

ORDINANCE NO. 23-1271

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, ADOPTING INTERIM DEVELOPMENT REGULATIONS AS AUTHORIZED BY THE GROWTH MANAGEMENT ACT RELATING TO TREE CANOPY PRESERVATION AND ENHANCEMENT; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100 and RCW 36.70A.040; and

WHEREAS, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim development regulations; and

WHEREAS, trees in Lake Forest Park serve an important role and it is the policy of the City to provide a diverse, healthy tree canopy for future generations; maximize the benefits provided by trees and their understory vegetation; mitigate economic, environmental, and community consequences of tree loss; provide regulations that result in no net loss of tree canopy coverage; allow reasonable use of property; promote retention of existing viable, mature trees over removal and replacement; and protect exceptional trees; and

WHEREAS, and the City Council has previously adopted Chapter 16.14 of the Lake Forest Park Municipal Code ("LFPMC"), Tree Canopy Preservation and Enhancement to carry out these policies; and

WHEREAS, Chapter 16.14 LFPMC does not currently include a comprehensive regulatory program for large scale projects that necessitate removal of trees within the right-of-way and adjacent private lots; adoption of such regulations would further the goals of the City as well as provide a well-defined permitting path for applicants; and

WHEREAS, provision in Chapter 16.14 LFPMC used to regulate small scale projects that seek removal of trees in the right-of-way would also benefit from additional detail and clarity;

WHEREAS, the City’s Tree Board held public meetings on May 3, 2023, and June 7, 2023, to discuss amendments to Chapter 16.14 LFPMC; and

WHEREAS, the City Council held public meetings to discuss amendments to Chapter 16.14 LFPMC on April 13, 2023, May 22, 2023, June 8, 2023, and June 22, 2023; and

WHEREAS, the City Council held a public hearing on the proposed interim regulations on June 22, 2023.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. PRELIMINARY FINDINGS. The recitals and findings set forth above are hereby adopted as the City Council’s preliminary findings in support of the interim development regulations imposed by this ordinance.

Section 2. ADOPTION OF INTERIM DEVELOPMENT REGULATIONS. Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, interim development regulations are hereby enacted amending LFPMC 16.14.030, Definitions, as follows:

16.14.030 Definitions.

For the purposes of this chapter, the following terms are defined as follows:

“Administrator” means the planning director or the planning director’s designee.

“At-risk tree” means a tree that is exposed to potential damage but can be preserved during the construction process of major or minor development, through strict adherence to recommendations from the city’s qualified arborist.

“Best management practices (BMPs)” means adherence to tree health care standards detailed in the current edition of the American National Standards Institute (ANSI) A300 and the current edition of the International Society of Arboriculture (ISA) BMPs including the special companion publication to the ANSI A300, Best Management Practices for Utility Pruning of Trees.

“Caliper” means the industry standard for measurement of nursery stock size. Caliper is measured six inches above the root collar for nursery stock four inches in diameter and smaller.

“Canopy” means the part of the tree crown composed of leaves and small twigs or the collective branches and foliage of a group of trees’ crowns.

“Canopy coverage” means the area covered by the canopy of trees on the lot. When a tree trunk straddles a property line, 50 percent of the canopy shall be counted towards

each property's canopy coverage. The canopy coverage of the immature trees and newly planted trees is determined using the projected canopy areas in the Lake Forest Park general tree list.

"Critical root zone (CRZ)" means the International Society of Arboriculture (ISA) definition of CRZ as an area equal to one-foot radius from the base of the tree's trunk for each one inch of the tree's diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree would have a critical root zone radius (CRZ) of 24 feet. The total protection zone, including trunk, would be 50 feet in diameter.

"Crown" means that portion of the tree's stem that is occupied by branches with live foliage.

"DBH" or "DSH" is an acronym for tree diameter at breast height (or standard height) which means the diameter of existing trees measured 4.5 feet above the ground line on the high side of the tree. For the purposes of code enforcement, if a tree has been removed and only the stump remains, the size of the tree shall be the diameter of the top of the stump adjusted to DBH using published tables or regression curves.

"Dead tree" means a tree with no live crown and no functioning vascular tissue.

"Demolition" means the complete tearing down, razing, or removal of a building or structure. A building is considered demolished even if the foundation remains.

