. The area served by the CIC will include the current legal City limits: boundaries will also include all areas of impact within the current Urban Growth Boundary. Areas of impact will include, but are not limited to, the following:

- a. County islands within any of the neighborhood association boundaries.
- b. Areas of the County adjacent to recognized neighborhood associations and within the Urban Growth Boundaries.
- c. Areas of the County adjacent to recognized neighborhood associations and within the Urban Growth Boundaries which are not represented by a Community Planning Organization (CPO).
- d. Neighborhood associations directly adjacent to these areas should attempt to communicate their availability to represent those neighbors not within the City limits but within the Urban Growth Boundary.

Section 2. Membership

- a. The CIC shall consist of two members from each recognized neighborhood association.
- b. Each neighborhood association shall select two members for nomination for appointment by the Mayor. Failure of the Mayor to appoint such selected members shall be supported by valid reasons.
- c. Members shall be appointed for two years. Terms of office shall commence on the first day of the calendar year.
- d. The member shall reside within the neighborhood association boundaries which they represent.
- e. All members shall serve without compensation.
- f. If a member is unable to attend a meeting, it is the member's responsibility to inform the CIC Chairperson prior to the meeting being missed.
- g. Upon failure of any member to attend three consecutive meetings, misconduct, or non-performance of duty, the CIC may recommend termination of that appointment to the City Commission. A CIC member may be removed by the City Commission, after hearing, for the above

reasons. The neighborhood association shall select a new member for appointment by the Mayor.

- h. It shall be the responsibility of the CIC Secretary to notify the neighborhood association of those members in danger of losing their membership.
- i. The CIC Secretary will inform the CIC that notification has been given.
- k. The neighborhood associations will notify the City Liaison within thirty (30) days of any changes to the neighborhood association CIC membership.

Section 3. There will be no dues or other requirements imposed which would in any way prevent any person who meets the description in Article III, Section 2 from becoming or remaining a member of the CIC.

Section 4. The privileges, roles and responsibilities of the members of the CIC are:

- a. To participate in a civil and ethical manner related to all business conducted by the CIC.
- b. To attend meetings and to speak from the floor on any issue being considered by the CIC.
- c. To vote on motions placed before the membership at regular or special meetings.
- d. To serve on sub-committees of the CIC.
- e. To advocate community involvement and provide training and education to help develop community leaders.
- f. To continually align with our mission, vision, and values.
- g. See appendix A for CIC member job description.

Article IV. Accountability

Section 1. The names, addresses, telephone numbers and email addresses of the officers and members will be maintained by the City Liaison.

Section 2. The CIC representatives will be responsible to provide notification of CIC actions taken on issues and other pertinent events to the neighborhood associations.

Section 3. The CIC and its elected officers will be responsible, through a regular and orderly process, for seeking the views of neighborhood associations and community and key stakeholders affected by proposed policies or actions

before making any recommendations.

- Section 4. Minority views on any issue considered by the CIC will, upon request by any member, be included along with any recommendations submitted for government review.

Article V. Elections

- Section 1. Nominating Committee - *Suspended for future consideration*
- Section 2. Regular election of officers will be held at the General Meeting in January of an election year
- Section 3. All certified neighborhood representatives in attendance will be able to vote in any and all elections of officers.
- Section 4. Any member may run for any vacant office by declaring his or her intention to do so. A member may be nominated for any vacant office by another member of the CIC.
- Section 5. Elections shall be held by a raise of hands and the results will be announced to the membership at the same general meeting as the election. Newly elected officers will take their positions the first day of the month following the elections.
- Section 6. The following procedures will not be allowed: any vote by proxy, any absentee vote, any vote by mail, any secret ballot, any electronic vote, or any telephonic vote of the members.
- Section 7. A partial term to fill a vacancy does not constitute a full term. The officers shall be elected for two years. In the event an officer is unable to complete the specified term, a special election shall be held for the completion of the term. Members may not serve more than two consecutive terms as Chairperson or Vice-Chairperson or combination thereof. An officer appointment expires if a member is no longer appointed to the CIC.

Article VI. Officers

- Section 1. All officers will be members of the CIC.
- Section 2. Officers will be elected as specified in Article V and will perform the following duties:
- a. Chairperson - Prepares the agenda and presides at all meetings. Serves as an ex-officio member on all sub-committees. Appoints members to serve on sub-committee. The Chairperson shall be the official spokesperson for the

CIC, representing the majority position of the CIC, unless otherwise designated in writing with the majority consent of the CIC.

- b. Vice-Chairperson - Performs the duties of the Chairperson in his or her absence. Performs any other duties as assigned by the Chairperson.
- c. Secretary - The Secretary calls the roll for attendance at all meetings and calls the roll for all votes.

Section 3. In the event that an officer vacates his or her position, an election to fill that position will be held pursuant to the provisions in Article V.

Article VII Sub-Committees

Section 1. Sub-committee members will be made up of CIC member volunteers, or appointed as necessary, by the Chairperson. Sub-committees will have the responsibilities such as their titles indicate and as may be assigned to them.

Section 2. Each sub-committee will develop its own agenda and will select its own sub-committee Chairperson.

Section 3. The majority of the sub-committee members will constitute a quorum. sub-committee action will be determined by a majority vote of those present at each sub-committee meeting.

Section 4. Sub-committees will make recommendations to the CIC for action.

Section 5. Each sub-committee Chairperson may submit written reports to the CIC Chairperson to be added to and distributed with the CIC agenda for the next CIC meeting.

Article VIII. Meetings

Section 1. General meetings will be held on the first Monday of each month at a place and time determined by the CIC and published to the membership and the community.

Section 2. A quorum for any General or Special meeting of the CIC requires a majority of appointed members of the CIC to be in attendance at that meeting.

Section 3. The Chairperson will prepare the agenda for General and Special meetings.

- a. Any person may request to add an item to the agenda by submitting the item to the CIC Chairperson in writing at least seven (7) days in advance of the meeting.

- b. Any member of the CIC may request to add an item to the agenda.
- c. Updates from Public Works, Oregon City Chamber of Commerce, and the Downtown Oregon City Association may be rotating items on the agenda.

Section 4. Special meetings may be called by the Chairperson or by any seven (7) members provided the membership is notified of the Special meeting in writing at least seven (7) days in advance of the meeting.

Section 5. Public comments: the following guidelines are given for citizens commenting on items on the agenda.

- a. The citizen is to complete a comment card, including the agenda item, prior to the meeting and submit it to the City Liaison, who forwards the cards to the Chairperson.
- b. When the Chairperson calls the name of the citizen he or she shall proceed to the speakers table and state his or her name and city of residence into the microphone.
- c. Each speaker will be given three (3) minutes to speak, or at the discretion of the Chairperson.

Section 6. All guests are encouraged to sign the attendance register at the back of the room as a record of their attendance for the minutes.

Section 7. The CIC Budget Year is from July 1 to June 30. The budget will be reviewed at least quarterly during the regular meetings of July, October, January and April.

Article IX. Conflict of Interest

No member of the CIC shall participate in any committee proceedings or action which the following has or will receive a direct or substantial financial interest: the member or his/ her spouse, sister, child, parent, father-in-law, mother-in-law and business in which he/she is negotiating or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting where the action is being taken. The committee shall operate in the general public interest serving the community as a whole.

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Section 1. The CIC will abide by all Oregon statutes relative to public meetings and public records.

Section 2. Official action taken by the CIC must be on record and part of the minutes of each meeting. The minutes will include a record of attendance and the results

of any votes taken. Upon request, a summary of minority views will be transmitted along with any recommendation made by the CIC to the City of Oregon City. Any such recommendations will also include the notice of Member Conflicts of Interest, if any have been declared.

Article XI. Non-Discrimination

The CIC shall not discriminate against individuals or groups based on race, color, religion, sex, sexual orientation, age, national origin, political affiliation, income, physical or mental disability, marital status, familial status, veteran status or membership in any other group protected by law in accordance with applicable federal, state and local laws in any of its policies, recommendations or actions.

Article XII. Parliamentary Authority and By-Laws

- Section 1. The most current edition of the Roberts Rules of Order, Revised published by Da Capo Press will govern the procedures of the CIC when the procedure is not otherwise covered by these by-laws.
- Section 2. Proposed amendments to the by-laws must be presented to the membership at least thirty (30) days in advance of the vote to amend. Two-thirds (2/3) of membership must be present to vote. Of those present, two-thirds (2/3) must vote in support of the amendment(s) to change the by-laws.
- Section 3. Any changes to the by-laws must be submitted to the City Commission for final approval.

