

ORDINANCE NO. 4348

**AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, SECTIONS 40.90 AND
60.60 AND CHAPTER 90; TA 2004-0011 (TREE CODE
TEXT AMENDMENT)**

WHEREAS, the purpose of the Tree Code Text Amendment is to amend three sections of the Beaverton Development Code currently effective through Ordinance 4332 to modify and clarify regulations related to removal and mitigation thereof of trees and vegetation, and related definitions; and

WHEREAS, pursuant to 50.50.1 of the Development Code, the Beaverton Planning Services Division on January 26, 2005, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on February 2, 2005; and

WHEREAS, on February 2, 2005, February 23, 2005, March 16, 2005, and March 30, 2005, the Planning Commission conducted a public hearing for TA 2004-0011 (Tree Code Text Amendment); and

WHEREAS, at the conclusion of the March 30, 2005 hearing, the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendment to the Development Code as summarized in Planning Commission Order No. 1790; and

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2004-0011 (Tree Code Text Amendment) following the issuance of Planning Commission Order No. 1790; and

WHEREAS, the City Council adopts as to criteria, facts, and findings, described in Planning Commission Order No. 1790 dated April 1, 2005, the Planning Commission record, and the Council's Agenda Bill dated March 29, 2005, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4332, the Development Code, is amended to read as set out in Exhibit "A", Exhibit "B" and Exhibit "C" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the


remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to affect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this 11th day of April, 2005.

Passed by the Council this 18th day of April, 2005.

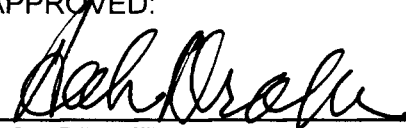
Approved by the Mayor this 19th day of APRIL, 2005.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

40.90. TREE PLAN

40.90.05. Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, trees within Significant Groves and Significant Natural Resource Areas (SNRAs)), and Community Trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein and implements the SNRA, Significant Grove, Significant Individual Tree, and Historic Tree designations as noted or mapped in Comprehensive Plan Volume III.

40.90.10. Applicability.

Different types of resources require different levels of protection. No Tree Plan is required for the following actions:

1. Removal of up to four (4) Community Trees, or up to 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period. Properties one-half acre or less in size developed with a detached dwelling may remove any number of Community Trees.
2. Removal and pruning of any hazardous, dead, or diseased tree when the tree is identified as such by a certified arborist or by the City Arborist and the removal is required by the City.
3. In the event of an emergency requiring tree removal or pruning prior to the City Arborist's determination, if evidence justifies the emergency removal after the fact, then no tree plan is required for removal.
4. Minor pruning, as defined in Chapter 90.
5. Pruning of trees consistent with the Vision Clearance requirements of Section 60.55.50.
6. Pruning of trees by the utility provider for above ground utility power lines following acceptable arboricultural standards and practices.

7. Pruning of trees to maintain the minimum 8 foot clearance above a sidewalk.
8. Removal or pruning of the following nuisance tree species anywhere in the city: Lombardy Poplar (*Populus nigra*), and birch (*Betula* sp.).
9. Removal and pruning of the following nuisance tree species in Significant Groves and SNRAs: Norway maple (*Acer platanoides*), Tree-of-Heaven (*Ailanthus altissima*), Golden Chain Tree (*Laburnum watereri*), and English or Common Hawthorne (*Crataegus monogyna*).
10. Removal of a tree or nonnative vegetation listed as a Nuisance or Prohibited Plant on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.
11. Within SNRAs and Significant Groves, planting of native vegetation listed on the Metro's Native Plant List or in Clean Water Services' Design and Construction Standards when planted with non-mechanized hand held equipment.
12. Public street and sidewalk improvements within SNRAs or Significant Groves that meet i. or ii. and iii.:
 - i. Improvements within an existing public vehicular right-of-way; or
 - ii. Improvements to a public vehicular right-of-way in order to meet functional classification standards, such as widening or half-street improvements; and
 - iii. The proposed improvements do not exceed the minimum width standards of the Engineering Design Manual.
13. Trails within SNRAs and Significant Groves meeting all of the following:
 - i. Construction must take place between May 1 and October 30 with hand held equipment;
 - ii. Trail widths must not exceed 30 inches and trail grade must not exceed 20 percent;
 - iii. Trail construction must leave no scars greater than three inches in diameter on live parts of native plants; and
 - iv. Trails must be placed outside the top of bank of any stream, river, or pond, and
 - v. Trails must be 100% pervious.
14. Street Trees are covered by the Beaverton Municipal Code and Section 60.15.15.3.G.