"Dripline" for a tree is delineated by a vertical line extended from the outermost branch tips to the ground, or six-foot radius from the stem of the tree, whichever is greater.

"Environmentally critical areas" or "critical areas" and their buffers are defined in Chapter 16.16 LFPMC.

"Exceptional tree" means a viable tree, which because of its unique combination of size and species, age, location, and health is worthy of long-term retention, as determined by the city's qualified arborist. To be considered exceptional, a tree must meet the following criteria:

1. The tree must be included in and have a diameter at breast height (DBH) that is equal to or greater than the threshold diameters listed in Table 1;
2. The tree shall exhibit healthful vigor for its age and species;
3. The tree shall not be considered a significant risk in regard to existing utilities and structures as evaluated per the tree risk assessment defined in LFPMC 16.14.080(A)(1);
4. The tree shall have no visual structural defects that cannot be mitigated by one or more measures outlined in the International Society of Arboriculture Best Management Practices; and

5. If retained under current tree growth conditions, the tree can be expected to remain viable with reasonable and prudent management and care.

Table 1: Exceptional Tree Species and Their Threshold Diameters	
Species	Threshold Diameter (DBH)
Bigleaf MAPLE – <i>Acer macrophyllum</i>	42 inches
Douglas FIR – <i>Pseudotsuga menziesii</i>	42 inches
Grand FIR – <i>Abies grandis</i>	33 inches
MADRONA – <i>Arbutus menziesii</i>	12 inches
Western HEMLOCK – <i>Tsuga heterophylla</i>	36 inches
Western Red CEDAR – <i>Thuja plicata</i>	42 inches
Western White PINE – <i>Pinus monticola</i>	36 inches

“Forest health emergency” means the introduction of, or an outbreak of, an exotic forest insect or disease that poses an imminent danger of damage to the environment by threatening the survivability of native tree species, as defined in Chapter 76.06 RCW.

“General tree list” means a list of tree species that is maintained by the city and approved by the city’s qualified arborist for planting as replacement trees, as well as tree species that are prohibited from being planted as replacement trees.

“Grove” means a contiguous grouping of trees with overlapping canopies that are 12 inches DBH or greater and that occupy no less than 7,000 square feet or more in size.

“Interior critical root zone (ICRZ)” means an area encircling the base of a tree equal to one-half the diameter of the critical root zone. Disturbance of this area beneath a tree would cause significant impact to the tree, potentially life threatening, and would require maximum post-care treatment to retain the tree.

“Invasive tree” means a tree listed as a weed of concern in Chapter 16-750 WAC, Chapter 17.10 RCW, or by King County in its noxious weed list.

“Landmark tree” means a significant tree that is at least 24 inches in diameter (DBH).

“Limits of disturbance” means the boundary between the area of minimum protection around a tree and the allowable site disturbance as determined by the city’s qualified arborist.

“Major development activity” means subdivision or short subdivision; construction or demolition of single-family, multifamily, or commercial buildings; and alterations, repairs, enlargements or additions that add 1,000 square feet or more of impervious surface coverage.

“Minor development activity” means any activity that requires federal, state, or local approval for the use or modification of land or its resource, except those defined as “major development activity.” These activities include, but are not limited to, additions, enlargements, or alterations to existing structures, construction of retaining walls, fences, driveways, and garages, clearing and grading activity, and activity in the right-of-way that is not exempt from permit requirements.

“Multi-stemmed tree” means a tree that has one stem at ground level but that splits into two or more stems above ground level. Trees whose stems diverge below ground level are considered separate trees. Where a tree splits into several trunks below typical DBH, the DBH for the tree is the square root of the sum of the DBH for each individual stem squared (example with three stems: $DBH = \text{square root of } [(stem\ 1)^2 + (stem\ 2)^2 + (stem\ 3)^2]$).

“Native” means trees and plants native to western Washington.

~~“Off-site replanting” means any one or combination of the following:~~

~~1. The planting of replacement trees pursuant to a permit on a lot different from the lot the tree was removed from, given that all other permit requirements and conditions are met.~~

~~2. The payment of a mitigation fee to the city tree account in an amount equal to replacement cost, as defined by the current edition of the Council of Tree and Landscape Appraisers Guide for Plant Appraisal, for trees not planted on site. For the purpose of calculation, each 450 square feet of canopy coverage being replaced off-site shall be considered one tree.~~

~~3. For utility forest management plans, a utility-funded, city-approved, tree replacement program that provides monies or vouchers to adjacent property owners or the city to effectuate tree replacement, which may or may not be within the utility corridor or right-of-way.~~

“Off-site replanting” means the planting of replacement trees pursuant to permit requirements and conditions on a lot or right-of-way different from the lot or right-of-way corridor the tree was removed from.