Citizen Involvement Committee By-Laws dated _____

Article I. Name, purpose, mission, vision and values

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Section 2. Purpose: The purpose of the CIC will be social and civic.

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Section 1. The position of City Liaison is a City staff position designated by the City Manager to assist the CIC ~~and advise them of staff recommendations.~~

a. The City Liaison maintains a duplicate copy of the CIC minutes for City records.

b. The City Liaison makes public notice of all General and Special meetings.

c. The City Liaison emails agendas and copies of minutes to CIC members.

Commented [LT1]: The language does not match that in OCMC 2.30.020
The duties of the CIC include, but are not limited to, the following:
A. Encourage public participation and knowledge of land use in Oregon City.
B. Encourage public participation in other government activities as they impact neighborhood programs.
C. Provide information to the city commission and the public.
D. Address grievances of the CIC and of neighborhood associations.
~~*E. Assist with requests from the city commission.*~~

Commented [LT2]: Duplicative of section 5

Commented [LT3]: Staff's role is administrative, there is nothing in here about staff making recommendations.

- d. The City Liaison maintains a database of CIC members as provided by the neighborhood associations.

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- a. The CIC shall consist of two members from each recognized neighborhood association.
- b. Each neighborhood association shall select two members for nomination for appointment by the Mayor. ~~If a member selected by a neighborhood association is not appointed to the CIC it will be informed of the reason for the non-appointment. Failure of the Mayor to appoint such selected~~

~~members shall be supported by valid reasons.~~

Commented [LT4]: Copied language from code

- c. Members shall be appointed for two years. Terms of office shall commence on the ~~first~~first day of the calendar year.
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misconduct, or non-performance of duty, the CIC may recommend termination of that appointment to the City Commission. A CIC member may be removed by the City Commission, after hearing, for the above reasons. The neighborhood association shall select a new member for appointment by the Mayor.

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~~g. See appendix A for CIC member job description.~~

Commented [LT5]: Remove as there is no Appendix A.

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Section 5. Elections shall be held by a raise of hands and the results will be announced to the membership at the same general meeting as the election. Newly elected officers will take their positions the first day of the month following the elections.

Section 6. The following procedures will not be allowed: any vote by proxy, any absentee vote, any vote by mail, any secret ballot, any electronic vote, or any telephonic vote of the members. If a meeting is held online, electronic and telephone voting is allowed.

Commented [LT6]: Allow voting with Zoom meetings.

Section 7. A partial term to fill a vacancy does not constitute a full term. The officers shall be elected for two years. In the event an officer is unable to complete the specified term, a special election shall be held for the completion of the term. Members may not serve more than two consecutive terms as Chairperson or Vice-Chairperson or combination thereof. An officer appointment expires if a member is no longer appointed to the CIC.

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- Section 1. The most current edition of the Roberts Rules of Order, Revised published by Da Capo Press will govern the procedures of the CIC when the procedure is not otherwise covered by these by-laws.
- Section 2. Proposed amendments to the by-laws must be presented to the membership at least thirty (30) days in advance of the vote to amend. Two-thirds (2/3) of membership must be present to vote. Of those present, two-thirds (2/3) must vote in support of the amendment(s) to change the by-laws.
- Section 3. Any changes to the by-laws must be submitted to the City Commission for final approval.



CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 07/07/2020
From: Community Development Director Laura Terway

SUBJECT:

Permitting and Notification Draft Process for Tree Removal on Institutional and City Owned Properties

STAFF RECOMMENDATION:

The City Commission provide comment and direction as needed.

EXECUTIVE SUMMARY:

Staff has prepared draft code amendments and/or a policy including new procedures and public notification to avoid inappropriate tree removal by institutional properties, including the City itself. Staff is seeking confirmation from the City Commission that the draft proposal implements the direction of the Commission.

BACKGROUND:

In response to tree removal on City property, the City Manager directed staff to work together to draft code amendments and/or a policy including new procedures and policies to avoid inappropriate tree removal by City staff. More specifically, the directive included:

- Utilizing the existing Heritage Tree type and size requirements, or other type and size requirements as determined through the review process, as a trigger for further analysis of alternative methods to retain healthy trees.
- Determining a public notification for the removal of trees on public property that meet the new requirements for further analysis.
- Determining an internal approval process for the removal of trees on public property that meet the new requirements for further analysis.

At the October 16, 2020 City Commission hearing, the City Commission expanded the direction to include:

- Application of the policy to Institutional properties throughout the City.

- Provisions for reuse of the wood associated with trees removed.
- Larger caliper replacement trees rather than many smaller caliper ones.

Since that time, Planning Division staff has been working with the Natural Resources Committee as well as a variety of departments within the City to draft proposed amendments. The Planning Commission has also discussed the draft approach.

OPTIONS:

1. Discussion and direction to City staff

BUDGET IMPACT:

Amount: \$

FY(s): TBD

Funding Source(s): TBD



Permitting and Notification Process for Tree Removal on Institutional Properties

June 29, 2020

In response to tree removal on City property, the City Manager directed staff to work together to draft code amendments and/or a policy including new procedures and policies to avoid inappropriate tree removal by City staff. More specifically, the directive included:

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- Application of the policy to Institutional properties throughout the City.
- Provisions for reuse of the wood associated with trees removed.
- Larger caliper replacement trees rather than many smaller caliper ones.

Since that time, Planning Division staff has been working with the Natural Resources Committee as well as a variety of departments within the City to draft proposed amendments. The Natural Resources Committee has reviewed the amendments several times. The Planning Commission discussed the draft policy and code on June 22, 2020. The Parks and Recreation Advisory Committee, and the Transportation Advisory Committee have yet to review the proposal. Staff has incorporated input from affected departments and agencies into this updated draft and noted areas where the input has not been incorporated. This memo is intended to describe the approach to implement the directive of the City Commission and City Manager by requiring additional permitting, notification, and mitigation requirements for tree removal on Institutional lands.

Applicability

The proposed would apply to tree removal on public property such as land owned by: the City of Oregon City, Clackamas County, Metro, State of Oregon, Oregon Department of Transportation, Water Environmental Services, Clackamas River Water, South Fork Water Board, Oregon City School District property, Clackamas Community College property, or the public right-of-way.

The following process is not intended to be applied to properties which are not publicly owned such as retail, office, restaurants, apartments, and homes. Type I tree removal and permitting requirements would continue to apply for these properties.

Step 1. Determine if the Tree is Exempt

The following trees are exempt from the arborist report, public notice and additional review requirements in this document:

- **Imminent Hazard Trees.**

Wherever a tree is considered an imminent hazard as defined in OCMC 17.04.1370, it may be removed before a permit is obtained due to the necessity to respond to the hazard and restore public safety as soon as possible. Examples include if the tree has fallen across the roadway or if it is leaning significantly due to a heavy windstorm and likely to fall within the next 72 hours, or when a tree is damaged by a vehicle collision. A determination of imminent hazard is made in the field by the City of Oregon City Public Works, or emergency personnel, a forester, or a certified arborist. Permits are required after the imminent hazard has been removed and any applicable replacement requirements shall be followed. Photos and documentation of the hazardous conditions shall be provided with the permit application for tree removal to verify the tree was hazardous, but arborist reports would not be required. If the tree is 25 inches or greater and owned by the City of Oregon City, the wood must be reused as identified at the end of this document.

17.04.1370 - Tree, imminent hazard.

"Imminent hazard tree" means a hazardous tree as defined in OCMC 12.32.020, all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed.

- **Tripping Hazard.**

Trees causing a sidewalk to lift greater than 0.25 inches or create a hazard which is not compliant with ADA standards. If the tree is 25 inches or greater and owned by the City of Oregon City, the wood must be reused as identified at the end of this document.

- **Invasive Species.**

If the tree is 25 inches or greater and owned by the City of Oregon City, the wood must be reused as identified at the end of this document.