15. Landscape Trees are covered by Section 40.20 Design Review and Section 60.60 Trees and Vegetation.
16. Enhancement activities conducted by a public agency for the sole purpose of improving the ecological health of forest and water resources.

40.90.15. Application.

There are four (4) Tree Plan applications which are as follows: Tree Plan One, Tree Plan Two, Tree Plan Three, and Commercial Timber Harvest.

1. Tree Plan One.

- A. Threshold. An application for Tree Plan One shall be required when none of the actions listed in Section 40.90.10 apply and one or more of the following thresholds apply:
 1. Major pruning of Protected Trees once within a one year period.
 2. Mechanized removal of non-native or invasive vegetation and clearing and grubbing of vegetation within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
 3. Mechanized re-planting of trees and shrubs, or both, or restoration planting within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
 4. Trails greater than 30 inches in width, or trail grade exceeding 20 percent, trail surfaces less than 100% pervious surface, or any combination thereof within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services that do not result in tree removal.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Tree Plan One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. If applicable, pruning is necessary to improve tree health or to eliminate conflicts with vehicles or structures which includes, but is not limited to, underground utilities and street improvements.
 5. If applicable, the removal of vegetation or clearing and grubbing is necessary to accommodate physical development in the area in which the removal is proposed.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan One application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Previous approval of Tree Plan One proposal shall not be extended.

2. Tree Plan Two

A. Threshold. An application for Tree Plan Two shall be required when none of the actions listed in Section 40.90.10 apply, none of the thresholds listed in Section 40.90.15.1 apply, and one or more of the following thresholds apply:

1. Removal of five (5) or more Community Trees, or more than 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period, except as allowed in 40.90.10.1.
2. Multiple Use Zoning District: Removal of up to and including 85% of the total DBH of non-exempt surveyed tree(s) within a SNRA or Significant Grove area that is found on the project site.
3. Commercial, Residential, or Industrial Zoning District: Removal of up to and including 75% of the total DBH of non-exempt surveyed tree(s) within a SNRA or Significant Grove area that is found on the project site.
4. Removal of a Significant Individual Tree(s).

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Tree Plan Two. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan Two application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
4. If applicable, removal of a Community Tree(s) is necessary to enhance the health of the tree, grove, group of trees, or an adjacent tree or to eliminate conflicts with structures or vehicles.
5. If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.
7. If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.
8. If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.
9. If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees to eliminate conflicts with structures or vehicles.
10. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.
11. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.

12. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Two application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Previous approval of Tree Plan Two proposal shall not be extended.

3. Tree Plan Three

A. Threshold. An application for Tree Plan Three shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 or Section 40.90.15.2 apply and one or more of the following thresholds apply:

1. . Multiple Use Zoning Districts: Removal of greater than 85% of the total DBH of non-exempt surveyed trees within a SNRA or Significant Grove area that is found on the project site.
2. Residential, Commercial, and Industrial Zoning Districts: Removal of greater than 75% of the total DBH of non-exempt surveyed trees within a SNRA or Significant Grove area that is found on the project site.

3. Removal of individual Historic Trees.
 4. Commercial timber harvest of trees which fail to meet the approval criterion specified in Section 40.90.15.4.C.4.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Tree Plan Three. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.
 5. If applicable, removal is necessary to enhance the health of the grove or adjacent tree(s) to reduce maintenance, or to eliminate conflicts with structures or vehicles.
 6. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.