“Off-site replanting fee” means the payment of a mitigation fee to the city tree account in an amount equal to replacement cost, as defined by the current edition of the Council of Tree and Landscape Appraisers Guide for Plant Appraisal, for off-site replanting. For the purpose of calculation, each 450 square feet of canopy coverage being replaced off-site shall be considered one tree.

“Off-site replanting program” for utility forest management plans means, a utility-funded, city-approved, tree replacement program that provides monies or vouchers to adjacent property owners or the city to effectuate tree replacement, which may or may not be within the utility corridor or right-of-way. For ROW corridor canopy replacement plans this means an agency funded, city approved, tree replacement program that provides monies to a qualified third party to effectuate tree replacement outside the ROW corridor and prioritizes replanting in the ROW Corridor Off-site Replanting Areas dated June 22, 2023.

“Person” means an individual, corporation, municipal corporation, association, LLC (limited liability corporation), or any legal entity.

“Proactive forest management plan” means a plan for maintenance, management, preservation and enhancement of trees on a lot or lots that includes a qualified arborist’s approach for maintenance and pruning, tree removal, tree planting and forest enhancement over the course of five or more years.

“Protected tree” means a tree and associated understory vegetation identified for retention and protection on an approved tree protection and replacement plan and/or permanently protected by easement, tract, or covenant restriction. Property owners are responsible for protected trees remaining viable and achieving their 30-year maturity goals, including normal care, maintenance, and pruning. Should a protected tree become diseased to the point that it must be removed or die, the property owner is also responsible for replacing the tree with a tree or trees that will achieve the original canopy coverage for which the protected tree was planted to achieve.

“Risk” in the context of trees is the cross-referencing of the likelihood of a tree failure occurring and the severity of the associated consequences to a target.

“Qualified arborist” is an individual who is a certified professional with academic and field experience that makes them a recognized expert in urban forestry and tree protection during development. A qualified arborist shall be a certified arborist member of-with the International Society of Arboriculture (ISA) and/or thea member of the Association of Consulting Arborists and shall have specific experience with urban tree management in the state of Washington. Additionally, the city’s qualified arborist shall be a certified arborist or board certified master arborist, as certified by the International Society of Arboriculture, and be ISA Tree Risk Assessment Qualified and have the necessary training and experience to use and apply the appraisal methodology prescribed in the current edition of the ISA Plant Appraisal Guide.

“Right-of-way corridor (ROW corridor)” means, within the jurisdiction of the City, the public right-of way plus the area within 500 linear feet on either side of the right-of-way boundary lines where trees in the right-of-way are removed. Where the 500 feet includes portions of Lake Washington or another city, that portion shall be added to the other side of the ROW corridor so that a corridor width of 1000 linear feet plus the ROW width is established for the length of the project.

“Right-of-way corridor canopy replacement plan” means a plan submitted by the applicant’s qualified arborist including identification of trees for removal and retention, replanting, maintenance, and monitoring.

“Right-of-way corridor project” means a project that is undertaken by a state agency, municipal corporation, quasi-municipal corporation, regional transit authority or other government entity (together “agency”) which will modify transportation or utility infrastructure in a segment of right-of-way that extends beyond the frontage of one parcel and will require tree removal within the right-of-way and/or on adjacent private property.

“Significant tree” means a tree six inches or greater in diameter (DBH) or a required replacement tree of any size. Dead trees shall not be considered significant trees.

“Street tree” means any ~~significant planted~~ tree ~~in~~ on public rights-of-way or one that has been planted in public rights-of way to replace a street tree.

“Target” or “risk target” means people, property, or activities that could be injured, damaged, or disrupted by a tree.

“Topping” means the removal of the primary leader or the whole top of a tree.

“Tree” means a self-supporting woody plant characterized by one main trunk or, for certain species, multiple trunks, typically reaching at least 20 feet in height at maturity that is recognized as a tree in the nursery and arboricultural industries.

