



## **TREE AND VEGETATION PRESERVATION AMENDMENTS**

### **STAFF REPORT**

### **GENERAL GOVERNMENT COMMITTEE BRIEFING**

#### **Issue**

The City's regulations for tree and vegetation preservation in TMC 16.08 *Protection of Tree and Vegetation* have not been substantially updated since 2006. The *Urban Forestry Management Plan* adopted by the City Council in 2021, included Action 4.1.D to review the tree preservation regulations regularly to ensure that they are working with other City strategic priorities, plans, and regulations, responding to changes in climate, and implementing the Urban Forestry Management Plan.

The focus of this briefing will be to introduce the proposed amendments to TMC 16.08 and provide a road map for the General Government Committee to help understand the review and approval process.

While the general structure of the proposed amendments is in place, staff and the City's project consultant, DCG/Watershed (formerly The Watershed Company), are still completing their review of the entire set of proposed amendments, so not all the details in the individual sections of TMC 16.08 presented in this staff report are in their final staff recommendation form. The sections of the amendments that are still in the staff and legal review process are noted in the proposed version text.

The next step will be for the staff and DCG/Watershed to finish the draft Ordinance No. O2023-006, which will include a complete and final version of the staff recommendations. This will be presented along with an updated version of this staff report to the Planning Commission and Tree Board at a joint worksession on June 13, 2023.

At the start of the May 10, 2023 briefing, each of the members of the General Government Committee will be asked to respond to two questions:

1. What were the big takeaways for you from the Community Conversations and public outreach?
2. What is the primary issue that you want to see addressed as part of the code amendments?

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## Project Background

The City has made tree and vegetation preservation a priority for many years.

Trees are an essential part of the character of the City. As part of a healthy community and urban forest, they provide many environmental, economic, and community benefits. Trees and their associated vegetation work constantly to mitigate the negative effects of development, while protecting and enhancing lives within the community. In addition to environmental benefits such as improving and protecting water and air quality, directly and indirectly addressing the effects of climate change, and buffering urban noise, trees and their associated vegetation also have socioeconomic and aesthetic benefits, including promoting equity and environmental justice within the community by ensuring each neighborhood in the City receives community investment and support.

The Tumwater City Council made urban forestry one of its four top priority actions for 2022-23. The City Council adopted the Urban Forestry Management Plan on March 2, 2021 after four years of entirely City-funded work by staff, stakeholders, a consultant, the Tree Board, and the Planning Commission.

The City's community and urban forest consists of all trees and understory plants on public and private property in the City. It includes a diverse mix of vegetation that is managed by a broad group of individuals and groups that are located in a range of urban and natural settings including private properties, developed parks, rights-of-way, conservation areas, and other public lands.

The focus of the Urban Forestry Management Plan is the "The Right Tree in the Right Place." The Urban Forestry Management Plan guides the stewardship of the community and urban forest within the City through a series of implementation actions. The primary goals, objectives, and actions that address the preservation of trees and vegetation include:

**Goal 1.** *Restore and enhance the community and urban forest.*

**Objective 1.1.** *Increase canopy cover in the City to expand the community and urban forest.*

**Action B.** *Ensure that landscaping regulations provide for the preservation of trees with potential and the planting of new trees and understory when removing existing trees and understory on public and private properties.*

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**Action C.** *Require appropriate tree planting in new development and redevelopment, by emphasizing proper planning for trees, correct planting techniques, and aftercare that supports the healthy establishment of newly planted trees.*

**Goal 2.** *Protect and preserve the community and urban forest, which includes trees, understory, habitat, and soils.*

**Objective 2.1.** *Use regulatory and non-regulatory approaches to protect and retain the community and urban forest to the extent practicable within the context of necessary growth and development.*

**Action A.** *Enforce tree protection regulations to protect healthy existing trees and forested areas and replace on public and private properties.*

**Action J.** *Designate, register, and promote heritage trees.*

**Goal 4.** *Balance the protection and support of the community and urban forest with other City strategic priorities, which include, in part, providing affordable housing, developing a walkable urban community, economic development, addressing climate change, and protecting endangered species.*

**Objective 4.1.** *Update the Urban Forestry Management Plan and supporting regulations regularly and ensure they work in harmony with other City strategic priorities.*

**Action D.** *Review tree preservation, landscaping, and street tree regulations regularly to ensure that they are working with other City strategic priorities, plans, and regulations, responding to changes in climate, and implementing the Urban Forestry Management Plan.*

The tree and vegetation preservation regulation update is the next step in the City's implementation of the Urban Forestry Management Plan. As part of the project, DCG/Watershed and staff have been working with community stakeholders and the Tree Board, Planning Commission, and City Council to update the City's tree and vegetation preservation regulations (TMC 16.08 *Protection of Trees and Vegetation*), as well as review and update other relevant regulations and standards.

The amendments are a part of the City Council approved 2022 Long Range Planning work program.

Background materials on the project can be found on the [project website](#).

## **Relation to Other City Strategic Priorities**

As noted in Goal 4 of the Urban Forestry Management Plan above, the protection of the City's community and forest does not exist in a vacuum. A balance is needed between tree and vegetation protection amendments and achieving other City strategic priorities, such as providing affordable housing, developing a walkable urban community, economic development, addressing climate change, and protecting endangered species.

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This need for balance applies to all the City's strategic priorities, not just tree and vegetation preservation.

In the case of the proposed tree and vegetation protection amendments, they support a number of City strategic priorities such as creating a healthy, equitable, and climate resilient community.

The proposed amendments also have the potential to conflict with other City strategic priorities such as reducing sprawl by concentrating growth in urban areas, creating and maintaining affordable housing, protecting endangered prairie species, and supporting economic development and redevelopment. The proposed amendments will likely also result in increased costs to property owners, homeowners, and renters as they comply with these regulations, as well as increased costs to the City for enacting and enforcing the regulations.

While considering the details of the proposed tree and vegetation protection amendments, staff asks that the City Council consider how the amendments may affect other City strategic priorities.

## Project Actions to Date



## Project Start

After approval of the Urban Forestry Management in 2021, the City approved the 2022 long range work program, which included amendments to TMC 16.08.

An RFP was issued in March 2022 and DCG/Watershed was hired by the City as its consultant to assist with the project in June 2022.

DCG/Watershed conducted background research, which included a capacity assessment of City resources and staffing and a review of the City existing documents and policies in fall 2022.

DCG/Watershed's review of existing documents and policies included City planning documents,

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the Tumwater Municipal Code, and a policy review as well as background research and case studies of neighboring jurisdictions, and a review of best available science and arboriculture best management practices. This research was developed into a Gap Analysis that can be viewed on the [project website](#). The Gap Analysis was reviewed and discussed by city staff, the Tree Board and Planning Commission and the General Government Committee and used to guide the code amendment development process.

### **Public Engagement Plan**

At the same time as the background research, DCG/Watershed and staff prepared and issued a Public Engagement Plan for the project. The Public Engagement Plan included the following information:

1. Overview of code update process
2. Engagement goals and strategies
3. Stakeholder demographics and interest groups
4. Outreach strategies and notification tools
5. Outreach schedule

Detailed information on the Public Engagement Plan and its implementation can be found on the [project website](#).

### **Public Engagement Process**

Starting in October 2022 and into February 2023 DCG/Watershed and staff conducted a community engagement process, which utilized a combination of online tools coupled with stakeholder meetings. An online Open House on the [project website](#) (tumwatertreecity.com) and social media tools were used to share information and gather public feedback.



The overall strategy for the project was to:

1. Solicit broad outreach.
2. Engage a wide and diverse audience.
3. Compile, distill, and interpret feedback into actionable guidance that informs the regulation update process.

The public engagement process consisted of the following outreach efforts:

1. Online open house on the [project website](#).
2. Postcard mailing to all mailing addresses within the City to promote the project and send people to the online open house.
3. Posters.
4. Social media promotion.
5. Direct engagement through emails, Community Conversations, stakeholder meetings, a table at the Thurston County Food Bank, and meetings with the Planning Commission, Tree Board, and General Government Committee.

### Community Conversations

Through the citywide postcard mailing, social media, and [project website](#), seventy-five people were identified to be a part of the

Figure 1. Postcard Mailed by City

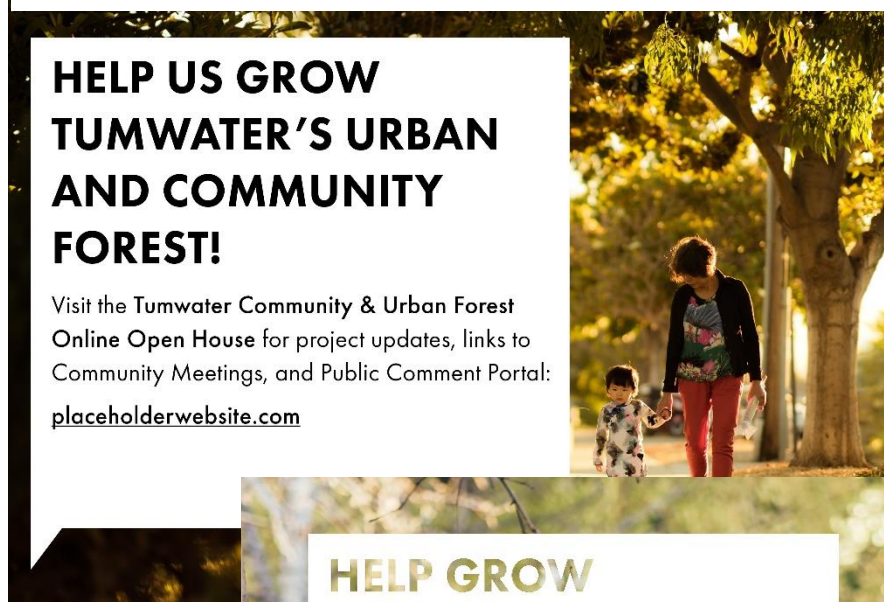


Figure 2. Project Poster

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project mailing list. The people on the list included community members, representatives from interested organizations, staff, and the members of the Planning Commission and Tree Board.