7. If applicable, removal is the minimum necessary to accommodate physical development because no reasonable alternative exists for the development at another location on the site and variances to setback provisions of the Development Code will not allow the tree(s) to be saved or will cause other undesirable circumstances on the site or adjacent properties.
 8. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site..
 9. If applicable, removal is necessary to accomplish a public purpose, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.
 10. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.
 11. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
 12. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.
 13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), any other information identified through a Pre-

Application Conference, and by a report from a qualified professional.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Three application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
 - F. Compliance with Approval. All conditions imposed on an approved Tree Plan Three shall be implemented prior to the removal, pruning, or planting of tree unless otherwise noted in the approval. Compliance with the conditions of approval shall be met as long as the tree exist unless otherwise specified or until modified through a City approval process.
 - G. Appeal of a Decision. Refer to Section 50.70.
 - H. Expiration of a Decision. Refer to Section 50.90.
 - I. Extension of a Decision. Previous approval of Tree Plan Three proposal shall not be extended.
4. **Commercial Timber Harvest.**
- A. Threshold. An application for Commercial Timber Harvest shall be required when none of the actions listed in Section 40.90.10 apply and following threshold applies:
 - 1. Commercial harvest of timber on Tax Lot Identification Nos. 1S132CC11300, 1S132CD09000, and 1S132CD09100.
 - B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Commercial Timber Harvest. The decision making authority is the Director.
 - C. Approval Criteria. In order to approve a Commercial Timber Harvest application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirement for a Commercial Timber Harvest application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The harvest of timber will leave no less than ten (10) living, healthy, and upright trees per acre each of which measure at least ten (10) inches in diameter at four (4) feet above grade.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Commercial Timber Harvest shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Commercial Timber Harvest application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.60.
- F. Expiration of a Decision. Refer to Section 50.90.
- G. Extension of a Decision. Previous approval of Commercial Timber Harvest proposal shall not be extended.

60.60. TREES AND VEGETATION. [ORD 4224; August 2002]**60.60.05. Purpose**

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. In conjunction with processes set forth in Section 40.90 of this Code, this section is intended to help manage changes to the City's urban forest by establishing regulations and standards for the protection, pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, and trees within a Significant Natural Resource Area (SNRA) or Significant Grove), Landscape Trees, and Community Trees.

60.60.10. Enforcement

A person found responsible for causing the removal or pruning of a protected tree in violation of the standards set forth in Section 60.60, unless exempt, shall be subject to monetary penalties. In cases of unlawful removal the person must also mitigate the removal as set forth in the mitigation requirements of section 60.60.25.

1. Fine for a violation

Monetary penalties imposed by a court of competent jurisdiction upon conviction for violating any provision of Chapter 60 section 60 of this Ordinance, shall be deposited into the City's Tree Mitigation Fund.

60.60.10. Types of Trees and Vegetation Regulated

Actions regarding trees and vegetation addressed by this section shall be performed in accordance with the regulations established herein and in Section 40.90 of this Code. The City finds that the following types of trees and vegetation are worthy of special protection:

- 1. Significant Individual Trees.**
- 2. Historic Tree.**
- 3. Trees within Significant Natural Resource Areas.**
- 4. Trees within Significant Groves.**
- 5. Landscape Trees.**

6. Community Trees.

7. Mitigation Trees.

60.60.15 Pruning, Removal, and Preservation Standards

1. Pruning Standards

- A. It shall be unlawful for any person to remove or prune to remove a tree's canopy or disturb the root zone of any Protected Tree , except in accordance with the provisions of this Code.
- B. All pruning of Protected Trees shall be done in accordance with the standards set forth in this section and the City's adopted Tree Planting and Maintenance Policy, also known as Resolution 3391.