“Tree removal” means the direct or indirect removal of a tree(s) through actions including, but not limited to: clearing, cutting, girdling, topping, or causing irreversible damage to roots or stems; destroying the structural integrity of trees through improper pruning; poisoning; filling, excavating, grading, or trenching within the dripline that results in the loss of more than 20 percent of the tree’s root system; or the removal through any of these processes of greater than 50 percent of the live crown of the significant tree.

“Tree risk assessment” means the systematic process to identify, analyze, and evaluate tree risk. Tree risk assessment shall be conducted in accordance with the latest version of the ISA Best Management Practices Guide.

“Tree risk assessor” means a qualified arborist who identifies subject tree(s) and site conditions, evaluates and classifies the likelihood of failure, estimates the consequences of tree(s) hitting a target, and determines options for treatment or mitigation. The city of Lake Forest Park requires that tree risk assessors be ISA Tree Risk Assessment Qualified.

“Understory vegetation” means small trees, shrubs, and groundcover plants, growing within the dripline or critical root zone (CRZ) of a significant tree.

“Utility forest management plan” means a proactive plan that is concurrent with a utility’s franchise agreement and right-of-way permit(s) for maintenance and management of trees in a utility corridor, right-of-way, or private property that includes the utility’s qualified arborist’s approach for maintenance and pruning, tree removal and off-site replanting, and a commitment to inventorying emergency tree removals.

“Viable (tree)” means a significant tree that a qualified arborist has determined to be in good health with a low risk of failure, is relatively windfirm if isolated or exposed, is a species that is suitable for its location, and is therefore worthy of long-term retention.

“Wildlife habitat tree” means the remaining trunk of a dead, dying, diseased, or hazard tree that is reduced in height and stripped of all live branches. To be considered as a wildlife habitat tree, the tree must be at least 12 inches DBH and 20 feet tall. The actual wildlife habitat tree height must consider the surrounding targets.

“Windfirm” means a tree that is healthy and well-rooted and the city’s qualified arborist has evaluated and determined that it can withstand normal winter storms in Lake Forest Park.

Section 3. ADOPTION OF INTERIM DEVELOPMENT REGULATIONS. Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, interim development regulations are hereby enacted amending LFPMC 16.14.040, Tree removal – Application for permits and posting required, as follows:

16.14.040 Tree removal – Application for permits and posting required.

A. Permits Required. No person or their representative, directly or indirectly, shall remove or destroy any significant tree located within the city without first obtaining a tree permit in accordance with this chapter, unless exempted by LFPMC 16.14.050.

B. Permit Categories.

1. Minor Tree Permit. Unless a major tree permit is required ~~below~~, a minor tree permit application removal may be submitted permitted without arborist review in the following circumstances: ~~The administrator may require review by the city’s qualified arborist if the administrator determines that the removal could result in a threat to persons or damage of property.~~

- a. When two or fewer significant trees are proposed for removal within any 36-month period, unless the trees are protected trees or are located in an environmentally critical area or buffer; or
- b. When any number of invasive trees are proposed for removal, except when those trees are located in an environmentally critical area or buffer; or
- c. When any tree(s) explicitly covered by an approved proactive forest management permit is proposed for removal.

This application does not require review by the City's qualified arborist. The administrator may, however, require review by the City's qualified arborist if the administrator determines that the removal could result in a threat to persons or damage of property.

2. Major Tree Permit. ~~A major tree permit is required for tree removal with review by the city's qualified arborist under in~~ the following circumstances:

- a. When one or more landmark tree is proposed for removal;
- b. When three or more significant trees are proposed for removal within any 36-month period;
- c. When any tree proposed for removal is a protected tree or is located in an environmentally critical area or buffer;
- d. When any major development activity is proposed;
- e. When any minor development activity is proposed within the critical root zone (CRZ) of significant trees; or
- f. When trees are proposed for removal on a property on which major development activity has occurred within the last five years.

This application requires review and approval by the City's qualified arborist.

3. Proactive Forest Management Permit. A proactive forest management permit ~~application~~ may be ~~submitted when an applicant proposes permitted after review and approval by the city's qualified arborist when the applicant(s) commit(s) to~~ forest enhancement on their lot(s) over the course of five or more years. This application requires review and approval by the City's qualified arborist.