Three external stakeholder engagement meetings called Community Conversations were held in November and December 2022 and January 2023. The meeting format was a hybrid online/in-person format. The structure of the two-hour meetings included a presentation from ten to 30 minutes, with polls and surveys, discussions of specific topics from 60 to 105 minutes, both in specific focus groups and as the community-at-large, and closing summaries of five to 15 minutes.

Presentation slides, Zoom meeting recordings, and summaries of questions and comments can be found on the [project website](#).

To start the Community Conversations, the following discussion topics were presented based on the Urban Forestry Management Plan to be addressed in the code update:

- Preserving and replacing of trees
- Designating special trees and groves
- Allocating tree account funds
- Incentives to support tree planting
- Addressing environmental justice and equitable allocation of resources

### **Community Conversation #1 – November 21, 2022**

The first Community Conversation was attended by approximately 14 community members in addition to seven staff from the City and DCG/Watershed.

The presentation from DCG/Watershed covered the following topics:

1. What is the Urban Forest
2. Benefits of the Urban Forest
3. Challenges Facing the Urban Forest
4. How is the Urban Forest Managed (City plans, guides, and codes)
5. Overview of the Urban Forestry Management Plan
6. What does the current tree and vegetation preservation code regulate?
7. The code update process
8. Project Timeline
9. How to get involved
10. Wrap up and next steps

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Community members provided their input on the following specific discussion topics:

- Addressing environmental justice and equitable allocation of resources
- Using programs and incentives to support the community by tree planting and reforestation on public property
- Preserving and replacing of trees
- Designating special trees and groves
- Allocating tree account funds

### **Community Conversation #2 – December 8, 2022**

The second Community Conversation was attended by approximately seven community members in addition to seven staff from the City and DCG/Watershed.

Community members who attended the first Community Conversation were asked if they wanted to participate in specific focus group discussions. Fifteen said that they would like to participate and six community members and one Tree Board member attended the meeting and participated. There was also 25 minutes set aside for general community feedback.

Based on stakeholder feedback, five topics were identified for discussion at the second Community Conversation for 80 minutes. Focus group topics included:

- Environmental equity and resource allocation
- Protection of large trees and groves
- Tree retention and replacement standards
- Development incentives
- Enforcement and penalties

### **Community Conversation #3 – January 9, 2023**

The third Community Conversation was attended by approximately thirteen community members in addition to six staff from the City and DCG/Watershed.

The presentation from the DCG/Watershed acknowledged the following themes heard at the first two Community Conversation sessions:

- Protect large diameter trees
- Consider habitat value of trees, groves, and corridors
- Clear permitting requirements
- Stronger tree retention & replacement requirements

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- Incentives for homeowners & developers
- Climate change adaptation
- Strict code enforcement
- Strong, but fair penalties for violations

Focus group topics included:

- How to quantify tree retention
  - By tree credits or canopy coverage
- Incentives for tree preservation
  - Reducing stormwater fees
  - Permit fee reductions
  - Development design incentives
  - Provisions for small forest landowners
  - Creation of protected habitat corridors
  - Tax breaks for homeowners

Some of the themes and ideas that emerged from the three Community Conversations meetings with external stakeholders included:

- Protecting large diameter trees
- Considering habitat value of trees, groves, and corridors
- Developing clear permitting requirements with specific consideration for creating a minor and major permit structure
- Developing stronger tree retention & replacement requirements
- Considering impact of regulations on cost of affordable housing
- Providing incentives for homeowners & developers
- Considering climate change mitigation and adaptation
- Enforcing code more strictly
- Assessing strong, but fair penalties for violations
- Using a point or credit system for determining tree retention and replacement requirements

### Other Public Engagement Actions

In developing the amendments, many ideas and priorities shared by the community were also received through written comments by email and in person meetings with community members. There was also an internal stakeholder meeting on January 18, 2023.

### Discussions with Planning Commission, Tree Board, and City Council

#### **Joint Planning Commission and Tree Board Meeting – October 11, 2022**

The DCG/Watershed and staff presented an overview of the project, which included the following:

- Policy Objectives & Considerations
- Public Engagement Plan
- Code Amendment Process
- Project Timeline
- Questions & Comments

#### **Joint Planning Commission and Tree Board Meeting – January 10, 2023**

The DCG/Watershed and staff presented the Gap Analysis

#### **Planning Commission Meeting – January 24, 2023**

The DCG/Watershed and staff discussed Gap Analysis further with the Planning Commission and provided examples of ordinances from other jurisdictions.

#### **General Government Committee Meeting – February 8, 2023**

The DCG/Watershed and staff presented an overview of the project, the public engagement process to date, and the Gap Analysis.

### **Gap Analysis**

DCG/Watershed prepared a Gap Analysis, which reviewed TMC 16.08 and other City plans and policies in fall 2022 and winter 2023.

The Gap Analysis analyzed the current version of TMC 16.08, considered feedback from internal and external stakeholders, and recommended specific code changes.

The Gap Analysis was organized into three main sections that included a review and assessment of the existing regulations, an outline of important topics that may not be present in the

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existing code, and an overview of the coordination needed with other City Plans and Guidelines.

The priority topics identified in the Gap Analysis included:

- Tree retention and replacement requirements
- Tree protection designations for large diameter trees
- An updated methodology for quantifying tree retention
- Permit types and requirements
- Incentives for development projects and existing property owners
- Maintenance requirements for tree tracts within HOAs and commercial/industrial sites

Potential changes to tree code and permitting process identified in the Gap Analysis included:

- Reorganization of code sections for clarity
- Early preliminary review requirements for urban forestry
- Development of a User Guide for permitting process that outlines the process clearly for permitting staff, applicants, and the general public
- Updated and revised tree retention and replacement standards
  - Revise methodology for quantifying tree retention and replacement
  - Tree size, species, and location as criteria for retention
  - Additional protections for retention of large diameter trees
  - Decrease the removal allowances
- Updated and revised requirements for Arborist Reports and site plans
- Creation of major and minor tree removal permit types to address tree removal as part of a larger development approval and when there is not a larger development approval

The Tree Board's written comments and responses to the Gap Analysis can be found on the [project website](#).

## **Draft Amendments**

Once the gap analysis and the initial phase of the public engagement process had been completed, starting in February 2023 staff and DCG/Watershed prepared the proposed amendment language for TMC 16.08. This process took three months to complete.

The proposed version of the code was developed by staff and DCG/Watershed based on the Gap Analysis and feedback from the community through the community conversations, online

open house, and written comments as well as meetings with the Planning Commission, Tree Board, and General Government Committee.

The following is a comparison between the current and proposed versions of each section of TMC 16.08. The name of each section reflects the proposed section in the amended code.

As part of the amendment process, staff and DCG/Watershed started with current version of each code section and made substantial revisions to almost every section. While Ordinance No. O2023-006 will reflect the exact language that was removed or added as part of the amendment process, the substantial revisions and re-ordering of TMC 16.08 is difficult to follow if presented in underline and strikethrough format in the staff report. To help explain the proposed versions of the code amendments, the staff report will to the following:

- Discuss the intent of the proposed amendments to each section of code.
- Note the reasons for the change either in reference to:
  - a. The Gap Analysis that was completed in winter 2023;
  - b. The public engagement process; or
  - c. Additional staff review.

Note that each code section includes the caveat that the amendment language is still in working draft form (April 2023) and it may change before the final staff recommendation is presented as the general structure of the proposed amendments is complete. Staff, DCG/Watershed, and the City Attorney are still completing their review of the entire set of proposed amendments. Specific areas in the amendments that are still in the staff review process are noted in the text.

Staff will be presenting draft Ordinance No. O2023-006 with the complete and final version of the staff recommendation along with an updated version of this staff report to the Planning Commission and Tree Board at their joint worksession on June 13, 2023.

### **Sections**

The following is the table of contents listing the individual sections in TMC 16.08. This part of TMC 16.08 has been updated to reflect the proposed amendments and for ease of comprehension.

*Please note that the final version of the table of contents presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Current Version 16.08**

Sections:

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## **TREE AND VEGETATION PRESERVATION**

- 16.08.010 Short title.
- 16.08.020 Purposes.
- 16.08.030 Definitions.
- 16.08.035 City tree protection professional.
- 16.08.038 Forest practice applications.
- 16.08.040 Tree account.
- 16.08.050 Permit required – Applications – Requirements – Processing – Conditions of issuance.
- 16.08.060 Performance and maintenance bond may be required.
- 16.08.070 Standards.
- 16.08.072 Maintenance requirements.
- 16.08.075 Heritage trees designated.
- 16.08.080 Exemptions.
- 16.08.090 Alternative plans.
- 16.08.100 Appeal procedure.
- 16.08.110 Violation – Criminal penalties.
- 16.08.120 Violation – Civil penalties – Presumption – Other remedies.

#### Proposed Version 16.08

##### Sections:

- 16.08.010 Short title.
- 16.08.020 Purposes.
- 16.08.030 Applicability.
- 16.08.040 Definitions.
- 16.08.050 Heritage trees.
- 16.08.060 Landmark trees.
- 16.08.070 Tree credits.
- 16.08.080 City tree protection professional.
- 16.08.090 Forest practice applications.
- 16.08.100 Tree account.
- 16.08.110 Tree and vegetation removal permits.
- 16.08.120 Tree removal not associated with development.
- 16.08.130 Tree removal associated with development.
- 16.08.140 Forest management plan.
- 16.08.150 Tree retention.
- 16.08.160 Tree retention plan.
- 16.08.170 Replacement trees.
- 16.08.180 Erosion control.
- 16.08.190 Tree and soil protection during construction.
- 16.08.200 Maintenance.
- 16.08.210 Performance and maintenance bonds.

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- 16.08.220 Exemptions.
- 16.08.230 Alternative plans.
- 16.08.240 Appeal procedure.
- 16.08.250 Violation – Criminal penalties.
- 16.08.260 Violation – Civil penalties – Presumption – Other remedies.

**Short Title**

No changes are proposed to the current version, which was last amended in 2002.

**16.08.010 Short title.**

This chapter shall be known and may be cited as the “tree and vegetation protection ordinance” of the city.