2. Removal and Preservation Standards

- A. All removal of Protected Trees shall be done in accordance with the standards set forth in this section.
- B. Removal of Landscape Trees and Protected Trees shall be mitigated, as set forth in section 60.60.25.
- C. For SNRAs and Significant Groves, the following additional standards shall apply:
 - 1. The minimum DBH of non-exempt surveyed trees that must be preserved on a site is as follows:
 - a) Multiple Use Zoning Districts: Fifteen percent (15%) of the DBH of non-exempt surveyed trees found on a project site.
 - b) Residential, Commercial, or Industrial Zoning District: Twenty five percent (25%) of the DBH of non-exempt surveyed trees found on a project site
 - 2. DBH to be retained shall be preserved in cohesive areas, termed Preservation Areas, when development is proposed in SNRAs or Significant Groves.

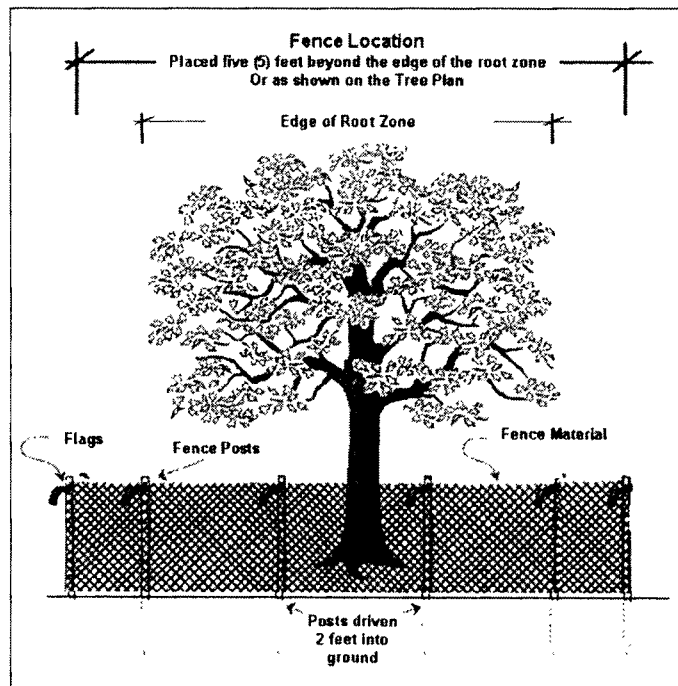
3. Native understory vegetation and trees shall be preserved in Preservation Areas.
4. Preservation Areas, conditioned for protection through the Development Review process, shall be preserved in clusters that are natural in appearance rather than in linear strips. Preservation Areas should connect with adjoining portions of the Significant Grove or SNRA on other sites.
5. Preservation Areas, conditioned for protection through the Design Review process, shall be set aside in conservation easements and recorded with a deed restriction with Washington County, unless otherwise approved by the City. The deed restriction shall prohibit future development and specify the conditions for maintenance if the property is not dedicated to a public agency.
6. Preservation Areas, conditioned for protection through the Land Division process, shall be set aside in tracts and recorded with a deed restriction with Washington County, unless otherwise approved by the City. The deed restriction shall prohibit future development and specify the conditions for maintenance if the property is not dedicated to a public agency.
7. Within the development review process, where a person is presented with a particular decision whether to retain a native or non-native tree, the native species shall be retained provided all other considerations between the two categories of trees remain equal.

Non-native tree species may also be retained for aesthetic, unique condition, size, and wildlife habitat purposes.

8. Hazardous and dead trees within Significant Groves and SNRAs should be fallen only for safety and left at the resource site to serve as habitat for wildlife, unless the tree has been diagnosed with a disease and must be removed from the area to protect the remaining trees.

60.60.20. Tree Protection Standards During Development

1. Trees classified as Protected Trees under this Code shall be protected during development in compliance with the following:
 - A. A construction fence must be placed around a tree or grove beyond the edge of the root zone. The fence shall be placed before physical development starts and remain in place until physical development is complete. The fence shall meet the following:
 1. The fence shall be a four foot (4') tall orange plastic or snow fence, secured to six foot (6') tall metal posts, driven two feet (2') into the ground. Heavy 12 gauge wire shall be strung between each post and attached to the top and midpoint of each post. Colored tree flagging indicating that this area is a tree protection zone is to be placed every five (5) linear feet on the fence to alert construction crews of the sensitive nature of the area.