- **Approved Habitat Restoration Programs.**

The Natural Resources Committee recommended public lands and public projects that have approved habitat restoration programs in effect not be subject to these standards. There are a variety of open space and natural areas under public ownership within the City's Urban Growth Boundary and city limits that are actively managed to improve wildlife habitat, stream and water quality. The two largest open space areas are the Canemah Bluffs Open Space Natural Area and Newell Creek Canyon Natural Area owned and managed by Metro who has expressed concerns regarding how the process would be applied to open space areas. Both areas are subject to detailed habitat restoration plans developed by Metro natural resources scientists and approved by the City. In addition, the Greater Oregon City Watershed Council conducts stream habitat restoration projects through the city. Many of these types of project require the removal of invasive tree species, but also occasionally require the removal of natural occurring healthy trees to allow certain habitats to flourish. For example, at the Canemah Bluffs Natural Area, the restoration of Willamette Valley Oak (*Quercus garryana*) required the removal of over-story Douglas Fir trees in order to simulate the naturally occurring fires that allowed oaks to grow since they need more light. If the tree is 25 inches or greater and owned by the City of Oregon City, the wood must be reused as identified at the end of this document.

• **Federal Lands.**

The process does not apply to tree removal on Federal lands, though compliance is encouraged.

The Public Works Department requested to be exempt from additional process and permit requirements. Currently, both permits are required for street tree removal and Type I tree removal and permitting requirements apply for on-site work on city properties, including water quality facilities.

Exempt trees are likely subject to other review and permitting processes. Verification with the Planning Division is highly encouraged prior to any tree removal.

Step 2. Obtain an Arborist Report

A written assessment by a certified arborist is required to identify the tree’s condition and the presence of any potential hazards that may be posed by the tree.

If the tree meets the minimum size requirements for a Heritage Tree in the table below, the arborist report must also include an alternatives analysis as to options in which the tree can be retained or preserved. In these cases, the arborist report shall include a discussion of methods that might be employed to preserve the tree, the cost, and practicality of employing such methods, in their recommendation.

Heritage Tree Eligibility Table

| Common Name | Species | Minimum Size (d.b.h)* |
|------------------------------|--------------------------|-----------------------|
| Oregon White Oak | Quercus garrayana | 8" |
| Douglas Fir | Pseudotsuga menziesii | 18" |
| Western Red Cedar | Thuja plicata | 12" |
| Ponderosa Pine | Pinus ponderosa | 12" |
| Western Yew | Taxus brevifolia | 6" |
| Pacific Dogwood | Cornus nuttallii | 5" |
| Coastal Redwood | Sequoia sempervirens | 12" |
| Giant Sequoia | Sequoiadendron giganteum | 12" |
| Pacific Madrone | Arbutus menziesii | 5" |
| Other broadleaf tree species | | 20" |
| Other conifer trees | | 18" |

**d.b.h = Diameter at breast height, means a measurement of the trunk or stem diameter of a mature tree at a height four and one-half feet above the ground level at the base of the tree.*

Note: Natural Resources Committee recommended that the native tree Pacific Madrone be added to the Heritage Tree Eligibility List at 5” d.b.h. due to its rarity, small mature size and unique characteristics. This requires amendment of the table in OCMC 17.32.010 (attached).

Step 2. Apply for Permits for Tree Removal

A permit process will be created and administered by the Planning Division to ensure compliance with these standards and to facilitate a public noticing process. The permit will be free of charge. The application will also include written determination of the feasibility of the proposed alternatives identified in the arborist report.

Large Tree Mitigation.

In addition to the mitigation (replanting) required in the Oregon City Municipal Code, trees proposed for removal that are 25 inches or greater d.b.h. may only be mitigated with trees a minimum of 2.5 inches d.b.h. No fee in lieu is allowed, and thus the trees shall be placed onsite, or offsite in a location within the city limits. In addition, if an applicant chooses to plant a mitigation tree over 4 inches d.b.h., the mitigation requirements may be reduced by 3 trees for every tree planted.

Step 3. Processing the Proposed Tree Removal

The purpose of the permit is to verify an arborist report was completed and to inform the public of the proposal. The notice will direct them to a website where they could review the application, arborist report, and contact the applicant with any questions or concerns.

- **Website Notice**
Notice of all proposed removal of heritage eligible trees will be posted to a city website. The public as well as the City Commission, PRAC, NRC, CIC, Neighborhood Associations, etc. will have the ability to subscribe to the website to receive notifications each time a new posting occurs.
- **Physical Notice**
A physical notice is also required to be posted on the tree proposed for removal for a minimum of 7 calendar days. This period is intended to provide an opportunity for the public to contact the applicant with questions and comments about the proposed tree removal. Notices shall be provided by the Planning Division on 8.5 X 11 laminated paper with the words "NOTICE OF PROPOSED TREE REMOVAL" in bold, 48-point font and the website where the public may download the permits, arborist reports and associated documentation. Notices shall be tied to the tree with twine or wire. No screws or nails shall be used.

If there remain unresolved questions or concerns regarding the proposed tree removal of a tree on City property which was subject to the public notice, the decision to issue the applicable permit(s) shall be referred to the City Manager's office for further review. The City Manager may direct staff to continue with the tree removal, may hire an arborist to review the situation, or may direct staff to not remove the tree.

Approval by the City Commission will be required for City owned trees over 50 inches D.B.H. Trees on City property greater than 50" d.b.h. shall be placed on a City Commission consent agenda and notification will be sent to the Natural Resources Committee, Parks and Recreation Committee, and/or the Transportation Advisory Committee as applicable.

The City will not have the authority to deny tree removal by another entity if the process was followed.

Step 4. Additional Requirements for Removal of Trees Owned by the City of Oregon City

Trees proposed for removal which are owned by the City of Oregon City, 25 inches d.b.h. or greater, and are free from infestation shall be repurposed for use by the City and/or public if feasible. Depending on the quality of the wood, it may be utilized for environmental enhancement, furniture or crafts. The Natural Resources Committee recommends that in natural areas and next to streams, leaving large woody debris in place may help to improve fish and wildlife habitat, and that the use of wood for firewood should be allowed only if the wood cannot be repurposed any other way (e.g. cottonwood).

Establishment of a Dedicated Fund for Alternatives to Tree Removal and Reuse of Wood

The City shall establish a dedicated fund for the purpose of funding alternatives to tree removal and reuse of the wood for large tree removal.

Process of Adopting Proposed Process

The process above could be adopted by either:

1. Adoption of Amendments to the Oregon City Municipal Code. The City Commission would amend the code to require compliance with the process outlined for both the City itself as well as other institutional property owners. This process is expected to take approximately 9 months and cost significant staff time and more than \$5,000 in noticing costs.
2. Adoption of a Resolution. The City Commission could adopt a Resolution which would apply the policy to City tree removal. This approach would preclude the ability to the apply the new regulations to other institutional properties throughout the City.

Staff recommends that this process remain a policy adopted by Resolution which is only applicable to city-owned properties. The City has currently adopted five separate code sections which regulate trees within the city and is in the process of adopting a sixth for upland tree habitat in the Thimble Creek Concept Plan area. In addition, the City Commission and community recommended a thorough review of tree related codes following completion of the OC2040 Comprehensive Plan update. This will allow broader input from the community, greater time, and resources to evaluate impacts and unintended consequences of the proposal at a large scale. Staff suggests not imposing the additional process and standards on institutional properties until the comprehensive analysis is completed.

Next Steps:

The comments from the City Commission will be incorporated into the final draft which will be reviewed by the Natural Resources Committee prior to the adoption process.



Oregon City Municipal Code

Chapter 17.41 Tree Protection, Preservation, Removal and Replanting Standards

17.41.010 - Protection of trees—Intent.

The intent of this chapter is to ensure that new development is designed in a manner that preserves trees to the maximum extent practicable. As a requirement of any Type II land use application, the siting of structures, roadways and utility easements, shall provide for the protection of tree resources to the maximum extent practicable. This chapter applies to all Land Division and Site Plan and Design Review applications.

17.41.020 - Tree protection—Applicability.

- A. Applications for development subject to OCMC 16.08 (Land Divisions) or OCMC 17.62 (Site Plan and Design Review) shall demonstrate compliance with these standards as part of the review proceedings for those developments. Compliance with this chapter is required from the date a land use application is filed until a land division is recorded or other development approval is final.
- B. For public capital improvement projects, the City Engineer shall demonstrate compliance with these standards pursuant to a Type I process.
- C. Tree canopy removal greater than twenty-five percent on areas with greater than twenty-five percent slope, unless exempted under OCMC 17.41.040, shall be subject to these standards.
- D. A heritage tree or grove which has been designated pursuant to the procedures of OCMC 12.32 shall be subject to the standards of this section.
- E. A tree that has been planted pursuant to this section shall remain or shall be replaced with a new tree if removed.
- A. F. Applications for tree removal on public property in any zone are subject to compliance with this chapter, except as provided under 17.41.040.