**Purpose**

The current version of the purpose section was last amended in 2006. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.2 and feedback from the community included:

- Referencing Urban Forestry Management Plan goals and policies implemented by TMC 16.08.
- Addressing the canopy cover goals in the Urban Forestry Management Plan.
- Focusing on the need for mitigation and consequences for required tree removal during land development.
- Reflecting the guiding principle of the Urban Forestry Management Plan of “Right Plant, Right Place” to manage trees and vegetation in accordance with industry standards and best management practices.
- Mitigating the effects of climate change through the absorption of greenhouse gases, reducing the heat island effect, and removing air pollutants.
- Allocating urban forestry resources equitably throughout the City.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Current Version 16.08.020****16.08.020 Purposes.**

The regulations are adopted for the following purposes:

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**TREE AND VEGETATION PRESERVATION**

- A. To promote public health, safety and general welfare of the citizens of Tumwater, and to retain as many existing mature trees as possible, without preventing the reasonable development and maintenance of land;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover, and by encouraging development that incorporates existing trees and ground cover into site development practices;
- C. To retain trees and vegetation for their positive environmental effects including, but not limited to, the protection of wildlife habitat;
- D. To promote identification and protection of trees that have historical significance; are unusual due to their size, species, or age; are unusual for their aesthetic quality; or have other values or characteristics that make them worthy of protection;
- E. To prevent erosion and reducing the risk of landslides;
- F. To protect environmentally sensitive areas;
- G. To minimize surface water runoff and diversion. To reduce siltation and other pollution entering city storm sewer systems, other utility improvements, and the city's rivers, streams, and lakes;
- H. To retain trees and ground cover to assist in abatement of noise, to provide wind breaks, and for improvement of air quality;
- I. To promote building and site planning practices that are consistent with the city's natural topographical, soil, and vegetation features and to reduce landscaping costs for new development by utilizing existing trees and ground cover to help fulfill landscaping requirements;
- J. To ensure prompt development, restoration and replanting, and effective erosion control of property after land clearing;
- K. To promote conservation of energy;
- L. To educate the public regarding urban forestry;
- M. To implement objectives of the State Environmental Policy Act and Growth Management Act; and
- N. To implement and further the city's comprehensive plan and other related ordinances.

Proposed Version 16.08.020

**16.08.020 Purposes.**

The regulations are adopted to address the following purposes:

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**TREE AND VEGETATION PRESERVATION**

- A. Promote public health, safety, and general welfare of the residents and property owners of the city, and to retain as many existing significant, landmark, and grove trees as possible, without preventing the reasonable development and maintenance of land;
- B. Preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and vegetation, and by encouraging the incorporation of existing trees and vegetation into existing and new development;
- C. Retain trees and vegetation for their positive environmental effects including, but not limited to, the protection of wildlife habitat;
- D. Promote identification and protection of trees that have historic significance; are unusual due to their size, species, or age; are unusual for their aesthetic quality; or have other values or characteristics that make them worthy of protection;
- E. Prevent erosion and reducing the risk of landslides;
- F. Protect environmentally sensitive areas;
- G. Minimize surface water runoff and diversion. To reduce siltation and other pollution entering city storm sewer systems, other utility improvements, and the city's rivers, streams, and lakes;
- H. Retain trees and vegetation to abate noise, heat, cold, provide windbreaks, and improve air quality;
- I. Promote building and site planning practices that are consistent with the city's natural topographical, soil, and vegetation features and to reduce landscaping costs for new development by utilizing existing trees and vegetation to help fulfill landscaping requirements;
- J. Ensure prompt restoration, replanting, and effective erosion control of property after tree or vegetation removal;
- K. Promote conservation of energy;
- L. Educate the public regarding urban forestry and the importance of tree and vegetation preservation;
- M. Balance the protection and support of the trees with other City strategic priorities, which include, in part, providing affordable housing, developing a walkable urban community, economic development, addressing climate change, and protecting endangered species;
- N. Implement objectives of the State Environmental Policy Act and Growth Management Act;
- O. Implement and further the city's comprehensive plan, urban forestry management plan, Thurston climate mitigation plan, and other related plans;

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**TREE AND VEGETATION PRESERVATION**

P. Promote the management of trees and vegetation in accordance with the guiding principle of “Right Plant, Right Place” and ensure adherence to industry standards and best management practices; and

Q. Establish a process and standards for supporting tree canopy while contributing towards the city’s policy goals for a healthy, sustainable urban forest that meets the urban forestry management plan citywide canopy cover goals.

### **Applicability**

This is a new applicability section is proposed to be added to TMC 16.08.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Proposed Version 16.08.030**

#### **16.08.030 Applicability.**

A. Provisions of this chapter shall apply to all lands, buildings, structures, land uses, and activities located within the city. If the requirements imposed by this chapter conflict with other requirements, the more restrictive requirements shall apply.

### **Definitions**

The current version of the definitions section was last amended in 2013. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Sections 2.3 and 2.4 and feedback from the community included:

- Making sure that definitions are clear and easy to understand by reducing ambiguity.
- Removing definitions that are no longer used.
- Making sure that definitions are consistent.
- Adding more definitions of trees to address new terms in the proposed version of TMC 16.08.
- Adding other definitions as needed.
- Strengthening and expanding the definition of a qualified tree professional and city tree protection professional.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

Current Version 16.08.030

**16.08.030 Definitions.**

- A. “Buildable area” is that portion of a parcel of land wherein a building, parking and other improvements may be located and where construction activity may take place. Buildable area shall not include streams, flood hazard areas, geological hazard areas or wetlands and their buffers as defined in TMC Chapter 18.04. For the purpose of calculating required tree protection open space area, existing and newly dedicated city rights-of-way shall not be included.
- B. “City” means the city of Tumwater, Washington.
- C. “Code administrator” means the director of the community development department or the director’s designated representative.
- D. “Conversion option harvest plan (COHP)” means a voluntary plan developed by the landowner and approved by the Washington State Department of Natural Resources and the city of Tumwater, indicating the limits and types of harvest areas, road locations, and open space. This approved plan, when submitted to the Department of Natural Resources as part of the forest practice application and followed by the landowner, maintains the landowner’s option to convert to a use other than commercial forest product production (releases the landowner from the six-year moratorium on future development).
- E. Critical Root Zone or CRZ. Unless determined otherwise by the tree protection professional, the root protection zone for trees means an area contained inside an area on the ground having a radius of one foot for every inch of tree diameter, measured from four and one-half feet above ground level, but in no event shall the root protection zone be less than a six-foot radius.
- F. “Drip line” of a tree means an imaginary line on the ground created by the vertical projections of the foliage at its circumference.
- G. “Environmentally sensitive area” means any lands with the following characteristics:
  - 1. “Geologically hazardous areas” as defined in TMC Chapter 16.20;
  - 2. Lakes, ponds, stream corridors, and creeks as defined in TMC Chapter 16.32;
  - 3. Identified habitats with which endangered, threatened, or sensitive species have a primary association as defined in TMC Chapter 16.32;
  - 4. Wetlands as defined in TMC Chapter 16.28.
- H. “Grading” means excavation, filling, or any combination thereof. Excavation and grading is governed by the International Building Code (IBC).

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**TREE AND VEGETATION PRESERVATION**

- I. “Greenbelt” means certain designated areas of a project or development that are intended to remain in a natural condition, and/or private permanent open space, or serve as a buffer between properties or developments.
- J. “Greenbelt zone” means any area so designated on the official zoning map of the city and subject to the provisions of TMC Chapter 18.30.
- K. “Ground cover” means vegetation that is naturally terrestrial excluding noxious or poisonous plants and shall include trees that are less than six inches in diameter measured at four and one-half feet above ground level.
- L. “Hazardous tree” means any tree that, due to its health or structural defect, presents a risk to people or property.
- M. “Heritage tree(s)” means tree(s) designated by the city and their owners as historical, specimen, rare, or a significant grove of trees.
- N. “Historic tree” means any tree designated as an historic object in accordance with the provisions of TMC Chapter 2.62.
- O. “Land clearing” or “clearing” means any activity which removes or substantially alters by topping or other methods the vegetative ground cover and/or trees.
- P. “Open space” means unoccupied land that is open to the sky and which may or may not contain vegetation and landscaping features, subject to the provisions in TMC 17.04.325 and 17.12.210.
- Q. “Parcel” means a tract or plot of land of any size which may or may not be subdivided or improved.
- R. “Qualified professional forester” is a professional with academic and field experience that makes them an expert in urban forestry. This may include arborists certified by the International Society of Arboriculture, foresters with a degree in forestry from a Society of American Foresters accredited forestry school, foresters certified by SAF, or urban foresters with a degree in urban forestry. A qualified professional forester must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures necessary for the preservation of trees during land development. Additionally, the qualified professional forester shall have the necessary training and experience to use and apply the International Society of Arboriculture’s Guide for Plant Appraisal and to successfully provide the necessary expertise relating to management of trees specified in this chapter.
- S. “Topping” is the removal of the upper crown of the tree with no consideration of proper cuts as per the current ANSI A300 Standard. Cuts created by topping create unsightly stubs that promote decay within the parent branch and can cause premature mortality of a tree. Topping a tree is considered to be a removal, and may require a tree removal permit.
- T. “Tree” means any healthy living woody plant characterized by one or more main stems or trunks and many branches, and having a diameter of six inches or more measured four

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**TREE AND VEGETATION PRESERVATION**

and one-half feet above ground level. Healthy in the context of this definition shall mean a tree that is rated by a professional with expertise in the field of forestry or arbor culture as fair or better using recognized forestry or arbor cultural practices. If a tree exhibits multiple stems and the split(s) or separation(s) between stems is above grade, then that is considered a single tree. If a tree exhibits multiple stems emerging from grade and there is visible soil separating the stems, then each soil-separated stem is considered an individual tree. Appropriate tree species under six inches may be considered with approval of the city tree protection professional.

U. “Tree plan” is a plan that contains specific information pertaining to the protection, preservation, and planting of trees pursuant to this chapter.

V. “Tree protection open space” is a separate dedicated area of land, specifically set aside for the protection and planting of trees.

W. “Tree protection professional” is a certified professional with academic and field experience that makes him or her a recognized expert in urban tree preservation and management. The tree protection professional shall be either a member of the International Society of Arboriculture or the Society of American Foresters or the Association of Consulting Foresters, and shall have specific experience with urban tree management in the Pacific Northwest. Additionally, the tree protection professional shall have the necessary training and experience to use and apply the International Society of Arboriculture’s Guide for Plant Appraisal and to successfully provide the necessary expertise relating to management of trees specified in this chapter.