2. Other City approved protection measures that provide equal or greater protection may be permitted, and may be required as a condition of approval.

- B. Within the protected root zone of each tree, the following development shall not be permitted:
 - 1. Construction or placement of new buildings.
 - 2. Grade change or cut and fill, except where hand excavation is approved with the submittal of an arborist's report, as part of application approval.
 - 3. New impervious surfaces.
 - 4. Trenching for utilities, irrigation, or drainage.
 - 5. Staging or storage of any kind.
 - 6. Vehicle maneuvering or parking

60.60.25. Mitigation Requirements

- 1. The following standards shall apply to mitigation for the removal of Significant Individual Trees or trees within Significant Groves or SNRAs.
 - A. All mitigation tree planting shall take place in conformance with accepted arboricultural practices and shall be spaced a minimum of ten (10) feet apart.
 - B. As of [fill in effective date of ordinance], all trees planted for the purpose of tree removal mitigation shall be maintained in accordance with the approved mitigation plan. Monitoring of mitigation planting shall be the ongoing responsibility of the property owner where mitigation trees are located, unless otherwise approved through Development Review. Monitoring shall take place for a period of two (2) years. Trees that die shall be replaced in accordance with the tree replacement standards of this section.
 - C. As of [fill in effective date of ordinance], all trees planted for the purpose of tree removal mitigation shall be set aside in a conservation easement or a separate tract and shall be designated as "Mitigation Trees" and recorded with a deed restriction identifying the trees as "Mitigation Trees".
 - D. Each Mitigation Tree planted shall be insured through a performance security, equal to 110 percent of the cost of the

landscaping, filed with the City for a period of two (2) years to ensure establishment of the mitigation planting.

- E. Street trees shall not be counted as providing mitigation of a SNRA or Significant Grove.
 - F. Transplanting trees within the project site is not subject to mitigation. However, a performance security is required for transplanted tree(s) to insure that the tree(s) will be replaced if the tree(s) is dead or dying at the end of two (2) years.
2. Mitigation for the removal of trees from Significant Groves or SNRAs shall be required as follows:
- A. Calculate the total DBH of the trees to be removed. Denote both deciduous and coniferous trees in separate tables; however, both tables will result in the sum total of the DBH to be removed.
 - B. If the total DBH of trees to be removed is less than or equal to 50% of the total DBH of surveyed trees on the site, then no mitigation is required for the trees to be removed.
 - C. If the total DBH of trees to be removed is greater than 50% of the total DBH of surveyed trees on site, then mitigation is required for the amount of DBH to be removed that exceeds 50% of the total DBH of surveyed trees on site.

For example, if 75 inches is the total amount of DBH to be removed from a site and 60 inches of DBH represents 50% of the total surveyed DBH, then 15 inches of DBH is the total required amount of mitigation.

3. In addition to the requirements listed in Section 60.60.25.1 Mitigation Requirements, the following mitigation requirements shall apply for the removal of trees from Significant Groves or SNRAs.
- A. Dead or dying trees within a Significant Grove or SNRA shall be fallen when required for safety. Such tree falling shall not require mitigation. However, the fallen log should remain in the Significant Grove or SNRA, to serve as habitat for wildlife, unless the tree has been diagnosed with a disease and the log must be removed from the area to protect the remaining trees.
 - B. All trees planted for mitigation must meet the following minimum requirements:

- i. Deciduous trees shall be replaced with native deciduous trees that are no less than two caliper inches (2") in diameter
- ii. Coniferous trees shall be replaced with native coniferous trees that are no less than three feet (3') in height and no more than four feet (4') in height. A three foot (3') mitigation tree shall equate to 2" DBH and four foot (4') mitigation tree will equate to 3" DBH.
- iii. The total linear DBH measurement of the trees to be removed shall be mitigated with the necessary number of trees at least two caliper inches (2") in diameter.

4. Significant Grove or SNRA On-Site Mitigation, 2:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 75% of the surveyed non-exempt DBH, if all mitigation tree planting is to occur on-site, the ratio for planting shall be on a 2:1 basis.