4. Utility Forest Management Permit. A utility forest management permit ~~application~~ may be ~~submitted permitted after review and approval by the city's qualified arborist~~ when a utility provider and their qualified arborist proposes

~~commits~~ to collaborate ~~ive~~ efforts toward improved viability of the city's urban forest in tandem with necessary tree maintenance and management. This application requires review and approval by the City's qualified arborist.

5. Right-of-way Tree Permit. A right-of-way tree permit application may be submitted if the applicant proposes removal of tree(s) in the right-of-way, but does not meet the definition of a right-of-way corridor project permit. This application requires review and approval by the City's qualified arborist.

6. Right-of-way Corridor Project Permit. A ROW corridor project permit may be submitted for a project undertaken by an agency that will modify transportation or utility infrastructure in a segment of right-of-way that extends beyond the frontage of one parcel and will require tree removal within the right-of-way and/or on adjacent private property. This application requires review and approval by the City's qualified arborist.

C. Application Requirements.

1. All tree removal permit applications, except utility forest management permits, shall include the completed permit application supplemented by a general site plan showing:

- a. The name, address, email, and phone number of the applicant and owner of the property;
- b. The locations of tree(s) to be removed;
- c. Nearby structures and streets;
- d. Locations of other significant trees surrounding the tree(s) to be removed;
- e. Locations of critical areas or buffers;
- f. A tree replacement plan if required by LFPMC 16.14.090; and
- g. Authorization for the city's qualified arborist to access the site for the purpose of evaluating permit compliance and the viability of replacement trees.

2. Major tree permits and proactive forest management permit applications shall include the following:

- a. A site map (to scale) with a north arrow depicting accurate location of site features including buildings, driveways, environmentally critical areas and buffers, forest groves or open-grown single or clusters of significant

trees; the CRZ [and ICRZ](#) of the grove, cluster, or individual tree, along with any off-site trees that may be impacted by tree removal, excavation, grading, or other development activity proposed; and

b. A tree inventory and assessment report prepared by a qualified arborist that includes at a minimum: trees to be removed and protected (including CRZ [and ICRZ](#)), trees in the vicinity of construction or that could be impacted by the proposed development activity, tree protection fence location, timeline for tree protection activities, list of protection measures and conditions to be taken during all development activities to ensure code compliance during development activities; and

c. A report including, at a minimum, information on tree species, diameter at breast height, condition (health), risk level, existing and proposed canopy coverage, and when applicable, design of a land use proposal that prioritizes healthy trees in accord with LFPMC 16.14.070(D)(3).

3. Proactive forest management permit applications shall also include the following:

a. A proactive forest management plan proposal that meets the definition in LFPMC 16.14.030; and

b. A timeline for tree-related activity, including tree removal, replacement, and maintenance.

4. Utility forest management permit applications shall include the following:

a. A utility forest management plan proposal that meets the definition in LFPMC 16.14.030; and

b. A timeline for tree-related activity, including notification periods that enable city participation in tree removal choices through comment by the city's qualified arborist; and

c. Map(s) indicating the utility corridor(s), right(s)-of-way, or private property where proposed tree maintenance and management activity will occur; and

d. Maintenance and removal practices that reflect the need for continuity of utility service, and public health and safety concerns based on the specific utility facilities.

[5. Right-of-way tree permit applications shall include the following:](#)

a. Either a site plan including the surveyed location of tree(s) proposed for removal in relationship to property lines adjacent to the right-of-way; or authorization from all owners where a tree, or portion thereof, is proposed for removal;

b. A canopy coverage study or reliable information that allows the projected canopy loss to be determined; and

c. A replacement plan that provides for at least one tree replacing each tree removed, to provide canopy coverage equal to or greater than the tree(s) being removed, and any trees replanted in the rights-of-way shall be from the “Chapter 16.14 LFPMC – General Tree List For Lake Forest Park 15’ to 30’ Height” dated June 22, 2023.