17.41.030 - Tree protection—Conflicting code provisions.

Except as otherwise specified in this section, where these standards conflict with adopted city development codes or policies, the provision which provides the greater protection for regulated trees or groves, as defined in OCMC 17.04, shall govern.

17.41.040 - Exemptions.

- A. These regulations are not intended to regulate normal cutting, pruning and maintenance of trees on private property except where trees are located on lots that are undergoing development review or are otherwise protected within the Natural Resource Overlay District (NROD) of OCMC 17.49.
- B. These standards are not intended to regulate farm and forest practices as those practices are defined under ORS 30.930, for farm or forestlands. An applicant for development may claim exemption from compliance with these standards if the development site containing the regulated grove or trees was a designated farm or forest use, tree farm, Christmas tree plantation, or other approved timber use within one year prior to development application. "Forest practices" and "forestlands" as used in this

subsection shall have the meaning as set out in ORS 30.930. The Community Development Director has the authority to modify or waive compliance in this case.

- C. These regulations do not apply to the removal of trees that are considered invasive species.
- D. The regulations do not apply to publicly owned natural areas and open space lands which are being managed for stream, riparian, wetland and habitat restoration projects approved by the City.
- E. Imminent Hazard Trees. Imminent hazard trees as defined in OCMC 17.04.1370 may be removed before a permit is obtained due to the necessity to respond to the hazard and restore public safety as soon as possible. Permits are required after the imminent hazard has been removed and any applicable replacement requirements shall be followed. Photos and documentation of the hazardous conditions shall be provided with the permit application for tree removal to verify the tree was hazardous, but arborist reports would not be required.

17.41.045 – Tree Removal on Public Property

In addition to the standards within this chapter, applications for tree removal on public property shall demonstrate compliance with this section, unless the tree proposed to be removed has fallen, is an invasive species, or is a street tree causing a sidewalk lift greater than 0.25 inches.

- A. An application for tree removal on public property shall include an arborist report assessing the tree's condition and the presence of any potential hazards posed by the tree.
 - 1. Trees which are eligible as Heritage Trees are also required to have an arborist report which describes alternatives to removal. For all trees meeting the eligibility requirements, the arborist report shall include a discussion of methods that might be employed to preserve the tree, an estimate of the cost of such methods, and the practicality of employing such methods. City staff requesting tree removal shall include a written determination regarding the alternatives and whether they are feasible, and this information shall be furnished in the Public Notice.
- B. Applications for removal of trees eligible for heritage tree designation in accordance with the Table in OCMC 12.32.010 shall provide a public notice as follows:
 - 1. Notice of the tree removal and all application materials submitted by the applicant shall be posted on the City website; and
 - 2. Physical notice shall be posted on each tree proposed to be removed on 8.5 X 11 laminated paper with a link to the City webpage where the applicant's full submittal is posted. Notices shall be tied to the tree with twine or wire. No screws or nails shall be used.
 - 3. Website and physical notices shall remain posted for a minimum of 7 calendar days. Permits for tree removal shall not be issued until the notice period has ended.
- C. Tree removal of trees with a DBH greater than 25 inches are subject to the following additional standards:
 - 1. Mitigation trees for tree removal with a DBH greater than 25 inches shall be a minimum of 2.5 inches in caliper. Mitigation tree requirements may be reduced by 3 trees for every mitigation tree over 4 inches DBH planted.
 - 2. Mitigation trees must be planted on the subject site or offsite within City limits. Fee-in-lieu of planting is not permitted as mitigation for tree removal of trees with a DBH greater than 25 inches.
 - 3. City-owned trees with a DBH greater than 25 inches which are free of infestation and proposed for removal shall be repurposed for use by the City and/or public if feasible. D. Applications for tree removal of City-owned trees with a DBH greater than 50 inches shall be reviewed by the City Commission.

17.41.050 - Compliance options.

Applicants for review shall comply with these requirements through one or a combination of the following procedures:

- A. Option 1—Mitigation. Retention and removal of trees, with subsequent mitigation by replanting pursuant to OCMC 17.41.060.
- B. Option 2—Dedicated Tract. Protection of trees or groves by placement in a tract within a new subdivision or partition plat pursuant to OCMC 17.41.080; or
- C. Option 3—Restrictive Covenant. Protection of trees or groves by recordation of a permanent restrictive covenant pursuant to OCMC 17.41.110; or
- D. Option 4—Cash-in-lieu of planting pursuant to OCMC 17.41.120.

17.41.060 - Tree removal and replanting—Mitigation (Option 1).

- A. Applicants for development who select this option shall ensure that all healthy trees shall be preserved outside the construction area as defined in OCMC 17.04 to the extent practicable. Preserved trees are subject to Option 3 of this Chapter. Compliance with these standards shall be demonstrated in a tree mitigation plan report prepared by a certified arborist, horticulturalist or forester or other environmental professional with experience and academic credentials in forestry or arboriculture. Tree inventories for the purposes of mitigation calculations may be prepared by a licensed surveyor. At the applicant's expense, the City may require the report to be reviewed by a consulting arborist. The number of replacement trees required on a development site shall be calculated separately from, and in addition to, any public or street trees in the public right-of-way required under OCMC 12.08— Public and Street Trees, any required tree planting in parking lots, and any trees planted in pedestrian and bicycle accessways.
- B. The applicant shall determine the number of trees to be mitigated on the site by counting all of the trees six-inch DBH (minimum four and one-half feet from the ground) or larger on the entire site and either:
 - 1. Trees that are removed outside of the construction area shall be replanted with the number of trees specified in Column 1 of Table 17.41.060-1. Trees that are removed within the construction area shall be replanted with the number of replacement trees required in Column 2; or
 - 2. Dying, diseased or hazardous trees, when the condition is verified by a certified arborist to be consistent with the definitions in OCMC 17.04, may be removed from the tree replacement calculation. Dead trees may also be removed from the calculation, with the condition of the tree verified either by the Community Development Director or by a certified arborist at the applicant's expense, when the Community Development Director cannot make a determination. To the extent that the Community Development Director determines that the dead, dying, hazardous or diseased condition of the tree is the result of intentional action, the removal of that tree shall require mitigation pursuant to Column 2 of Table 17.41.060-1.

Table 17.41.060-1
Tree Replacement Requirements

| Size of tree removed (DBH) | Column 1 Number of trees to be planted. (If removed Outside of construction area) | Column 2 Number of trees to be planted. (If removed Within the construction area) |
|----------------------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| 6 to 12" | 3 | 1 |

| | | |
|--------------|----|---|
| 13 to 18" | 6 | 2 |
| 19 to 24" | 9 | 3 |
| 25 to 30" | 12 | 4 |
| 31 and over" | 15 | 5 |

Steps for calculating the number of replacement trees:

1. Count all trees measuring six inches DBH (minimum four and one-half feet from the ground) or larger on the entire development site.
2. Designate the size (DBH) of all trees pursuant to accepted industry standards.
3. Document in a certified arborist report any trees that are currently dead, dying, diseased or hazardous.
4. Subtract the number of dead, dying, diseased or hazardous trees in step 3 from the total number of trees on the development site in step 1. The remaining number is the number of healthy trees on the site. Use this number to determine the number of replacement trees in steps 5 through 8.
5. Identify the construction area (as defined in OCMC 17.04.230).
6. Determine the number and diameter of trees to be removed within the construction area. Based on the size of each tree, use Column 2 to determine the number of replacement trees required.
7. Determine the number and diameter of trees to be removed outside of the construction area. Based on the size of each tree, use Column 1 to determine the number of replacement trees required.
8. Determine the total number of replacement trees from steps 6 and 7.

C. Planting area priority for mitigation.

Development applications which opt for removal of trees with subsequent replanting pursuant to OCMC 17.41.050.A. shall be required to mitigate for tree cutting by complying with the following priority for replanting standards below:

1. First Priority. Replanting on the development site.
2. Second Priority. Off-site replacement tree planting locations. If the Community Development Director determines that it is not practicable to plant the total number of replacement trees on-site, a suitable off-site planting location for the remainder of the trees may be approved that will reasonably satisfy the objectives of this section. Such locations may include either publicly owned or private land and shall be approved by the Community Development Director.