For example, if 20 inches of DBH is the total amount of required mitigation, if all the mitigation planting occurs on the site where the removal is to occur, then only 10 inches of DBH is required to be planted.

- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 85% of the surveyed non-exempt DBH, if all mitigation tree planting is to occur on-site, the ratio for planting shall be on a 2:1 basis.

For example, if 20 inches DBH is the total amount of required mitigation, if all the mitigation planting occurs on the site where the removal is to occur, then only 10 inches of DBH is required to be planted.

5. Significant Grove or SNRA Off-Site Mitigation, 1:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 75% of the surveyed non-exempt DBH, if mitigation tree planting is to occur off-site, the ratio for planting shall be on a 1:1 basis.

- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 85% of

the surveyed non-exempt DBH in Multiple Use zones, if mitigation tree planting is to occur off-site, the ratio for planting shall be on a 1:1 basis.

6. Significant Grove or SNRA Tree Plan 3 Mitigation, 1:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 75% and up to and including 100% of the surveyed non-exempt DBH, all of the required mitigation tree planting shall be on a 1:1 basis whether planted on-site or off-site.
- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 85% and up to and including 100% of the surveyed non-exempt DBH, all of the required mitigation tree planting shall be on a 1:1 basis whether planted on-site or off-site.

7. In-Lieu Fee

If the total caliper inch on-site- or off-site tree planting mitigation does not equal the DBH inch removal or if no tree planting mitigation is proposed, the remaining or total caliper inch tree planting mitigation shall be provided as a fee in-lieu payment. The in-lieu fee shall be specified in the Community Development In-Lieu Fee schedule. Fee revenues shall be deposited in the City’s Tree Mitigation Fund.

The following two tables illustrate how required mitigation will be calculated:

Mitigation Example for Mixed Use Zones – SAMPLE SITE*	
DBH of Surveyed Trees	1318.00
DBH Proposed for Removal (MAXIMUM removal allowed is 85% Surveyed Tree DBH)	1120.00
Mitigation Threshold (50% Surveyed Tree DBH)	659.00
DBH to be Mitigated (85% DBH Removal – 50% DBH Threshold = 25% Surveyed DBH)	461.00
On Site Mitigation (50% of the DBH to be mitigated)	230.50
Off Site OR Partial Off Site Mitigation (100% of the DBH to be mitigated)	461.00

**Please note: This “Sample Site” is fictional and is only meant to be a representation of how the regulations of Section 60.60 Trees and Vegetation could be applied to a site.*

Mitigation Example for All Other Zones – SITE SAMPLE*	
DBH of Surveyed Trees	1318.00
DBH Proposed for Removal (MAXIMUM removal allowed is 75% Surveyed Tree DBH)	988.00
Mitigation Threshold (50% Surveyed Tree DBH)	659.00
DBH to be Mitigated (75% DBH Removal – 50% DBH Threshold = 25% Surveyed DBH)	329.00
On Site Mitigation (50% of the DBH to be mitigated)	164.50
Off Site OR Partial Off Site Mitigation (100% of the DBH to be mitigated)	329.00

**Please note: This “Sample Site” is fictional and is only meant to be a representation of how the regulations of Section 60.60 Trees and Vegetation could be applied to a site.*

8. In addition to the standards in Mitigation Standards 1, the following standards shall apply to mitigation for the removal of a Significant Individual Tree:

- A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
- B. Mitigation for the removal of a Significant Individual Tree shall be the required replacement of each tree on based on the total linear DBH measurement. Replacement of trees shall be as follows:

**Replacement Table for
Significant Deciduous Trees**

Caliper-inches removed	Minimum total caliper-inches of replacement trees
6-12"	4"
13-18"	6"
19-24"	8"
Over 25"	9"

*Minimum replacement tree size is 2 caliper-inches for deciduous trees.

**Replacement Table for
Significant Coniferous Trees**

Caliper-inches removed	Minimum number of replacement Trees
6-12"	1
13-24"	2
Over 25"	3

Minimum replacement tree size is 3-feet minimum to 4-feet maximum height for coniferous trees.