6. Right-of-way corridor project permit applications shall include the following:

a. An explanations of the purposes and goals of the project including a discussion of how the design prioritized healthy trees in accord with LFPMC 16.14.070(D)(3) and discussion of why lower impact design approaches to accomplish the project purposes and goals are not feasible.

b. A timeline for tree-related activity including tree removal, replacement, maintenance, and monitoring.

c. A canopy coverage study of the projected canopy lost from the project.

d. A maintenance, monitoring, and watering plan for At-risk trees including replacement if an At-risk tree fails.

e. A ROW corridor canopy replacement plan to mitigate all the tree canopy lost from the project. The plan must identify all trees in the ROW corridor to be removed and to be retained that are considered At-risk or within the limits of disturbance. Any tree replanted in the ROW corridor shall be from the “Chapter 16.14 LFPMC – General Tree List For Lake Forest Park 15’ to 30’ Height” dated June 22, 2023. The plan must include a 3-year maintenance and monitoring plan for replanted trees that includes replacement of trees that fail within the monitoring period. The plan shall provide documentation showing that all reasonable efforts have been made to replace lost canopy by using the following prioritization of replanting locations:

(i) Replanting in the ROW corridor where feasible. “Feasible” as used LFPMC 16.14.040 means the applicant has or will obtain the private property owner’s permission, or in the case of ROW, the City’s permission, to replant in a location with conditions conducive to growth of a viable tree.

(ii) At applicant's option: where replanting is not feasible in the ROW corridor, replanting consistent with an Off-site replanting program, or replanting, where feasible, in preferred off-site replanting areas identified in the ROW Corridor Off-site Replanting Areas dated June 22, 2023.

(iii) When it can be demonstrated that some portion of the canopy replacement is not feasible by implementing priorities (i) or (ii), the applicant shall pay an Off-site replanting fee for the remaining lost canopy coverage associated with the ROW corridor project.

f. Map(s) depicting the right(s)-of-way and private properties affected by the project and all significant trees (including CRZ and ICRZ) within the limits of disturbance associated with the project. Maps shall also depict significant trees (including CRZ and ICRZ) within the limits of the disturbance. Maps shall also clearly indicate whether trees are proposed for removal or retention.

g. Plan for trenching, construction, or an alteration of grades between the critical root zone (CRZ) and the interior critical root zone (ICRZ) of a protected tree; provided, that the tree protection plan approved by the city's qualified arborist demonstrates that the proposed activity will not adversely affect the long-term viability of the tree.

7. For all tree removal permit applications, the applicant shall pay the fee established in the city fee schedule. An applicant shall be responsible for all costs associated with the employment of qualified arborists and any review conducted by city employees or city-retained consultants. The administrator may require a deposit to pay for city expenses related to review of the application or inspection after permit approval.

D. Application Posting Requirements – Notice of Application. Notice of application for all permits identified above shall be posted on site, in a place where it can be read from the nearest public street. If the property is located on a private street, notices shall be posted on site, in a place where it can be read from the private street, as well in a place where it can be read from the nearest public street.

1. For minor tree permits, the notice of application shall be posted for a minimum of two full business days prior to permit decision, and shall remain posted until a decision is issued.

2. For major tree permits, the notice of application shall be posted for a minimum of 14 full calendar days prior to permit decision, and shall remain posted until a decision is issued.

3. When the proposal involves removing five or more trees and constitutes 50 percent or more of the canopy on the subject lot, notice of application and public comment procedures shall comply with LFPMC 16.26.040(D)(1) and (E)(1).

4. When the number of trees proposed for removal increases after the notice of application has been posted or the permit has been approved, all tree removal activity must cease and the applicable notice of application procedure shall be repeated in full for the revised application.

5. For proactive forest management permits, the associated minor tree permits must be posted on the subject site in the same manner described in subsection (D)(1) of this section each time tree removal occurs, and must remain posted for at least seven calendar days after the approved activity has been completed.

6. For utility forest management permit, no posting requirements are required additional to those found in RCW 64.12.035.

7. For ROW tree permits, notice and posting application will comply with the requirements for either Minor or Major tree permits depending on whether the facts of the application fall within B.1 or B.2 of this section.

8. For ROW corridor project permits, notice of application and public comment shall comply with LFPMC 16.26.040(D)(1) and (E)(1).

Section 4. ADOPTION OF INTERIM DEVELOPMENT REGULATIONS. Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, interim development regulations are hereby enacted amending LFPMC 16.14.070, Tree permit approval criteria and conditions, as follows:

16.14.070 Tree permit approval criteria and conditions.

The following are criteria by which ~~minor~~ tree permits in LFPMC 16.14.040, ~~major tree permits, proactive forest management permits, and utility forest management permits~~ are approved, conditioned, or denied.

...