D. Replacement tree planting standards.

1. All replacement trees shall be either two-inch caliper deciduous or six-foot high conifer.
2. Replacement tree species shall be approved by a landscape architect or certified arborist or shall be found on the City’s Native Plant or Street Tree lists.
3. Due to their diminishing range in the region, Oregon white oak (*Quercus garryana*) trees, if removed, shall be replaced by the same species.

E. All existing tree(s) in the tract shall be protected by a permanent restrictive covenant or easement approved in form by the City.

F. Alternative mitigation plan.

The Community Development Director may, subject to a Type II procedure, approve an alternative mitigation plan that adequately protects habitat pursuant to the standards for the Natural Resource Overlay District alternative mitigation plan in OCMC 17.49.190.

17.41.080 - Tree preservation within subdivisions and partitions—Dedicated tract (Option 2).

- A. An applicant for a new subdivision and partition may delineate and show the regulated trees or groves as either a separate tract or part of a larger tract that meets the requirements of subsection D. of this section. All existing tree(s) in the tract shall be protected by a permanent restrictive covenant or easement approved in form by the City.
- B. The standards for land divisions subject to this section shall apply in addition to the requirements of the City land division ordinance and zoning ordinance, provided that the minimum lot area, minimum average lot width, and minimum average lot depth standards of the base zone may be superseded in order to allow for a reduction of dimensional standards pursuant to OCMC 17.41.080.F below.
- C. Prior to preliminary plat approval, the regulated tree or grove area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection D. of this section, which shall not be a part of any parcel used for construction of a dwelling. The size of the tract shall be the minimum necessary as recommended by a consulting arborist to adequately encompass the dripline of the tree, protect the critical root zone and ensure long term survival of the tree or grove.
- D. Prior to final plat approval, ownership of the regulated tree or grove tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:
 - 1. Private open space held by the owner or a homeowner's association; or
 - 2. For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or
 - 3. Public open space where the tract has been dedicated to the City or other governmental unit; or
 - 4. Any other ownership proposed by the owner and approved by the Community Development Director.
- E. Density transfers incentive for tree protection tracts.
 - 1. The purpose of this section is to allow dimensional adjustments within a regulated tree protection tract to be transferred outside said tract to the remainder of the site. Density shall not be transferred beyond the boundaries of the development site.
 - 2. Development applications for subdivisions and minor partitions that request a density transfer shall:
 - a. Provide a map showing the net buildable area of the tree protection tract;
 - b. Provide calculations justifying the requested dimensional adjustments;
 - c. Demonstrate that the minimum lot size requirements can be met based on an average of all lots created, including the tree protection tract created pursuant to this section;
 - d. Demonstrate that, with the exception of the tree protection tract, no parcels have been created which would be unbuildable in terms of minimum yard setbacks;
 - e. Meet all other standards of the base zone except as modified in this section.
 - 3. The area of land contained in a tree protection tract may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code.
- F. Permitted modifications to dimensional standards.
 - 1. An applicant proposing to protect trees in a dedicated tract may request, and the Community Development Director, pursuant to a Type II procedure, may grant a reduction to, the lot size, width, depth, and setbacks of the underlying zone district in approving a subdivision or partition if necessary to retain a regulated tree or grove in a tract, as long as the calculation of average lot size, including tree protection tracts, meet the minimum lot size for the zone. The applicant may choose to make the adjustments over as many lots as required. For example, the lot reduction could be spread across all the remaining lots in the proposed subdivision or partition or could be applied to only those needed to incorporate the area of the tree tract.

Table 17.41.080.A
Lot Size Reduction

| ZONE | Min. Lot Size [sq. feet] | Min. Lot Width | Min. Lot Depth |
|-------|--------------------------|----------------|----------------|
| R-10 | 5,000 sq. feet | 50' | 65' |
| R-8 | 4,000 sq. feet | 45' | 60' |
| R-6 | 3,500 sq. feet | 35' | 55' |
| R-5 | 3,000 sq. feet | 30' | 50' |
| R-3.5 | 1,800 sq. feet | 20' | 45' |

Table 17.41.080.B
Reduced Dimensional Standards for Detached Single-Family Residential Units

| Size of Reduced Lot | Front Yard Setback | Rear Yard Setback | Side yard Setback | Corner Side | Lot Coverage |
|-------------------------|--------------------|-------------------|-------------------|-------------|--------------|
| 8,000—9,999 square feet | 15 feet | 20 feet | 7/9 feet | 15 feet | 40% |
| 6,000—7,999 square feet | 10 feet | 15 feet | 5/7 feet | 15 feet | 40% |
| 4,000—5,999 square feet | 10 feet | 15 feet | 5/5 feet | 10 feet | 40% |
| 1,800—3,999 square feet | 5 feet | 15 feet | 5/5 feet | 10 feet | 55% |

Table 17.41.080.C
Reduced Dimensional Standards for Single-Family Attached or Two-Family Residential Units

| Size of Reduced Lot | Front Yard Setback | Rear Yard Setback | Side yard Setback | Corner Side | Lot Coverage |
|-------------------------|--------------------|-------------------|-------------------|-------------|--------------|
| 3,500—7,000 square feet | 10 feet | 15 feet | 5/0* feet | 10 feet | 40% |
| 1,800—3,499 square feet | 5 feet | 15 feet | 5/0* feet | 10 feet | 55% |

*0 foot setback is only allowed on single-family attached units

17.41.110 - Tree protection by restrictive covenant (Option 3).

Any regulated tree or grove which cannot be protected in a tract pursuant to Section 17.41.080 above shall be protected with a restrictive covenant in a format to be approved by the Community Development Director. Such covenant shall be recorded against the property deed and shall contain provisions to permanently protect the regulated tree or grove unless such tree or grove, as determined by a certified arborist and approved by the Community Development Director, are determined to be diseased or hazardous.

A. Permitted adjustments.

1. The Community Development Director, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to fifty percent if necessary to retain a Regulated Tree or Grove through a restrictive covenant pursuant to this section. In no case may the side yard setback be reduced to less than three feet. The adjustment shall be the minimum necessary to accomplish preservation of trees on the lot and shall not conflict with other conditions imposed on the property.
2. The City Engineer may grant an adjustment to street standards, pursuant to adopted public works standards, in order to preserve a tree. This may include flexibility to redesign sidewalk and planter strip sizes and locations and allow placement of sidewalks and planter strips in an easement within private lots.
3. The Community Development Director, pursuant to a Type II procedure, may allow other adjustments in order to preserve any healthy tree that cannot be moved due to its size, but will contribute to the landscape character of the area and will not present a foreseeable hazard if retained.

17.41.120 - Cash-in-lieu of planting (Option 4).

The applicant may choose this option in-lieu-of or in addition to Compliance Options 1 through 3. In this case, the Community Development Director may approve the payment of cash-in-lieu into a dedicated fund for the remainder of trees that cannot be replanted in the manner described above.

The cash-in-lieu payment per required mitigation tree shall be as listed on the adopted fee schedule and shall be adjusted annually based on the Consumer Price Index. The price shall include 150% of the cost of materials, transportation and planting.

17.41.130 - Regulated tree protection procedures during construction.

- A. No permit for any grading or construction of public or private improvements may be released prior to verification by the Community Development Director that regulated trees designated for protection or conservation have been protected according to the following standards. No trees designated for removal shall be removed without prior written approval from the Community Development Director.
- B. Tree protection shall be as recommended by a qualified arborist or, as a minimum, to include the following protective measures:
 1. Except as otherwise determined by the Community Development Director, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and such measures shall be removed only after completion of all construction activity, including necessary landscaping and irrigation installation, and any required plat, tract, conservation easement or restrictive covenant has been recorded.
 2. Approved construction fencing, a minimum of four feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater. An alternative may be used with the approval of the Community Development Director.
 3. Approved signs shall be attached to the fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the Community Development Director.
 4. No construction activity shall occur within the tree protection zone, including, but not limited to; dumping or storage of materials such as building supplies, soil, waste items; nor passage or parking of vehicles or equipment.

5. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.
 6. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the Community Development Director.
 7. No machinery repair or cleaning shall be performed within ten feet of the dripline of any trees identified for protection.
 8. Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited. Boring under or through the tree protection zone may be permitted if approved by the Community Development Director and pursuant to the approved written recommendations and on-site guidance and supervision of a certified arborist.
 9. The Community Development Director may require that a certified arborist be present during any construction or grading activities that may affect the dripline of trees to be protected.
 10. The Community Development Director may impose conditions to avoid disturbance to tree roots from grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection to the resource as recommended by the arborist or horticulturist.
- C. Changes in soil hydrology due to soil compaction and site drainage within tree protection areas shall be avoided. Drainage and grading plans shall include provision to ensure that drainage of the site does not conflict with the standards of this section. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.

Oregon City Municipal Code

Chapter 17.04 Definitions

17.04.974 Public Property

For the purpose of OCMC 17.41, “public property” means land owned by a local, State, or Federal government, publicly owned utility provider, schools, colleges, and public right-of-way.



Chapter 12.32 - HERITAGE TREES

12.32.010 - Purpose.

- A. The purpose of this chapter is to recognize, foster appreciation and provide for voluntary protection of certain trees, because their age, species, natural resource value, ecological or horticultural value, or historical association, are of special importance to the city. These trees may grow on private or public property.
- B. In particular, the following trees are considered significant, and therefore will be eligible for heritage tree nomination in Oregon City, if they meet the minimum size requirements of the table below:

Tree Eligibility Based on Size

| Common Name | Species | Size (d.b.h)* |
|------------------------------|------------------------------|---------------|
| Oregon White Oak | <i>Quercus garryana</i> | 8" |
| Douglas Fir | <i>Pseudotsuga menziesii</i> | 18" |
| Western Red Cedar | <i>Thuja plicata</i> | 12" |
| Ponderosa Pine | <i>Pinus ponderosa</i> | 12" |
| Western Yew | <i>Taxus brevifolia</i> | 6" |
| Pacific Dogwood | <i>Cornus nuttallii</i> | 5" |
| Pacific Madrone | <i>Arbutus menziesii</i> | 5" |
| Other broadleaf tree species | | 20" |
| Other conifer trees | | 20" |

*d.b.h = Diameter at breast height, means a measurement of the trunk or stem diameter of a mature tree at a height four and one-half feet above the ground level at the base of the tree.

12.32.020 - Definitions.

For the purposes of this chapter the following definitions are used.

"Hazardous tree" means a tree that presents a significant risk to life or property as determined by a certified arborist, forester, or horticulturalist. An otherwise healthy tree that may become a hazard to a proposed future development shall not be considered a hazardous tree. Hazardous trees may include, but are not limited to dead, diseased, broken, split, cracked, leaning, and uprooted trees. A tree harboring communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees may also be identified as a hazardous tree.

"Diseased tree" means a tree that has a naturally occurring disease that is expected to kill the tree, or which harbors communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees as determined by a certified arborist, forester or horticulturist.

"Heritage stand" means a group of two or more trees that have been designated by the city as having unique importance, subject to the heritage tree regulations of [OCMC 12.32](#).

"Heritage tree" means a tree that has been designated by the city as having unique importance, and subject to the heritage tree regulations of [OCMC 12.32](#). Where a grouping of two or more heritage trees has been so designated, the term "heritage stand" may be used.

"Imminent hazard tree" means a hazardous tree — all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed. (See also Tree, hazard.) Determination of imminent hazard may be made by the City of Oregon City public works or emergency personnel, a PGE forester, or a certified arborist.

"Native tree" or "native tree stand" refers to a regulated native tree or stand of trees that are defined as such on regionally recognized plant lists. Significant native trees are those that contribute to the landscape character of the area.

"Tree stand" means a stand of three or more trees which together create a mutual canopy continuous over eighty or more percent of the area within the boundaries of the stand.

12.32.030 - Nomination and Review Process.

All nominations require approval of the City Commission.

- A. A tree or stand of trees may be nominated for consideration as a heritage tree or heritage stand by any citizen. The tree or stand of trees may be located anywhere in the city, regardless of whether the property is public or private, or if it is within a right-of-way.
- B. Completed heritage tree nominations shall be submitted by December 31, and nominations announced prior to or concurrent with the proclamation of Arbor Day.
- C. The Community Development Director shall schedule all nominations for review by the Natural Resources Committee at a regularly scheduled meeting, with notice to the general public, applicant, consenting property owner, abutting property owner, Parks and Recreation Advisory Committee, and the chair of any recognized neighborhood association in which the tree or stand is located as applicable.
- D. The Community Development Director shall prepare a staff report that analyzes the nomination pursuant to the criteria in this chapter and shall include a staff recommendation to support or not support the nomination.
- E. The Natural Resources Committee shall review the nomination and staff report at a regular meeting and make a recommendation regarding the nomination to the City Commission. In the absence of a functioning Natural Resources Committee then the Community Development Director shall forward the nomination directly to the City Commission.
- F. The City Commission shall make the final decision on all nominations forwarded to them by the Natural Resources Committee at a public meeting.
- G. Notice of the City Commission meeting shall be provided to the general public, the nominating applicant, Natural Resources Committee, the property owner or abutting

property owner (if located on city right-of-way), the chair of any recognized neighborhood association in which the tree or stand is located, and the Parks and Recreation Advisory Committee, if applicable.

- H. After considering the recommendation and any testimony by interested persons or groups, the City Commission shall vote to approve or deny the nomination.
- I. Notice of the City Commission's decision shall be provided to the NRC, property owner, abutting property owner, and the Parks and Recreation Advisory Committee as applicable.

12.32.040 - Consent of Owner.

Consent of the property owner or jurisdiction responsible for maintenance of the tree proposed for designation shall be required, pursuant to the following provisions.

- A. Nominations for trees or tree stands on city-owned property, other than right-of-way, may be submitted by any citizen of Oregon City and the City Commission shall make the final decision following the general procedure identified in subsection 12.32.030 above. If the nomination is for a city park, the Parks and Recreation Advisory Committee shall also review the nomination and provide an advisory opinion prior to the Natural Resources Committee recommendation to the City Commission.
- B. Nominations for trees or tree stands located in city public rights-of-way, including alleys, require the consent of the abutting property owner responsible for the care and maintenance of the nominated tree pursuant to OCMC 12.08.
- C. Nominations for trees or tree stands on property owned by other public agencies that are not the City (for example, Clackamas County, the Oregon Department of Transportation, Urban Renewal Agency), shall require the written consent of the applicable public agency before the nomination is considered by the city.
- D. Nominations for trees or tree stands located on private property may only be submitted by the property owner or if accompanied by the property owner's written consent.

12.32.050 - Nomination Submittal Requirements.

- A. Trees and stands of trees shall be nominated by completing a form provided by the Community Development Director and attaching the required information.
- B. For individual trees, the applicant shall provide, at a minimum, the approximate height, canopy spread, diameter, approximate age, species, and condition of the tree, if known. For a stand of trees, the nomination shall be accompanied by sufficient information to describe the overall condition of the stand.
- C. The nomination shall include a narrative explaining how the tree or stand of trees meets the review criteria identified in [Section 12.32.050](#) of this chapter.
- D. The nomination shall be accompanied by the written consent of the property owner or agency as described in [Section 12.32.030\(B\)](#) of this chapter.
- E. The Community Development Director may request further information from the applicant to support the nomination request.

12.32.060 - Designation.

Following approval by the City Commission, the designation shall be completed pursuant to the following procedures:

- A. For private property, the designation shall be complete upon the property owner's execution of a restrictive covenant running with the land for the benefit of the city and suitable for recordation by the city. The covenant shall describe the subject property, generally describe the location of the heritage tree or stand of trees, and covenant that the

tree or stand of trees is protected as a "heritage tree" or "heritage stand" by the city of Oregon City and therefore subject to special protection as provided in this chapter.