#### Proposed Version 16.08.040

##### **16.08.040 Definitions.**

A. “American National Standards Institute” means a non-profit organization that oversees standards for products, services, processes, systems, and personnel activities in the United States. The current version of the American National Standards Institute A300 tree care standards referenced in this code are developed by the Accredited Standards Committee (ASC) A300 to manage trees, shrubs, and other woody vegetation.

B. “Buildable area” means that portion of the land wherein a building, parking, and other improvements may be located and where construction may take place. Buildable area shall not include environmentally sensitive areas, shared driveway easements, or areas dedicated for future right-of-way.

C. “Caliper” means the diameter of the trunk of a tree measured in inches taken at six inches above the ground and the industry standard used in measurement of nursery stock.

D. “City tree protection professional” means a city or contract employee that qualifies as a qualified tree professional pursuant to the definition of this chapter who conducts the community development department’s urban forestry review of tree and vegetation removal permit applications and required supplemental documents.

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## **TREE AND VEGETATION PRESERVATION**

E. "Class IV Forest Practices" means a timber harvest, thinning or other activity as established in the Washington State Department of Natural Resources Forest Practices Regulations (Title 222 WAC), whereby a property owner is allowed to harvest a limited amount of timber from their property within the city while still maintaining their rights to convert their property to a use inconsistent with growing timber.

F. "Code administrator" means the director of the community development department or the director's designated representative.

G. "Critical root zone" means the area encircling the trunk of a tree equal to one-foot radius for every one inch of tree diameter, measured at standard height from four and one-half feet above ground level, or as otherwise determined by a qualified tree professional, but in no event shall a critical root zone be less than a six-foot radius. Example: a tree with a twenty-inch diameter at standard height would have a critical root zone with a twenty-foot radius and a forty-foot diameter.

H. "Crown" means the branches and foliage of a tree.

I. "Development" means an activity that requires a project permit or approval pursuant to TMC Titles 14 through 18 aside from building permits that do not result in any exterior modifications to a property.

J. "Diameter at standard height" means the diameter of a tree trunk measured at four and one-half feet above average grade. Diameter at standard height is used in determining the diameter of existing trees.

1. Where a tree has a branch or branches or swelling that interferes with the measurement at four and one-half feet above average grade or where a tree tapers below this point, the diameter is measured at the narrowest point below four and one-half feet.

2. For trees located on a slope, the four and one-half feet height is measured from the average of the highest and lowest ground points or, on very steep slopes where this is not possible, the lowest practical point on the uphill side.

3. Where a tree splits into several trunks close to ground level, the diameter at standard height for the tree is the square root of the sum of the diameter at standard height for each individual stem squared.

Example of a tree with three stems:

$$\text{Diameter at standard height} = \sqrt{\text{stem1}^2 + \text{stem2}^2 + \text{stem3}^2}$$

K. "Drip line" of a tree means an imaginary line on the ground created by the vertical projections of the foliage at its circumference.

L. "Environmentally sensitive area" means the following:

1. Geologically hazardous areas and buffers as defined in TMC Chapter 16.20;

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2. Wetlands and buffers as defined in TMC Chapter 16.28;
3. Lakes, ponds, stream corridors, and creeks and buffers as defined in TMC Chapter 16.32;
4. Identified habitats and buffers with which endangered, threatened, or sensitive species have a primary association as defined in TMC Chapter 16.32; or
5. Shoreline setbacks as defined by the city's Shoreline Master Program.

M. "Fee-in-lieu" means a payment made in place of planting replacement trees in order to meet the required minimum tree credits established in TMC 16.08.070.

N. "Forest management plan" means a special plan approved to manage the urban forest on properties that are at least 25,000 square feet in size and have a canopy cover of forty percent or greater.

O. "Grading" means excavation, filling, or a combination thereof. The International Building Code as adopted by TMC 15.04 regulates grading.

P. "Greenbelt" means designated areas of a development that are intended to remain in a natural condition, and/or private permanent open space, or serve as a buffer between properties.

Q. "Grove tree" means a group of three or more healthy significant trees with overlapping or touching crowns.

R. "Hazard tree" means a significant tree that meets all the following criteria as rated by a Tree Risk Assessment Qualification certified arborist:

1. A tree with a combination of structural defects and/or disease, which makes it subject to a high probability of failure;
2. Is in proximity to moderate to high frequency targets such as persons or property that can be damaged by tree failure;
3. The assessed tree has a high to extreme risk rating using the International Society of Arborists Tree Risk Assessment Qualification method in its most current form; and
4. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices, nor can the target be removed or restricted.

*\*\*\*[Staff is reviewing definitions of hazard tree, unhealthy tree, and nuisance to reduce overlap]\*\*\**

S. "Healthy tree" means a significant tree on a proposed development that is rated as excellent, good, or fair in TMC Table 16.08.150-5 Tree Condition Rating based on the tree condition ratings, pursuant to TMC 16.08.160.

For example, a healthy tree would receive such a rating if it has less than twenty-five percent crown decline and dieback of the canopy, with normal leaf development, although

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## TREE AND VEGETATION PRESERVATION

minor deficiencies might be present. Minor pest problems might be present, but controllable. Minor trunk or branch defects might be present, but with good response wood or wound closure.

T. “Heritage tree” means a tree designated by the city and their owners as historic, specimen, rare, or a significant grove, pursuant to TMC 16.08.050.

U. “International Society of Arboriculture” means an international non-profit organization responsible for credentialing and promoting the professional practice of arboriculture.

V. “Landmark tree” means a tree as identified in TMC Table 16.08.040-1 Landmark Tree Threshold Heights.

Table 16.08.040-1 Landmark Tree Threshold Heights.

Common Name	Scientific Name	Diameter at Standard Height
Grand fir	<i>Abies grandis</i>	24 inches
Bigleaf maple	<i>Acer macrophyllum</i>	24 inches
Pacific madrone	<i>Arbutus menziesii</i>	8 inches
Port Orford cedar	<i>Chamaecyparis lawsoniana</i>	24 inches
Cascara	<i>Frangula purshiana</i>	8 inches
Sitka spruce	<i>Picea sitchensis</i>	24 inches
Lodgepole or shore pine	<i>Pinus contorta</i>	12 inches
Western white pine	<i>Pinus monticola</i>	24 inches
Douglas-fir	<i>Pseudotsuga menziesii</i>	24 inches
Pacific yew	<i>Taxus brevifolia</i>	8 inches
Western redcedar	<i>Thuja plicata</i>	24 inches
Western hemlock	<i>Tsuga heterophylla</i>	24 inches
Tree not listed in this table	Not applicable	30 inches or greater
Heritage tree	Not applicable	All sizes

<sup>1</sup> Diameter at standard heights listed in TMC Table 16.08.040-1 Landmark Tree Threshold Heights apply for a single- or multi-stem equivalent.

*\*\*\*[Staff is reviewing whether additional trees may be added to Table 16.08.040-1 Landmark Tree Threshold Heights]\*\*\**

- W. “Native vegetation” means a plant species that occurs naturally in the Pacific Northwest region.
- X. “Nuisance” means trees or vegetation, or parts thereof in the context of this chapter, which:
1. Are causing obvious physical damage and endanger the security or usefulness of structures, including, but not limited to buildings, sidewalks, curbs, roads, driveways, parking lots, sewers, or other underground utilities;
  2. Have sustained damage from past maintenance practices or from naturally occurring events such as wind, ice, or snow loading; or
  3. Are unhealthy, died, or a hazard to public health, welfare, or safety.

The problems associated with nuisance trees must be such that they cannot be corrected by reasonable practices, including, but not limited to: pruning of the crown or roots of the tree, bracing, or cabling to reconstruct a healthy crown.

Related to TMC Chapter 8.04.

*\*\*\*[Staff is reviewing definitions of hazard tree, unhealthy tree, and nuisance to reduce overlap]\*\*\**

- Y. “Open space” means unoccupied land that is open to the sky and which may or may not contain vegetation and landscaping features, subject to the provisions in TMC Title 17 and TMC Title 18.
- Z. “Prohibited vegetation and trees list” means the list maintained by the city of vegetation and trees not allowed to be planted in the city, as they may be invasive or damage infrastructure.
- AA. “Project permits” means permits as defined in TMC 14.02.020(O) and permits for single-family residential and duplex dwelling units.
- BB. “Property” means a parcel, tract, or plot of land of any size subject to this chapter, which may or may not be subdivided or improved or occupied or intended to be occupied by a main building or group of such buildings and accessory buildings, or utilized for a principal and accessory use, together with such open spaces as are required pursuant to the provisions of TMC Title 17 and TMC Title 18.
- CC. “Pruning” or “tree pruning” means the intentional removal of a tree’s branches to reduce the live canopy of the tree by no more than twenty-five percent during twelve consecutive months, in accordance with the current version of American National Standards Institute A300 Part 1 – Pruning.

DD. “Qualified tree professional” means an individual with relevant education and training in arboriculture, forestry, or urban forestry, having the International Society of Arboriculture Tree Risk Assessment Qualification, and one of the following credentials:

1. International Society of Arboriculture certified arborist;
2. International Society of Arboriculture certified arborist municipal specialist;
3. International Society of Arboriculture board certified master arborist;
4. American Society of Consulting Arborists registered consulting arborist; or
5. Society of American Foresters certified forester for forest management plans.

In addition, a qualified tree professional must have specific experience with urban tree management in the Pacific Northwest and be able to prescribe appropriate measures for the preservation of trees during development. A qualified tree professional shall have the necessary training and experience to use and apply the International Society of Arboriculture’s Guide for Plant Appraisal.

A provision in this title referring to using an arborist, tree professional, or forester shall be interpreted to require using a qualified tree professional.

EE. “Significant tree” means an existing tree which is six inches diameter at standard height or greater and is not on the city’s prohibited vegetation and trees list.

FF. “Tree” means a woody plant that has one or several dominant trunks, each with a diameter at standard height of three inches or greater, that reaches a mature height greater than fifteen feet.