9. The following standards apply to the replacement of a Landscape Tree:

- A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
- B. If a replacement tree of the species of the tree removed or damaged is not reasonably available, the City may allow replacement with a different species.
- C. Replacement of a Landscape Tree shall be based on total linear DBH calculations at a one-to-one ratio depending upon the capacity of the site to accommodate replacement tree or unless

otherwise specified through development review. Replacement of tree on a one-to-one basis shall be as follows:

1. Calculate the sum of the total linear DBH measurement of the tree to be removed.
2. The total linear DBH measurement of the tree to be removed shall be replaced with tree at least 1.5 caliper inches in diameter. The total caliper inches of the replacement tree shall be at least equal to the sum total of the linear DBH measurement of the removed tree.

CHAPTER 90 - DEFINITIONS

The following definitions are proposed for addition, deletion, or modification. Where italicized, additions are proposed, where stricken, deletions are proposed. All other definitions in the Development Code are not proposed for alteration through this amendment.

***Certified Arborist.** An individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.*

***City Arborist.** The person designated as such by the Director of Operations.*

***Community Tree.** [ORD 4224; August 2002] A healthy tree of at least ten inches (10") DBH located on developed, partially developed, or undeveloped land. ~~Community trees~~ Trees are not those trees identified as ~~significant~~ Significant, ~~historic~~ Historic, ~~street~~ Landscape, or ~~conditioned~~ Mitigation trees. ~~Trees, or trees~~ within a Grove or a Significant Natural Resource Area, or trees that bear edible fruits or nuts grown for human consumption.*

***Dying Tree.** A tree with greater than 20% dead limbs during the growing season.*

***Enhancement Activities.** Activities implemented for the sole purpose of improving or protecting, or both, the ecological functions and values of streams, wetlands and forest resources. Enhancement Activities do not include any excavation, fill, grading, or other form of earth moving of up to and including fifty (5) cubic yards of earth, the disturbance of up to and including 500 gross square feet of surface area, or both.*

***Hazardous Tree.** A tree that possesses a structural defect which poses an imminent risk if the tree, or part of the tree, were to fall on someone or something of value (target).*

- *Structural Defect.* Any structural weakness or deformity of a tree or its parts. A tree with a structural defect can be verified to be hazardous by a certified arborist and confirmed as such by the City Arborist.
- *Target.* People, vehicles, structures or property, such as other trees or landscape improvements. A tree may not be a hazard if a 'target' is absent within the falling distance of the tree or its parts (e.g., a substandard tree in a non-populated area away from pedestrian pathways may not be considered a hazard).

***Invasive.** A type of plant that is not local to an area, but rather originates from another place. Also called "exotic," "non-native," or "alien" species.*

Mitigation Tree. *A tree planted in an effort to alleviate the impact of the removal of another tree(s). A mitigation tree takes on the designation of the tree(s) removed (i.e. tree(s) planted to mitigate for a tree(s) removed from a grove or SNRA becomes a tree(s) protected as if it were part of a grove or SNRA).*

Native Understory. *Foliage layer located between the floor and the canopy of a forest, wood, or grove containing plant materials that have origins in the Tualatin Valley Region of the state of Oregon. Limited to plant species identified on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.*

Native Vegetation. *Plant materials that have origins the Tualatin Valley Region of the state of Oregon, as listed on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.*

Non-Exempt Surveyed Tree. *Trees that fit within the definition of Surveyed Tree, with the exception of Nuisance Trees.*

Non-Native. *A type of plant that is not local to an area, but rather originates from another place.*