- B. If the tree or stand of trees is located on city right-of-way, the designation shall be complete upon the staff's listing of the tree or stand of trees on the city of Oregon City heritage tree and stand records and official maps. The city shall condition any future property owner-requested vacation of the public right-of-way upon the execution of a protective covenant in accordance with subsection 1., above, which shall be recorded by the city upon the vacation of the right-of-way.
- C. For designation of heritage trees and stands on city parks and other city owned property, the designation shall be complete upon the City Commission's approval of the nomination and any documents determined by the commission to be legally necessary to ensure the preservation of the heritage tree or stand of trees, whether this be in the form of a restrictive covenant, or other instrument or agreement applicable to the specific site.
- D. For designation of heritage trees and stands on public property or right-of-way other than city property or right-of-way, the designation shall be complete upon the City Commission's approval of the nomination and any documents determined by the commission to be legally necessary to ensure the preservation of the heritage tree or stand of trees, whether this be in the form of a restrictive covenant, or other instrument or agreement applicable to the specific site.

12.32.070 - Criteria for designation.

The City Commission may designate a tree or stand of trees as a heritage tree or heritage stand if the commission determines that the tree or stand of trees is consistent with a positive balance of the factors set forth below.

- A. Heritage criteria (at least one heritage criterion must be met):
 - 1. The tree or stand of trees is associated with events that have made a significant contribution to the broad pattern of Oregon City's history; or
 - 2. The tree or stand of trees is associated with the life of a person or group of historic significance to Oregon City; or
 - 3. The tree or stand of trees represents a significant and distinguishable presence within Oregon City; or
 - 4. The tree or stand of trees has age, size, or species significance (horticultural or ecological), which contributes to Oregon City's heritage status;
- B. Site and Condition Criteria (all criteria must be satisfied):
 - 1. The tree species is not listed as invasive on any regionally accepted plant list;
 - 2. If the proposed heritage tree or stand is located on private property or on public property owned by a public agency other than the city of Oregon City, the property owner or, if the tree or stand of trees is located on a public right-of-way, the abutting private property owner consents to the designation and agrees to sign a protective covenant.

12.32.080 - Protection of heritage trees and stands.

- A. No heritage tree or stand may be removed, topped, or otherwise altered unless permitted by this section.
- B. An application to remove a heritage tree or stand shall demonstrate that the burden imposed on the property owner, or, if the tree is located within the public right-of-way

under city jurisdiction, then the burden imposed on the city by the continued presence of the tree, outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner, or if appropriate, the city:

1. View obstruction;
 2. Routine pruning, leaf raking and other maintenance activities; and
 3. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.
- C. Replacement. If the heritage tree is permitted to be removed due to poor health or hazard as determined by the city, the applicant shall be required to mitigate for the loss of the tree pursuant to the following priorities:
1. Replanting on site.
 Replacement trees shall measure a minimum of 2" caliper. Priority shall be to plant larger caliper trees if practicable provided that the equivalent number of overall caliper inches is planted. For example:
 18" of replacement trees required =
 Priority 1) Four (4) x 4" caliper trees, + one 2" caliper tree.
 Priority 2) Six (6) x 3" caliper trees.
 Priority 3) Nine (9) x 2" caliper trees.

Table 12.32.080 - Heritage Tree Replacement Requirements

| Size of tree removed (DBH) | Number of 2" trees to be planted / total caliper inches required |
|----------------------------|------------------------------------------------------------------|
| 6 to 12" | 3 (6") |
| 13 to 18" | 6 (12") |
| 19 to 24" | 9 (18") |
| 25 to 30" | 12 (24") |
| 31 and over" | 15 (30") |

2. Replanting off-site. If site constraints do not permit the planting of all mitigation trees on-site, alternative off-site planting areas may be considered and approved by the Community Development Director.
- D. The removal of or damage to a heritage tree or stand in violation of this chapter shall constitute a civil infraction, subject to the code enforcement procedures of Chapter 1.16 and/or Chapter 1.20, except that the penalty for unlawful removal of a heritage tree shall be six hundred dollars for each tree removed or damaged.
- E. Native heritage trees that are removed shall be replaced with native tree species.
- F. Applications to remove city-owned trees from the public right-of-way that are eligible for heritage tree nomination shall be reviewed pursuant to the procedures and notification process in OCMC 17.41.045.

12.32.090 - Recognition of heritage trees and stands.

- A. A heritage tree plaque may be designed and furnished by the city to the property owner or, if the tree is in the public right-of-way, to the appropriate city official, of a designated

heritage tree or stand. The city may charge a fee to cover the costs of the providing the plaque. The plaque shall be posted at a location at or near the heritage tree or stand and, if feasible, visible from a public right-of-way.

- B. The Community Development Director shall maintain a list and map of designated heritage trees and stands.

12.32.100 - Removal of heritage tree or stand designation.

A designated heritage tree or stand may have that designation removed if the tree or stand dies or is removed pursuant to this chapter. The Natural Resources Committee, Parks and Recreation Advisory Committee, and City Commission shall be notified of the pending de-designation prior to the removal as applicable. If removed from private property, the city shall record a document extinguishing the covenant.



Oregon City Municipal Code

Chapter 12.08 - PUBLIC AND STREET TREES

12.08.010 - Purpose.

The purpose of this chapter is to:

- A. Develop tree-lined streets to protect the living quality and beautify the city;
- B. Establish physical separation between pedestrians and vehicular traffic;
- C. Create opportunities for solar shading;
- D. Improve air and water quality; and
- E. Increase the community tree canopy and resource.

12.08.015 - Street tree selection, planting and maintenance requirements.

All development shall provide street trees adjacent to all street frontages. Species and locations of trees shall be selected based upon vision clearance requirements, but shall in all cases be selected from the Oregon City Street Tree List, an approved street tree list for a jurisdiction in the Metropolitan region, or be approved by a certified arborist unless otherwise approved pursuant to this section. If a setback sidewalk has already been constructed or the public works department determines that the forthcoming street design shall include a setback sidewalk, then all street trees shall be installed with a planting strip or within tree wells. If existing street design includes a curb-tight sidewalk, then all street trees shall be placed according to OCMC 12.08.035.C.

- A. One street tree shall be planted for every thirty-five feet of property frontage. The tree spacing shall be evenly distributed throughout the total development frontage to meet the clearance distances required in subsection B below. The community development director may approve an alternative street tree plan, or accept fee-in-lieu of planting pursuant to OCMC 12.08.035, if site or other constraints prevent meeting the required total number of tree plantings.
- B. The following clearance distances shall be maintained when planting trees:
 1. Fifteen feet from streetlights;
 2. Five feet from fire hydrants;
 3. Twenty feet from intersections;
 4. Five feet from all public utilities (i.e. sewer, storm and water lines, utility meters, etc.).
- C. All street trees planted in conjunction with development shall be a minimum of two inches in caliper at six inches above the root crown and installed to city specifications. Larger caliper size trees may be approved if recommended by a certified arborist or registered landscape architect.
- D. All established trees shall be pruned tight to the trunk to a height that provides adequate clearance for street cleaning equipment and ensures ADA complaint clearance for pedestrians.
- E. All trees planted within the right-of-way shall be planted with root barriers at least eighteen inches in depth adjacent to the sidewalk and curb to ensure proper root growth and reduce potential damage to sidewalks, curbs and gutters.
- F. All trees planted beneath powerlines shall be selected based on what is appropriate for the location. In addition, the tree species shall be approved by the associated franchise powerline utility company.

- G. Tree species, spacing and selection for stormwater facilities in the public right-of-way and in storm water facilities shall conform to requirements of OCMC 13.12 and the adopted stormwater and grading design standards and be approved by the city engineer.
- H. Any public or street trees planted within the natural resource overlay district shall conform to the applicable requirements of OCMC 17.49, Natural Resources Overlay District (NROD).

12.08.025 - General tree maintenance.

Abutting property owners shall be responsible for the maintenance and replacement of street trees and planting strips. Topping of trees is prohibited, unless under recommendation of a certified arborist, or other qualified professional. Trees shall be trimmed appropriately. Maintenance shall include watering during dry periods, trimming of established trees to remove dead branches and dangerous limbs and to maintain a minimum seven-foot clearance above all sidewalks, eight-foot clearance in clear vision areas pursuant to OCMC 10.32, and ten-foot clearance above the street. Planter strips shall be kept clear of weeds, obstructing vegetation and trash.

12.08.030 - Public property tree maintenance.

- A. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs in all public rights-of-way and public grounds, as may be necessary to ensure public safety or to preserve and enhance the symmetry or other desirable characteristics of such public areas. The public works department and parks and recreation department may recommend to the community development director the removal of any tree or part thereof which is in an unsafe condition or may be injurious to above or below-ground public utilities, structures or other public improvements. Removed trees shall be replaced in accordance with this chapter or the mitigation requirements of the OCMC 17.49, Natural Resources Overlay District (NROD), if the tree to be removed is within the NROD.
- B. Applications to remove city-owned trees from the public right-of-way that are eligible for heritage tree nomination pursuant to OCMC 12.32.010 shall be reviewed pursuant to the procedures and notification process in OCMC 17.41.045.