GG. “Tree protection area” means a separate dedicated area of land, specifically set aside for the protection and planting of trees.

HH. “Tree protection zone” means an area around a tree that is equal to the critical root zone or an area sufficient to protect the tree during and after development as determined by a qualified tree professional.

II. “Tree retention plan” means a plan that contains specific information pertaining to the protection, preservation, and planting of trees, pursuant TMC 16.08.160.

JJ. “Tree Risk Assessment Qualification” means a qualified tree professional who has specialized knowledge and training and is certified by the International Society of Arboriculture as proven proficient in basic tree risk assessment as defined in the ISA Best Management Practices: Tree Risk Assessment.

KK. “Tree topping” means the removal of the upper crown of the tree with no consideration of proper cuts, pursuant to the current American National Standards Institute A300 standard. Cuts created by tree topping create unsightly stubs that promote decay within the parent branch and can cause premature mortality of a tree. Topping a tree is

considered a removal, which may require a tree and vegetation removal permit and subject to the requirements of this chapter.

LL. “Unhealthy tree” means a tree with greater than fifty percent dieback that is affecting larger branches. Stunting is obvious with little indication of new growth or recovery on smaller branches. Leaf size and color indicate increased stress in the plant. A short life expectancy based on a combination of decay, hollow, pests, or pathogens.

*\*\*\*[Staff is reviewing definitions of hazard tree, unhealthy tree, and nuisance to reduce overlap]\*\*\**

MM. “Vegetation” means naturally terrestrial plants and plant cover excluding noxious plants and shall include trees that are less than three inches in diameter measured at four and one-half feet above ground level.

### **Heritage Trees**

The current version of the heritage tree section was last amended in 2006. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.11 and feedback from the community included:

- Adding a more detailed framework for how the City evaluates heritage trees.
- Specifying permit requirements related to heritage tree removal.

The requirement for a written landowner consent form and the notice on title were added based on staff review.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Current Version 16.08.075**

#### **16.08.075 Heritage trees designated.**

A. Trees can be nominated for designation by citizens, the Tumwater tree board, or city staff.

1. Application for heritage tree designation must be submitted to the community development department. The application must include a short description of the trees, including address or location, and landowner’s name and phone number. The application must be signed by both the landowner and nominator.
2. The tree board reviews the application and makes a recommendation to the city council.

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## **TREE AND VEGETATION PRESERVATION**

3. All heritage trees will be added to city tree inventory and public works maps.
- B. Trees that are designated as heritage trees shall be classified as follows:
1. Historical – A tree which by virtue of its age, its association with or contribution to a historical structure or district, or its association with a noted citizen or historical event.
  2. Specimen – Age, size, health, and quality factors combine to qualify the tree as unique among the species in Tumwater and Washington State.
  3. Rare – One or very few of a kind, or is unusual in some form of growth or species.
  4. Significant Grove – Outstanding rows or groups of trees that impact the city's landscape.
- C. The city will provide an evaluation and recommendation for tree health and care and will provide up to one inspection annually upon request of the landowner. The city may, at its discretion, provide a plaque listing the owner's name and/or tree species/location.
- D. Heritage Tree Removal.
1. A tree removal permit is required for removal of any heritage tree(s).
  2. The city tree protection professional shall evaluate any heritage trees prior to a decision on the removal permit. Recommendations for care, other than removal, will be considered.
  3. Dead or hazardous trees are exempt from a tree removal permit after verification by the city tree protection professional.
- E. Heritage Tree Declassification. Any heritage tree may, at any time, be removed from heritage tree status at the request of the landowner after providing two weeks' written notice to the community development department. Unless an agreement can be reached to preserve the tree, the tree will be removed from the heritage tree inventory list and the plaque, if any, will be removed.

#### Proposed Version 16.08.050

##### **16.08.050 Heritage trees.**

- A. Trees can be nominated for designation by residents and property owners of the city, the tree board, or city staff.
1. Application for heritage tree designation must be submitted to the community development department. The application must include a short description of the trees, including address or location, and property owner name and phone number. The submitted application must include signed consent to the nomination by both the property owner and nominator.
  2. The tree board reviews the application and makes a recommendation to the city council.

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## **TREE AND VEGETATION PRESERVATION**

3. The city council approves the heritage tree designation.
  4. After approval of the heritage tree designation by the city council:
    - a. A heritage tree will be added to the city tree inventory and maps.
    - b. The city will record a notice on title for the property of the heritage tree designation.
- B. Trees that are designated as heritage trees shall be classified as follows:
1. Historic – A tree which by virtue of its age, its association with or contribution to a historic structure or district, or its association with a noted citizen or historic event.
  2. Specimen – Age, size, health, and quality factors combine to qualify the tree as unique among the species in the city and the state of Washington.
  3. Rare – One or very few of a kind, or is unusual in some form of growth or species.
  4. Significant Grove – Outstanding rows or groups of trees in the city's landscape.
- C. The city will provide an evaluation and recommendation for tree health and care and will provide up to one inspection annually upon request of the property owner. At its discretion, the city may provide a plaque listing the owner's name and/or tree species/location.
- D. Heritage Tree Removal.
1. A major or a minor tree and vegetation removal permit is required for removal of a heritage tree.
  2. The city tree protection professional shall evaluate a heritage tree prior to a decision on the tree and vegetation removal permit. Recommendations for care, other than removal, will be considered.
  3. Hazard trees are exempt from a tree and vegetation removal permit after verification by the city tree protection professional; however, notification of removal shall be given to the city and tree board.
  4. In addition to the provisions of this chapter, the cutting or removal of a tree that have been designated historic requires the issuance of a certificate of appropriateness following the process in TMC Chapter 2.62.
- E. Heritage Tree Declassification. A heritage tree may be removed from heritage tree status at the request of the property owner after providing written notice to the community development department and approval of the city council. Unless an agreement can be reached to preserve the tree, the tree will be removed from the heritage tree inventory list and the plaque, if any, will be removed.

### **Landmark Trees**

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## **TREE AND VEGETATION PRESERVATION**

This is a new section proposed to be added to TMC 16.08 was based on the Gap Analysis and feedback from the community.

This section was added after discussions with the Planning Commission, Tree Board, and stakeholders to recognize that larger trees can provide greater benefits such as carbon sequestration, habitat, and other environmental goals and they should be retained where possible.

Landmark trees are defined in the definitions section above. The size threshold for a landmark tree varies across the state as does when they can be removed.

Critical habitat protections for animals and vegetation will continue to be addressed in TMC 16.32 *Fish and wildlife habitat protection* as the federal, state, local lists the City use for such habitat protections in 16.32.050 *Habitats defined and protected* are updated frequently.

The desire to have greater protections for landmark trees should be balanced with other City strategic priorities and property owner rights and responsibilities.

#### Proposed Version 16.08.060

##### **16.08.060 Landmark trees.**

A. Removal of a landmark tree is allowed in the following circumstances:

1. Removal not associated with development. If a landmark tree is being removed for reasons other than development, as defined in TMC 16.08.040, a landmark tree may be removed in the following circumstances with a minor tree and vegetation removal permit:

*\*\*\*[Staff is reviewing the circumstances for removing a landmark tree with a minor tree and vegetation removal permit]\*\*\**

2. Removal associated with development. If a landmark tree is being removed as part of development, as defined in TMC 16.08.040, the tree may be removed in the following circumstances with a major tree and vegetation removal permit:

*\*\*\*[Staff is reviewing the circumstances for removing a landmark tree with a major tree and vegetation removal permit]\*\*\**

C. In order to prioritize retention of landmark trees, incentives shall be considered when feasible, pursuant to TMC 16.08.130.

D. Prior to removing or pruning more than twenty-five percent of the live tree canopy of a landmark tree, a qualified tree risk assessment report must be submitted by a qualified tree professional in conjunction with a tree and vegetation removal permit. Removal or pruning of more than twenty-five percent of the live tree canopy of such a tree without a tree and vegetation removal permit is considered removal and subject to tree replacement and code enforcement provisions.

*\*\*\*[Staff is reviewing the definition of a tree risk assessment report]\*\*\**

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## **TREE AND VEGETATION PRESERVATION**



**Tree Credits**

This is a new section proposed to be added to TMC 16.08 was based on the Gap Analysis and feedback from the community.

The City explored two methodologies for quantifying tree retention and replacement for existing or replacement trees or both. These included a tree credit or density approach and a canopy cover approach. After discussions with the Planning Commission, Tree Board, and stakeholders, it was decided that a tree credit approach would be the most appropriate for the City.

Tree credit models are similar to a timber stocking level that quantifies density based on the trunk diameter of existing trees. This is considered a general indicator of tree size and canopy cover over time.

Specific land use zone districts or uses will have specific minimum tree density credits that must be met. During the permit review, the existing tree credits are calculated based on trees retained versus removed.

Tree credit methods are commonly used due to the ease of data collection regardless of expertise as they do not require access to aerial imagery or online data sources and trunk size is easily quantifiable. In addition, tree diameter by species can be used as a correlate for canopy, age, and ultimate size when assessing retention values for specific species.

Each methodology has cost implications to the City and the applicant, which vary based on the level of City staffing available to review permit applications and the rigor of review requirements established in TMC 16.08.

The current version of TMC 16.08 allows for a certain amount of tree removal based on the development proposal. On any parcel of land, 30% of existing trees can be removed within a ten-year period [TMC 16.08.070(Q)]. On sites proposed for development, 20% of existing trees or 12 trees per acre must be retained, whichever is greater [TMC 16.08.070(R)]. Six trees every three years can be removed on developed properties except for heritage trees or in greenbelts or critical areas [TMC 16.08.080(G)].

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Proposed Version 16.08.070****16.08.070 Tree credits.****A. Tree Credits Defined.**

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**TREE AND VEGETATION PRESERVATION**

1. A minimum number of tree credits shall be established and maintained on each property as specified in TMC Table 16.08.070-2 Required Minimum Tree Credits per Property.
2. Tree credits shall consist of existing significant, landmark, or grove trees, replacement trees, or a combination thereof. The city's preference is to retain healthy trees when feasible without precluding reasonable development of land.
3. Only trees rated as healthy by a qualified tree professional can be used to satisfy the required minimum tree credits.
4. If the number of tree credits required includes a fraction of a tree credit, any fraction shall be rounded up.