~~**Noxious Vegetation.** [ORD 4224; August 2002] As applied to Significant Natural Resource Areas (SNRA), lands designated as significant on the Local Wetland Inventory, and Clean Water Services designated sensitive areas, the following plants, bushes, and trees are deemed to be noxious vegetation: Scot's Broom, French Broom, Kudzu, English Ivy, Purple Loosestrife, Reed Canary Grass, Himalayan Blackberry, Evergreen Blackberry, Norway Maple, Tree of Heaven, Garlic Mustard, Lesser Celandine, Canada Thistle, Common Thistle, Western Clematis, Traveler's Joy, Field Morning Glory, Lady's Nightcap, Pampas Grass, Hawthorne (except native species), Queen Anne's Lace, South American Waterweed, Common Horsetail, Giant Horsetail, Crane's Bill, Robert Geranium, Common Bladderwort, St. John's Wort, English Holly, Yellow Flag, Duckweed, Water Lentil, Eurasian Watermilfoil, Annual Bluegrass, Water Smartweed, Giant Knotweed, English Laurel, Portuguese Laurel, Tansy Ragwort, Blue Bindweed, Climbing Bindweed, Hairy Nightshade, Bamboo, Periwinkle (large and small leaf), and Spiny Cockleb.~~

Nuisance Vegetation. *Plant species that invade natural areas eventually resulting in their domination of native plant species. Includes those nuisance and prohibited species listed on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards. Also see invasive and non-native.*

~~**Noxious Vegetation.** [ORD 4224; August 2002] As applied to Significant Natural Resource Areas (SNRA), lands designated as significant on the Local Wetland Inventory, and Clean Water Services designated sensitive areas, the following plants, bushes, and trees are deemed to be noxious vegetation: Scot's Broom, French Broom, Kudzu, English Ivy, Purple Loosestrife, Reed Canary Grass, Himalayan Blackberry, Evergreen Blackberry, Norway Maple, Tree of Heaven, Garlic Mustard, Lesser Celandine, Canada Thistle, Common Thistle, Western Clematis, Traveler's Joy, Field Morning Glory, Lady's Nightcap, Pampas Grass, Hawthorne (except native species), Queen Anne's Lace, South American Waterweed, Common Horsetail, Giant Horsetail, Crane's Bill, Robert Geranium, Common Bladderwort, St. John's Wort, English Holly, Yellow Flag, Duckweed, Water Lentil, Eurasiana Watermilfoil, Annual Bluegrass, Water Smartweed, Giant Knotweed, English Laurel, Portuguese Laurel, Tansy Ragwort, Blue Bindweed, Climbing Bindweed, Hairy Nightshade, Bamboo, Periwinkle (large and small leaf), and Spiny Cockleb.~~

Protected Tree. Includes Significant Individual Trees, Historic Trees, Trees within a Significant Natural Resource Area or Significant Grove, and Mitigation Trees.

Pruning, Minor. [ORD 4224; August 2002] ~~Removal of between 5% and up to and including 20% less than 10% of the a tree's canopy or disturbance of less than 10% or less of a tree's the root system.~~

Pruning, Major. [ORD 4224; August 2002] Removal of greater than 2010% of the tree's canopy or disturbance of over 10% of the root system.

Reasonably Available. As applied to mitigation tree planting, a plant species shall be considered reasonably available if the plant is found to be available for purchase at up to three separate retail or wholesale nurseries, known to stock native plants, of separate ownership within Washington, Multnomah, or Clackamas counties or a combination thereof. A plant species shall be considered to be reasonably unavailable if the species cannot be readily found at three (3) separate retail or wholesale nurseries, known to stock native plants, of separate ownership within Washington, Multnomah, or Clackamas counties or a combination thereof.

Significant Grove. Groves that are mapped on the City's Inventory of Significant Trees and Groves, that have a unique identification code and include all species within the grove boundary as listed in the inventory documents for that grove code.

Significant Tree. A tree or grouping of trees that is mapped on the City's Inventory of Significant Trees and Groves, which has a unique identification code as listed in the inventory documents for that individual tree code.

Surveyed Tree. Trees on a proposed development site that are required to be identified in a Tree Plan application. Trees required to be surveyed include all trees greater than or equal to ten (10) inches DBH (including nuisance trees) and the following trees greater than or equal to six (6) inches DBH: western hemlock (*Tsuga heterophylla*) or mountain hemlock (*Tsuga mertensiana*) trees, Pacific madrone (*Arbutus andrachne*) trees, and big-leaf maple (*Acer macrophyllum*) trees.