D. Major Tree Permits. A major tree permit shall be granted if the application satisfies or approval is conditioned to satisfy the following:

- 1. When the proposed tree removal is not associated with major development activity, trees may be removed if a tree replacement plan is approved that, at a minimum, does the lesser of the following:
 - a. Maintains the canopy coverage at or above the applicable canopy coverage goal; or
 - b. Maintains canopy coverage at or above the percentage existing prior to tree removal.

- 2. When the proposed tree removal is associated with major development activity, the trees may be removed if a tree replacement plan is approved that, at a minimum, brings canopy coverage to the applicable canopy coverage goal.

- 3. Development proposals associated with a tree permit shall:
 - a. Incorporate trees as a site amenity and reflect a strong emphasis on tree protection.
 - b. Demonstrate the following prioritized factors for retention:
 - i. Existing viable trees in groups or groves;
 - ii. Exceptional trees or other high quality open-grown, windfirm trees;
 - iii. Landmark trees;
 - iv. Trees in critical area buffers, or adjacent to critical area buffers;
 - v. Trees that are interdependent with and therefore critical to the integrity of groves of other protected trees;
 - vi. Other individual trees that will be windfirm, high quality trees if retained;

vii. Other trees that provide wildlife or riparian habitat, screening, buffering or other amenities;

viii. Trees that help to protect neighbors' trees from windthrow, or other trees within required yard setbacks or on the perimeter; and

ix. Trees next to parks or other open space areas.

c. Retain a forested look, value, and function after development or modification. Trees should be protected within vegetated islands and groves rather than as individual, isolated trees scattered throughout the site.

d. Consider tree protection opportunities in the design and location of building footprints, parking areas, roadways, utility corridors and other structures.

e. Provide grading plans that accommodate existing trees and avoid alteration to grades around existing significant trees.

4. Conditions necessary to safeguard trees identified for protection.

5. A notice on title, in the form required by LFPMC 16.16.190, shall be recorded by the applicant disclosing the permit and associated tree retention conditions as required by this chapter. A notice on title is required for all major permits associated with major development activity, and for major permits which would cause the property's canopy coverage to fall below the canopy coverage goal.

6. Conditions required by the city's qualified arborist to safeguard at-risk trees throughout the development process.

7. Conditions that require sidewalks, structures, utilities, and roadways to be set back at least five feet from the CRZ, except where such structure is cantilevered or otherwise raised above the ground's surface so as not to disrupt the tree's roots, and the proposed construction is not likely to result in conflicts between the tree and the sidewalk, driveway, structure, or utility that would necessitate the tree's removal during its normal lifespan.

8. Conditions to allow trenching, construction, or an alteration of grades between ~~the five-foot setback from~~ the critical root zone (CRZ) and the interior critical root zone (ICRZ) of a protected tree; provided, that the tree protection plan approved by the city's qualified arborist demonstrates that the proposed activity will not adversely affect the long-term viability of the tree.

...

G. Right-of-way Tree Permits. A right-of-way tree permit shall be granted if the application proposes, or is conditioned such that at least one tree is replanted for each tree removed to provide canopy coverage equal to or greater than the tree(s) being removed, and one of the follow circumstances apply:-

1. The tree(s) is causing obvious physical damage to structures, utilities or other infrastructure, such as building foundations, public sidewalks, roadways, or utilities, and the city's qualified arborist has determined that mitigation action, such as pruning would be not be feasible to minimize further damage; or
2. The tree(s) is in such a condition of poor health or poor vigor that removal is justified; or
3. The tree(s) is an invasive species, as verified by the city's qualified arborists; or
4. The tree(s) cannot be successfully retained, due to unavoidable conflict with public or private construction or development conflict.

H. Right-of-way Corridor Project Permits. A right-of-way corridor project permit shall be granted if the application proposes, or is conditioned, to satisfies the following:

1. The right-of-way corridor design proposal adequately addresses why the project is designed as proposed rather than an alternative with less impact on tree preservation; and
2. All application requirements in LFPMC 16.14.040(C)(6) are adequately addressed; and
3. The approved ROW corridor replacement plan will result in the replacement of the canopy coverage lost due to the tree removal associated with the project, and includes all items as required for a ROW corridor replacement plan in LFPMC 16.14.040(C)(6)(e); and
4. The application addresses trenching, construction, or an alteration of grades between the critical root zone (CRZ) and the interior critical root zone (ICRZ) of a protected tree; provided, that the tree protection plan approved by the city's qualified arborist demonstrates that the proposed activity will not adversely affect the long-term viability of the tree; and
5. A maintenance, monitoring, and watering plan for At-risk trees, including replacement if an At-risk tree fails, is included.