Table 16.08.070-2 Required Minimum Tree Credits per Property.

Land Use Type	Required Minimum Tree Credits per 1,000 Square Feet of Buildable Area
Residential uses in RSR Residential/Sensitive Resource, SFL Single-Family Low Density Residential, and SFM Single-Family Medium Density Residential zone districts	TBD
Multifamily residential uses in MFM Multifamily Medium Density Residential, and MFH Multifamily High Density Residential zone districts	TBD
Uses in OS Open Space and GB Greenbelt zone districts	TBD
All other uses outside of the Port of Olympia – Olympia Regional Airport proper	TBD

*\*\*\*[Staff is reviewing the required minimum tree credits by zone district and use. The intent would be to correlate minimum tree credits with the tree canopy requirements in the Urban Forestry Management Plan]\*\*\**

B. Calculating Tree Credits.

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**TREE AND VEGETATION PRESERVATION**

1. Minimum tree credits shall be applied to the buildable area of a property, as defined in TMC 16.08.040.
2. Existing tree credits shall be calculated using Table 16.08.070-3 Existing Trees Credits as follows.

*\*\*\*[Staff is reviewing how the calculation of existing tree credits relates to the size of a property]\*\*\**

Table 16.08.070-3 Existing Tree Credits.

Diameter at Standard Height	Tree Credits
Smaller than 6 inches	0.5 <sup>1</sup>
6 inches to less than 10 inches	1.0
10 inches to less than 12 inches	2.0
12 inches to less than 14 inches	3.0
14 inches to less than 16 inches	4.0
16 inches to less than 18 inches	5.0
18 inches to less than 20 inches	6.0
20 inches to less than 22 inches	7.0
22 inches to less than 24 inches	8.0
Larger than 24 inches	9.0

<sup>1</sup> Healthy trees three inches and larger and smaller than six inches in diameter at standard height may count as 0.5 tree credits per retained tree in lieu of planting replacement trees.

*\*\*\*[Staff is reviewing the size the each of the ranges of diameter at standard height in the table above.]\*\*\**

C. Tree Credits from Existing Trees.

*\*\*\*[Staff is reviewing the requirements for the proportion of tree credits that need to be met through retention or replacement]\*\*\**

D. Required minimum tree credits shall be met in the following priority:

1. Retention of existing healthy trees.
2. Replacement trees.

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## TREE AND VEGETATION PRESERVATION

3. Fee-in-lieus pursuant to TMC 16.08.170(E).

E. Trees planted to meet a project's landscaping requirements pursuant to TMC Chapter 18.47 may count towards the required minimum tree credits.

F. Existing trees growing on a property line shall count as half the tree credits listed in Table 16.08.070-3 Existing Trees Credits.

G. Trees planted to form a clipped or sheared hedge will not be counted toward tree credits. *Supplemental Thuja/Arborvitae* or other slow-growing conifers shall not count towards tree credits on a property.

**City Tree Protection Professional**

The current version of the city tree protection professional section was last amended in 2002. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.4 and feedback from the community included:

- Strengthening and expanding the definition of the city tree protection professional.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Current Version 16.08.035****16.08.035 City tree protection professional.**

In the city's interest of achieving professional assistance in the city's tree protection efforts and achieving consistency in tree protection decisions; the city shall contract with a "city tree protection professional" that qualifies as a tree protection professional under the definition of this chapter. The tree protection professional shall be responsible for providing the information and services required of a tree protection professional described herein.

Individual applicants will be responsible for payment of costs of the tree protection professional for projects necessitating work to be performed by the tree protection professional with the exception that the code administrator may waive payment by the applicant for minor work of the tree protection professional in determining an exempt project; provided however, that the city shall be responsible for billing and collecting costs charged to the applicant and transferring payment to the tree protection professional unless the city has opted for some other mechanism of providing for the costs, such as inclusion of costs in application fees.

**Proposed Version 16.08.070****16.08.080 City tree protection professional.**

A. In the city's interest of achieving professional assistance in the city's tree protection efforts and achieving consistency in tree protection decisions, the city shall contract with a city tree protection professional.

B. Responsibilities.

1. The city tree protection professional shall be responsible for providing the following information and services:

- a. Arborist reports;
- b. Tree protection and replacement plans;

- c. Forest management plans;
  - d. Determining the accuracy of site plans to ensure consistency with city tree and development codes; and
  - e. Verifying hazard tree assessments for tree removal requests that do not require a permit.
- C. Cost and Payments.
1. Individual applicants will be responsible for payment of costs of the city tree protection professional for projects necessitating work to be performed by the city tree protection professional.
  2. The code administrator may waive payment by the applicant for minor work of the city tree protection professional in determining an exempt project.
  3. The city shall be responsible for billing and collecting costs charged to the applicant and transferring payment to the city tree protection professional unless the city has opted for some other mechanism of providing for the costs, such as inclusion of costs in application fees.

### **Forest Practice Applications**

The current version of the forest practice applications section was last amended in 2006. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.7 included:

- Revising and updating its permit requirements for land clearing and Class IV applications per RCW 76.09.240.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Current Version 16.08.038**

#### **16.08.038 Forest practice applications.**

Pursuant to RCW 76.09.240, requiring local jurisdictions to set standards for and to process class IV forest practice applications, such permits shall be processed as a land clearing permit, and shall meet the requirements of this chapter.

A. The application of this chapter to forest practice activities regulated by the Washington State Forest Practices Act (Chapter 76.09 RCW) shall be limited to:

1. General forest practices.

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## **TREE AND VEGETATION PRESERVATION**

B. This chapter is intended to allow the city of Tumwater to assume jurisdiction for approval of general forest practices, approvals occurring in the city of Tumwater, as authorized under the Washington State Forest Practices Act, Chapter 76.09 RCW. Until such time as jurisdiction for these permits is transferred to the city by the State Department of Natural Resources, the city will act as the State Environmental Policy Act (SEPA) lead agency for all general forest practice approvals occurring within the city limits. This chapter shall rely upon existing definitions contained within the Washington State Forest Practices Act (Chapter 76.09 RCW), Rules for the Washington State Forest Practices Act (Chapter 222-16 WAC), and the Tumwater Municipal Code.

Proposed Version 16.08.090

**16.08.090 Forest practice applications.**

A. The following are standards for processing class IV forest practices applications, pursuant to RCW 76.09.240.

1. This chapter is intended to allow the city to assume jurisdiction for approval of general forest practices, approvals occurring in the city, as authorized pursuant to the Washington State Forest Practices Act, Chapter 76.09 RCW.
2. Until such time jurisdiction for these permits is transferred to the city by the Washington State Department of Natural Resources, the city will act as the State Environmental Policy Act lead agency for all general forest practice approvals occurring within the city limits.
3. This chapter shall rely upon existing definitions contained within the Washington State Forest Practices Act (Chapter 76.09 RCW), Rules for the Washington State Forest Practices Act (Chapter 222-16 WAC), and the Tumwater Municipal Code.
4. Forested properties within the city are anticipated to be available to be developed with urban uses within the next twenty-year period. Pursuant to RCW 76.09.240, lands within the city are not considered appropriate for long-term timber production and harvesting which takes a full forty-year cycle.
5. Forest management activities shall be consistent with the comprehensive plan and implementing regulations and promote the goals and policies of the urban forestry management plan.

B. Forest practice applications shall meet the following requirements:

1. Conversions and Timing.
  - a. Because conversion of properties within the city can reasonably be expected, tree and vegetation removal on such properties shall only take place at the time of a valid project permit. Greenbelts, tree protection areas, open spaces, and buffers can then be properly coordinated with the actual project permit.

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**TREE AND VEGETATION PRESERVATION**

- b. To further the purposes, goals, and policies of the urban forestry management plan, timber harvesting and conversion of forested lands within the city shall not be permitted until such time as a valid application for project permit is approved; provided, however, requests may be made for maintenance and thinning of existing timber stands to promote the overall health and growth of the stand until said stand is converted and harvested pursuant to plans provided within a valid project permit;
2. Maintenance and Thinning.
  - a. Class IV forest practices applications and applications for maintenance and thinning shall be reviewed by the city tree protection professional who shall make recommendations on the request to the development review committee.
  - b. Recommendations shall ensure that action shall improve the health and growth of the stand and preserve long-term tree protection alternatives to meet the goals of this chapter;
3. Selective Thinning Limited.
  - a. Thinning activities shall be strictly limited to less than thirty-five percent of the volume every ten years.
  - b. Removing the highest grade of timber or largest trees first shall not be permitted.
  - c. The remaining stand of trees should be healthy trees from the dominant and co-dominant crown classes.
  - d. The stand shall be marked prior to the selective thinning operation, indicating which trees will be removed and saved; and
4. Processing of Applications.
  - a. Class IV forest practices applications shall be processed concurrently with, and using the same process as, the underlying development application.
  - b. Class IV forest practices application shall be processed as a major tree and vegetation removal permit pursuant to this chapter.

### **Tree Account**

The current version of the tree account section was last amended in 2002. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.6 and feedback from the community included:

- Updating when the tree account may be used, especially in support of addressing equity



*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

Current Version 16.08.040

**16.08.040 Tree account.**

There is hereby established within the city a “tree account” for the purposes of acquiring, maintaining and preserving wooded areas, and for planting and maintaining trees within the city.

- A. Collections and Deposits. All fines collected for violations of this chapter shall be deposited into the tree account. All donations and mitigation fees collected related to the preservation of trees or the enhancement of wooded buffer areas shall also be deposited into the tree account.
- B. Maintenance of Account. The tree account shall be maintained by the finance director as a separate, interest-bearing account.
- C. Use of Funds. Funds in the tree account shall be used only upon appropriation by the city council. Funds may be withdrawn from the tree account with the approval of the code administrator, and may be used for any purpose consistent with the intent of this chapter. Funds used to plant trees may be used only on city-owned property, or on property upon which the city has been granted an easement for the purpose of establishing or maintaining trees or other vegetation.

Proposed Version 16.08.100

**16.08.100 Tree account.**

There is hereby established within the city a tree account for the purposes of acquiring, maintaining, and preserving wooded areas, and for planting and maintaining trees and vegetation within the city.