12.08.035 - Tree removal and replacement.

Existing street trees, trees in the right-of-way, and trees on public property shall be retained and protected during development unless removal is specified as part of a land use approval or in conjunction with a public capital improvement project, in accordance with OCMC 17.41. Tree removal shall be mitigated by the following:

- A. A diseased or hazardous street tree, as determined by a registered arborist and approved by the city, may be removed, if replaced with one new tree for each diseased or hazardous tree. Hazardous trees which have raised the adjacent sidewalk in a manner which does not comply with the Americans with Disabilities Act may be removed and replaced without approval of an arborist.
- B. A non-diseased, non-hazardous street tree that is removed shall be replaced in accordance with Table 12.08.035. All replaced street trees shall have a minimum one and one-half-inch caliper trunk measured six inches above the root crown.

Table 12.08.035

| | |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Replacement Schedule for Trees Determined to be Dead, Diseased or Hazardous by a Certified Arborist | Replacement Schedule for Trees Not Determined to be Dead, Diseased or Hazardous by a Certified Arborist |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|

| Diameter of tree to be Removed (Inches of diameter at 4-ft. height) | Number of Replacement Trees to be Planted | Diameter of tree to be Removed (Inches of diameter at 4-ft. height) | Number of Replacement Trees to be Planted |
|---------------------------------------------------------------------|-------------------------------------------|---------------------------------------------------------------------|-------------------------------------------|
| Any Diameter | 1 Tree | Less than 6" | 1 Tree |
| | | 6" to 12" | 2 Trees |
| | | 13" to 18" | 3 Trees |
| | | 19" to 24" | 4 Trees |
| | | 25" to 30" | 5 Trees |
| | | 31" and over | 8 Trees |

- C. For the purposes of this chapter, removed trees shall be replaced by trees within the right-of-way abutting the frontage subject to the clearance distances required under OCMC 12.08.015.B. If a sufficient location to replant tree(s) is not available, the community development director may allow:
 - 1. Off-site installation of replacement trees within the right-of-way or on public property;
 - 2. Planting of replacement trees or designation of existing trees on the abutting property within ten feet of the right-of-way as street trees. Designated street trees shall be a minimum of two inches in caliper and shall comply with the requirements in section B. In order to assure protection and replacement of the trees on private property, a covenant shall be recorded identifying the tree(s) as subject to the protections and replacement requirements in this chapter; or
 - 3. If sufficient space to replant tree(s) is not available, the community development director may allow a fee in-lieu of planting the tree(s) to be placed into a city fund dedicated to obtaining trees, planting trees and/or tree education in Oregon City.
- D. Trees that are listed as invasive or nuisance species as defined in OCMC 17.04.605 may be removed without replacement.

12.08.045 - Gifts, fee-in-lieu of planting, and funding.

The city of Oregon City may accept gifts, which are specifically designated for the purpose of planting or maintaining trees within the city. The community development director may allow a fee-in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City. The community development director may determine the type, caliper and species of the trees purchased with the fund. The cost of each tree may be adjusted annually based upon current market prices for materials and labor as calculated by the community development director. A separate fund shall be established and maintained for revenues and expenditures created by activities specified in this chapter. The natural resources committee shall have authority on behalf of the city to seek grants and alternative funding for tree projects. Funds from such grant awards shall be administered by the city pursuant to this section.

12.08.050 - Violation—Penalty.

The violation of any provision of this chapter shall constitute a civil infraction, subject to code enforcement procedures of OCMC 1.16 and/or OCMC 1.20.



MEMORANDUM

TO: Laura Terway, Community Development Director
CC: Vance Walker, Assistant Public Works Director
FROM: John M. Lewis, Public Works Director
DATE: June 30, 2020
SUBJECT: Process for Tree Removal on Institutional Properties

In consideration of recent City Commission Direction for improved tree protections and the Community Development’s response including the Permitting and Notification Process for Tree Removal on Institutional Properties, on behalf of the Oregon City Public Works Department (OCPW) I am providing this memorandum. This response focuses on the tree removals in the public rights-of-way (ROW), publicly-owned natural areas, and open space lands which often include development-related water quality facilities and detention ponds. OCPW is also the go to department when problems arise with street trees fronting City-owned property, other than park property (i.e. 7th Street Fire Station).

Generally, street trees help to bolster property values and improve the aesthetic appeal of urban streets. We appreciate trees, knowing that they provide environmental benefits such as stormwater retention, shade, wildlife habitat, and reduced energy consumption. They help to keep our water and air clean and fight climate change. Street trees can also help to calm traffic and provide separation between vehicles and pedestrians. OCPW is responsible for many of the trees in our community and we value our community’s trees.

OCPW is also charged with the efficient and timely maintenance of over 1000 acres of land outside of the Natural Resource Overlay including ROW, open space, and stormwater facilities. This maintenance includes annual and routine kinds of landscape maintenance often involving removal of trees. Sometimes tree removal is necessary. In the case of key corridors where the City is responsible for the street trees, removal can be for a variety of reasons ranging from clearing for needed sight distance to removal due to sidewalk damage; hazard trees, or trees damaged via vehicle accident.

Our concerns with the proposed policy direction and the resulting process changes are mostly centered around the impacts to the Department's limited tree management resources. Unlike other Cities, Oregon City does not have a forestry program or a tree maintenance fund. Most of the trees that OCPW is responsible for maintaining have been established through development or capital programs. Generally, the trees selected through these programs are specified more based on the harsh environment (tree wells, landscape medians, tolerance to roadway heat, or seasonal root zone saturation) where they are expected to survive rather than for their heritage value. The typical life for a healthy street tree planted in a tree well is 25-30 years, many survive much less. Other trees in water quality facilities may have grown by way of volunteer growth sprouting from other trees or seedlings transferred through the drainage system. We often allow volunteer trees to thrive for a few years and then thin back the tree growth through our own balancing efforts to both manage water temperature and the aesthetics of the site with the need for ongoing clearing of the site for their intended purpose of stormwater detention, quality, or flow management.

The concerns we have with more tree removal regulation include:

- Arborist services are costly, time consuming and should not be required for most tree removals managed by OCPW. The proposed regulation requires an arborist report for all tree removals including street trees, unless the tree is lifting the sidewalk, has fallen over, or it is an invasive species. Trees removed to clear sight distance, damaged by a vehicle accident, or removed as a part of a capital improvement project would now also be required to obtain an arborist report. In addition, most imminent hazard trees handled by OCPW are observable and can be documented, and as described above do not involve a tree with significant heritage value.
- Permit requirements for "Trees of Any Size in the Right of way (including Street Trees)" without a funded Forestry Program involves the time and effort of the field staff to obtain. This work often involves photo documentation, arborist report, and mitigation plans. There is the cost of the permit and in some cases mitigation fees when the tree is proposed to not be replaced. Under the current code, a tree removal permit is required for any tree with a diameter of 6-inches or greater, measured at 4 feet above the ground. Under the new code, all trees including those smaller in size such as a juvenile tree would require a permit under the proposed regulation.
- Physical noticing and posting of removal of a street tree or tree in a detention facility, especially when the tree is a hazard, would be another inefficiency. It's also been my experience when a posting requirement is adopted that the applicant is responsible for ensure the posting remains in place and ensuring postings of street

tree removals would require daily monitoring over the 7 days proposed in the current process.

- Permit fees for trees outside the public ROW (stormwater facilities) under this process will require a permit and the associated fee and then mitigation for all trees, not just those over 6 inches in diameter, and whether the tree is a volunteer or part of the original landscape plan for the site.

Given the sizable obligation the City has with maintaining a healthy tree canopy and the value we place on trees, we understand the concern and the reaction to recent tree removal mistakes. However, in consideration of the limited resources in the OCPW Department to manage trees and tree removals, we recommend exempting from this program trees in the public ROW and on publicly-owned natural areas and open space lands which often include development-related water quality facilities and detention ponds. Maintaining the current City Code as it pertains to these trees is a process we have become accustomed to and can manage without additional resources.