I. Notice of Decision. The approved tree permit must be posted on the subject site in the same manner described in LFPMC 16.14.040(D)(1) and on the same day the permit is issued. For major tree permits, removal may commence 15 days after the issuance of the approved tree permit. For minor tree permits, removal may commence immediately

upon posting of the approved tree permit. The tree permit shall remain posted at least one week (seven calendar days) after the approved activity has been completed.

JH. Appeals. Appeals of tree permit decisions shall be processed under Chapter 16.26 LFPMC as appeals of ministerial administrative decisions. Appeals must be filed within 14 days following the notice of decision pursuant to LFPMC 16.26.055.

KI. Minor amendments to an approved tree removal permit may be made with written approval of the administrator and the city's qualified arborist. Major amendments that substantively amend the number of trees to be removed, increase impacts on retained trees, or change conditions imposed within the permit must be noticed pursuant to this section prior to written approval of the major amendment.

LJ. Tree removal permits expire ~~six months~~ (180 days) after the date the permit is issued, unless one of the following apply:

1. the city's qualified arborist has approved a proactive forest management permit, utilities forest management permit, or ROW corridor project permit; or
2. the administrator grants one extension of up to 180 days ~~six months~~ when the applicant provides a written request prior to expiration that includes a reasonable justification for the extension, such as a financial hardship, hardship in obtaining replacement trees, or weather-related factors that prevent the applicant from completing the requirements of the permit.

...

Section 5. ADOPTION OF INTERIM DEVELOPMENT REGULATIONS. Pursuant to the provisions of RCW 35A.63.220 and RCW 36.70A.390, interim development regulations are hereby enacted amending LFPMC 16.14.0110, Tree maintenance, as follows:

16.14.110 Tree maintenance.

A. All protected trees and required replacement trees, so designated on an approved permit and replanting plan, shall be maintained in healthy condition by the property owner unless otherwise approved by the city in a subsequent permit. If the canopy coverage falls below the approved coverage granted by latest tree removal permit, the property owner will be required to plant replacement trees to achieve the approved canopy requirements.

B. Pruning.

1. Significant and protected trees, as defined in this chapter, shall not be topped.

2. Street trees shall be pruned only ~~under by permit granted by the the supervision of the~~ Lake Forest Park public works department under terms consistent with this chapter.

3. Pruning and maintenance of protected trees shall be consistent with the ANSI A300 standards and ISA best management practices for proper pruning.

Section 6. EFFECTIVE DURATION OF INTERIM DEVELOPMENT REGULATIONS. These interim development regulations set forth in this ordinance shall be in effect for a period of six (6) months from the date this ordinance is passed and shall automatically expire on December 22, 2023, unless the same is extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the City Council.

Section 7. PUBLIC HEARING. A public hearing was held on these interim regulations by the City Council on June 22, 2023, which satisfies the public hearing requirement in RCW 36.70A.390.

Section 8. REFERRAL TO STAFF. The Planning Director, or designees (the "Director") is hereby authorized and directed to make a recommendation to the City Council regarding permanent development regulations for amendments to Chapter 16.14. LFPMC.

Section 9. SEVERABILITY. Should any portion of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 10. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 11. EFFECTIVE DATE. The City Council hereby finds and declares that pending projects and their potential negative impacts in the City cause an emergency which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare. Pursuant to *Matson v. Clark County Board of Commissioners*, 79 Wn. App. 641, 904 P.2d 317 (1995), non-exhaustive underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses above, all of which are adopted by reference as findings of fact as if fully set forth herein. This ordinance shall become effective immediately upon passage. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

APPROVED BY A MAJORITY PLUS ONE of the Lake Forest Park City Council this 22nd day of June, 2023.

APPROVED:

Jeff Johnson
Mayor

ATTEST/AUTHENTICATED:

Matthew McLean
City Clerk

APPROVED AS TO FORM:

Kim Adams Pratt
City Attorney

Introduced:	June 22, 2023
Adopted:	June 22, 2023
Posted:	June 27, 2023
Published:	June 27, 2023
Effective:	June 22, 2023