- A. Collections and Deposits. The following shall be deposited into the tree account:
  - 1. Fines collected for violations of this chapter;
  - 2. Fee-in-lieus; and
  - 3. Donations and mitigation fees collected related to the preservation of trees or the enhancement of wooded areas.
- B. Maintenance of Account. The tree account shall be maintained by the finance director as a separate, interest-bearing account.
- C. Use of Tree Account Funds. Tree account funds may be used to achieve the objectives of the urban forestry management plan and the Thurston climate mitigation plan including but not limited to the following:

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1. The purchase of land for the purpose of reforestation or preservation;
2. The planting of individual trees;
3. Off-site replacement tree and vegetation plantings at city-owned parks, rights-of-way, and open spaces pursuant to the replacement standards of TMC 16.08.170;
4. The purchase and installation of infrastructure to preserve existing trees and protect new trees;
5. Urban forestry restoration;
6. Urban forestry education;
7. The funding tree and vegetation give-away or incentive programs;
8. Funding for future monitoring efforts, or
9. Enforcement of this chapter.

### **Tree and Vegetation Removal Permits**

The current version of the tree and vegetation removal permits section was last amended in 2017. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.7 and feedback from the community included:

- Reviewing existing permit types to create permit types that differentiate based on project size and type.
- Adding more specificity to the permitting types and requirements to allow the City to streamline the permitting process and more efficiently allocate staff resources for small-scale permit review versus large-scale development projects.
- Adding more specificity to the permitting types and requirements could also aid in enforcement of TMC 16.08 and monitoring short- and long-term trends in tree removal types and processes.
- Updating the types of reports and plans that need to be submitted for a complete application for each permit type, including the level of detail needed for arborist reports.

These gaps are addressed in the proposed version by:

- Integrating the current land clearing permit process into the proposed minor and major tree removal permit process.
  - Minor tree removal permits would be for tree removal on properties that are not part of a development permit application being reviewed.
  - Major tree removal permits would be for tree removal on properties that are a part of a development permit application being reviewed.

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- Updating the materials required to be submitted with permit applications.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

#### Current Version 16.08.050

##### **16.08.050 Permit required – Applications – Requirements – Processing – Conditions of issuance.**

A. No person, corporation, or other legal entity not exempt under TMC 16.08.080 shall engage in land clearing or tree removal in the city without having received a land clearing permit.

B. Requirement Established. The application for land clearing permit shall be submitted with any project permit as defined in TMC 14.02.020(O), including single-family and duplex structures unless a land clearing permit was previously reviewed as part of prior project permit. A tree protection plan is required to obtain a land clearing permit and is also required for any land development not exempt under TMC 16.08.080. The tree protection plan shall be developed by a qualified professional forester and be submitted in conjunction with other environmental submittals and site plan development permits. For single-family homes on lots created prior to November 1994, the applicant has the option of using the city tree protection professional to prepare the permit application. This service will be provided at the same hourly rates charged to the city under its contractual arrangement with the tree protection professional.

C. An application for a land clearing permit shall be submitted on a form provided by the city. Accompanying such form shall be a report which includes the following information:

1. General vicinity map;
2. Date, north arrow and scale;
3. Property boundaries, the extent and location of proposed clearing and major physical features of the property (streams, ravines, etc.);
4. Tree Inventory. Drawn to scale on the preliminary or conceptual site plan: a map delineating vegetation types. Each type should include the following information:
  - a. Average trees and basal area per acre, by species and six-inch diameter class. For nonforested areas, a general description of the vegetation present.
  - b. Narrative description of the potential for tree preservation for each vegetation type. This should include soils, wind throw potential, insect and disease problems, and approximate distance to existing and proposed targets.

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- c. Description of any off-site tree or trees, which could be adversely affected by the proposed activity;
- 5. Tree Protection Plan. Drawn to scale on the site plan, grading and erosion control and landscape plans. It should include the following information:
  - a. Surveyed locations of perimeters of groves of trees and individual trees to be preserved, adjacent to the proposed limits of the construction. General locations of trees proposed for removal. The critical root zones of trees to be preserved shall be shown on the plans.
  - b. Limits of construction and existing and proposed grade changes on site.
  - c. Narrative description, buildable area of the site, and graphic detail of tree protection, and tree maintenance measures required for the preservation of existing trees identified to be preserved.
  - d. Timeline for clearing, grading and installation of tree protection measures.
  - e. Final tree protection plan will be drawn to scale on the above described plans and submitted with the final application packet;
- 6. Tree Replacement Plan. Drawn to scale on the site and landscape plans. The tree replacement plan shall be developed by a licensed Washington landscape architect, Washington certified nursery professional, ISA certified arborist, board certified horticulturist, qualified professional forester or Washington certified landscaper. It should include the following information:
  - a. Location, size, species and numbers of trees to be planted.
  - b. Narrative description and detail showing any site preparation, installation and maintenance measure necessary for the long-term survival and health of the trees.
  - c. Narrative description and detail showing proposed locations of required tree planting, site preparation, installation and maintenance within critical root zones of preserved groups or individual trees.
  - d. Cost estimate for the purchase, installation and three years' maintenance of trees;
- 7. A timeline for implementation and monitoring of the tree protection, and/or replacement plan;
- 8. A plan indicating how the site will be revegetated and landscaped;
- 9. A proposed time schedule for land clearing, land restoration, revegetation, landscaping, implementation of erosion controls, and any construction of improvements;
- 10. Information indicating the method to be followed in erosion control and restoration of land during and immediately following land clearing;

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11. A note indicating that the city will have the right of entry upon the subject property for the purpose of performing inspections consistent with the provisions of this chapter;
12. The approved tree protection plan map will be included in contractor's packet of approved plans used for construction on the project; and
13. Other information as deemed appropriate to this chapter and necessary by the code administrator or city tree protection professional.

D. In addition to the requirements noted in subsection C of this section, on timbered property greater in size than one acre or commercial property with more than fifteen trees, or other sites the city deems necessary because of special circumstances or complexity, the code administrator may require review of the site and proposed plan and submittal of a report by the city's tree protection professional for compliance with the requirements of this chapter.

Further provided, that the code administrator may modify the submittal requirements of subsections C and D of this section, on individual applications where the information is not needed or is unavailable.

E. Each application shall be submitted with a fee established by resolution of the city council, to help defray the cost of handling the application, no part of which fee is refundable.

F. The code administrator shall notify the applicant whether the application is complete within twenty-eight calendar days of receipt of the application. If incomplete, the code administrator shall indicate in the notice the information required to make the application complete. The code administrator shall approve, approve with conditions or deny the permit within thirty calendar days of receipt of the complete application, or within thirty calendar days of completion of any environmental review, whichever is later. For applications such as site development proposals where there is more than a land clearing permit pending, the code administrator shall, whenever feasible, coordinate reviews, notices and hearings, and act upon the land clearing permit concurrently with other pending permits.

G. Any permit granted under this chapter shall expire eighteen months from the date of issuance, unless said permit is associated with another development permit. If it is associated with another development permit, the restrictions and deadlines of that approval will apply. Upon a written request, a permit not associated with another development permit may be extended by the code administrator for one six-month period. Approved plans shall not be amended without being resubmitted to the city. Minor changes consistent with the original permit intent will not require a new permit fee or full application standards to be followed. The permit may be suspended or revoked by the city because of incorrect information supplied or any violation of the provisions of this chapter.

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- H. Once issued, the permit shall be posted by the applicant on the site, in a manner so that the permit is visible to the general public.

Proposed Version 16.08.110

**16.08.110 Tree and vegetation removal permits.**

A. Permit or Exemption Required.

1. No person, corporation, or other legal entity shall engage in removal of significant, landmark, or heritage trees or vegetation in the city without complying with one of the following:
  - a. Receive a minor tree and vegetation removal permit pursuant to TMC 16.08.120;
  - b. Receive a major tree and vegetation removal permit pursuant to TMC 16.08.130. An application for a major tree and vegetation removal permit shall be submitted with a project permit unless a major tree and vegetation permit was previously approved as part of prior project permit and is still valid; or
  - c. Receive an exemption from the code administrator, pursuant to TMC 16.08.220. In such cases, an exemption notice shall be posted on-site and the notice shall remain on-site for the duration of the project.

*\*\*\*[Staff is reviewing how to address vegetation removal on sites with no trees.]\*\*\**

B. Tree and Vegetation Removal Not Associated with Development.

1. If a tree and vegetation is being removed for reasons other than development, as defined in TMC 16.08.040, then a minor tree and vegetation removal permit is required in the following situations:
  - a. Landmark tree removal;
  - b. Tree removal exceeding the allowed limit of significant tree removal per year, see TMC Table 16.08.120-4 Significant Tree Removal Allowances; or
  - c. Removal of significant trees that would result in a property falling below the required minimum tree credits.

C. Tree or Vegetation Removal Associated with Development.

1. If a tree or vegetation is being removed as part of development, as defined in TMC 16.08.040, a major tree and vegetation removal permit is required.
2. A major tree and vegetation removal permit application shall be accompanied by the following:

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- a. A tree retention plan, pursuant to TMC 16.08.150, if there is development is proposed within critical root zones of significant, landmark, or heritage trees proposed for retention; and
- b. A tree replacement plan, pursuant to TMC 16.08.170, if the required minimum tree credits are not met by existing significant and landmark trees.

D. Preliminary Review.

1. Applicants shall participate in a preliminary review, pursuant to TMC Chapter 14.02, prior to application for project permits for land division, a land use action, or site plan approval.

*\*\*\*[Staff is confirming the types of project permits that would require preliminary review.]\*\*\**

2. As part of this review, applicants shall be briefed on the urban forestry management plan and tree retention, protection, and replacement regulations.
3. As part of the preliminary review application, the applicant shall complete an assessment of on-site trees and design considerations needed for the protection of significant, landmark, or grove trees. Location and design of major infrastructure, buildings, and planned uses must consider the tree protection opportunities to further the purposes of the urban forestry management plan and advancement of the city's urban tree canopy goals stated therein.

E. General provisions.

All tree and vegetation removal not exempt pursuant to TMC 16.08.220 shall conform to the following standards and provisions unless alternate procedures that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator.

1. A landscaping plan shall be prepared pursuant to TMC Chapter 18.47 to address revegetation of the property.
2. Tree and vegetation removal shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character. A property shall be revegetated as soon as practicable, in accordance with the approved tree replacement plan and landscaping plan.
3. For major tree and vegetation removal permits that are part of a specific proposal for development, permitted development shall be initiated or a vegetative screen or buffer established within six months from the start of tree and vegetation removal.
4. Where the construction schedule does not provide for revegetation of a property prior to October 15 of a year, all disturbed areas shall be hydroseeded or otherwise revegetated on an interim basis.
5. The days and times allowed for tree and vegetation removal activities shall be in accordance with TMC Chapter 8.08.

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6. No tree and vegetation removal or grading shall occur in the GB greenbelt zone district as delineated on the official zoning map except as required for uses permitted in that zone district. In addition, such tree and vegetation removal or grading shall be subject to all other applicable standards and regulations.

7. Tree and vegetation removal in designated greenbelt, open space, tree protection areas, or buffer areas of approved and recorded subdivisions or approved projects which would substantially alter the character or purpose of said greenbelt or buffer areas is prohibited, except in cases involving tree and vegetation removal permits approved by the code administrator for removal of hazard trees, invasive or noxious vegetation, and replanting with native vegetation and trees.

**Tree Removal Not Associated With Development – Minor Tree and Vegetation Removal Permit**

This is a new section proposed to be added to TMC 16.08 was based on the Gap Analysis and feedback from the community.

The proposed section describes minor tree removal permits, which would be for tree removal on properties that are not part of a development permit application being reviewed. It establishes the permit application submittal requirements and review process.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Proposed Version 16.08.120**

**16.08.120 Tree removal not associated with development.**

When tree or vegetation removal occurs that does not include development, as defined in TMC 16.08.040, a minor tree and vegetation removal permit is required pursuant to TMC 16.08.110(B).

**A. Minor Tree and Vegetation Removal Permit.**

**\*\*\*[Staff is reviewing whether minor tree and vegetation removal permits would require amendments to Title 14 Development Code Administration]\*\*\***

1. Minor tree and vegetation removal permits are administrative approvals and reviewed as follows:
  - a. Without Tree Replacement. Provided a property meets the minimum tree credits in TMC Table 16.08.070-2 Required Minimum Tree Credits per Property and if:
    - i. The significant tree is determined to meet the definition of a hazard tree;
    - ii. The significant tree is on the prohibited vegetation and trees list;

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- iii. The significant tree is not a healthy landmark or heritage tree;
  - iv. The significant or landmark tree is a hazard tree, as determined by a qualified tree professional; or
  - v. The heritage tree is a hazard tree, as determined by the city's tree protection professional.
- b. With Tree Replacement:
- i. The property meets the required minimum tree credits but the proposal to remove significant trees exceeds the allowances in TMC Table 16.08.120-4 Significant Tree Removal Allowances. Each significant tree removed above the allowance must be replaced at a one to one ratio; and
  - ii. Tree removal results in a property falling below the required minimum tree credits. Sufficient replacement trees shall be planted to reach the required minimum tree credits and shall comply with the replacement standards in TMC 16.08.170.

Table 16.08.120-4 Significant Tree Removal Allowances.<sup>1</sup>

Property Size	Maximum Allowance for Significant Tree Removals
Under 5,000 square feet	TBD
5,001 to 10,000 square feet	TBD
10,001 to 20,000 square feet	TBD
20,001 square feet or greater	TBD

<sup>1</sup> If a property is below the required minimum tree credits, trees cannot be removed without either a minor tree and vegetation removal permit or a major tree and vegetation removal permit.

*\*\*\*[Staff is reviewing the maximum allowance for significant tree removals and the intervals for these removals and how trees removed will be tracked. TMC 16.08.070(Q) currently states "...not more than thirty percent of the trees on any parcel of land shall be removed within any ten-year period, unless the clearing is accomplished as part of an approved development plan."]\*\*\*\**

- c. Minor tree and vegetation removal permit applications shall be submitted with a complete application form as prescribed by the code administrator with all required fees. All applications for minor tree and vegetation removal permits shall include the following:
  - i. A written statement of the reason for the removal;
  - ii. A site plan or aerial photo showing the approximate location of significant,

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landmark, grove, and heritage trees on the property, including their diameter at standard height, species, condition, and clearly designating which tree(s) will be removed and which tree(s) will be retained. The site plan shall also show all structures, driveways, and other impervious surfaces on the property;

iii. A photo of a tree to be removed shall be provided;

iv. A statement that tree(s) proposed for removal are not in an environmentally sensitive area and an acknowledgment that tree removal will not result in a property below the required minimum tree credits, as specified in TMC 16.08.070; and

v. For required replacement trees, a planting plan must show location, size, species, and quantity of new trees in accordance with standards set forth in this chapter.

d. Minor tree and vegetation removal permits shall follow the permit processing requirements of TMC Title 14.

e. Minor tree and vegetation removal permits expire ninety days from issuance.

f. Minor tree and vegetation removal permits may be suspended or revoked by the city because of incorrect information supplied or a violation of the provisions of this chapter

**B. Significant Tree Removal.**

1. A property owner may remove the allotted number of significant trees in TMC Table 16.08.120-4 Significant Tree Removal Allowances without a minor tree and vegetation removal permit, provided the significant tree:

a. Does not result in a property going below the required minimum tree credits, pursuant to TMC 16.08.070;

b. Is not in an environmentally sensitive area; or

c. Is not subject to the retention and maintenance requirements following approval of new development, pursuant to TMC 16.08.130.

2. Trees removed due to emergency circumstances, pursuant to TMC 16.08.220; do not count towards the significant tree removal allowances. The city retains the right to dispute the emergency and require that replacement trees and vegetation be replanted as mitigation.

**C. Trees planted to meet the required minimum tree credits at the time of original project permit or required replacement trees for previous tree removal shall be subject to the following regulations:**

1. Required replacement trees shall not be removed during the three-year maintenance period, pursuant to TMC 16.08.200. Following the maintenance period, all

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replacement trees shall be considered significant trees, even if below the size threshold.

2. Property owners shall be required to provide a minor tree and vegetation removal permit for removal of previously required replacement trees, even if the tree is below the minimum size for significant trees. Such trees shall require replacement planting of one tree for each tree removed.

D. Replacement trees are subject to the requirements in TMC 16.08.170.

**Tree Removal Associated With Development – Major Tree and Vegetation Removal Permit**

This is a new section proposed to be added to TMC 16.08 was based on the Gap Analysis and feedback from the community.

The proposed section describes major tree removal permits, which would be for tree removal on properties that are a part of a development permit application being reviewed. It establishes the permit application submittal requirements and review process.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Proposed Version 16.08.130**

**16.08.130 Tree removal associated with development.**

When tree or vegetation removal occurs as part of a development, as defined in TMC 16.08.040, a major tree and vegetation removal permit is required pursuant to TMC 16.08.110(C).

A. Major Tree and Vegetation Removal Permit.

*\*\*\*[Staff is reviewing whether major tree and vegetation removal permits would require amendments to Title 14 Development Code Administration]\*\*\**

1. The major tree and vegetation removal permit application shall be submitted and reviewed in conjunction with a project permit unless a tree and vegetation removal permit was approved as part of a prior project permit that is still valid.

a. Major tree and vegetation removal permit applications shall be submitted with a complete application form as prescribed by the code administrator with all required fees. All applications for major tree and vegetation removal permits shall include the following:

i. A tree retention plan prepared by a qualified tree professional, pursuant to TMC 16.08.160, if construction is proposed within critical root zones of significant, landmark, grove, and heritage trees proposed for retention; and

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- ii. A tree replacement plan, pursuant to TMC 16.08.170, if the required minimum tree credits are not met by existing significant trees and the property is required to be brought into conformance.
  - b. If significant, landmark, or heritage trees were grove trees, a qualified tree professional shall provide a written analysis of the stability of the trees and assess the windthrow potential prior to construction.
  - c. Major tree and vegetation removal permits shall follow the permit process requirements of TMC Title 14.
  - d. Major tree and vegetation removal permits expire eighteen months from the date of issuance, unless the major tree and vegetation removal permit is associated with a project permit in which case the restrictions and deadlines of that project permit will apply.
  - e. Major tree and vegetation removal permits may be suspended or revoked by the city because of incorrect information supplied or a violation of the provisions of this chapter.
- D. Incentives.
- 1. To prioritize the retention of significant, landmark, and grove trees on properties undergoing development, following incentives shall be pursued when feasible.
- \*\*\*[Staff is reviewing potential incentives.]\*\*\*
- 3. Use of incentives shall be reviewed and approved by the code

### **Forest Management Plan**

This is a new section proposed to be added to TMC 16.08 was based on the Gap Analysis and feedback from the community.

The proposed section describes forest management plans, which are intended to address larger properties where a full-scale forest practice application may not be applicable, but the property owner wants to manage the urban forest actively on the land.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Proposed Version 16.08.140**

#### **16.08.140 Forest management plan.**

- A. Properties that are at least 25,000 square feet in size and have a canopy cover of forty percent or greater are eligible to submit a forest management plan to meet the

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requirements of this chapter. The purpose of a forest management plan is to manage a forested property over an extended period to avoid piecemeal actions that can lead to degradation of the forest. A forest management plan allows for tree removal, pruning, and overall vegetation management of a property.

B. A forest management plan must be written by a qualified tree professional. Applicants for a forest management plan are encouraged to seek direction from city staff and the technical assistance, incentives and resources available through local and state agencies that promote forestland best management practices. The forest management plan will identify current forest conditions and considerations for management over ten years.

C. A forest management plan shall include the following:

1. A description of the purpose of the forest management plan including the property owner's objectives and goals;
2. A physical description of the property including environmentally sensitive areas;
3. A description of the forest health including pests, pathogens, and noxious species;
4. A forest inventory including a map and list of all significant, landmark, grove, and heritage trees proposed for management;
5. Photos of trees and understory composition;
6. A wildlife habitat description;
7. A description of existing structures and utilities;
8. Forest management recommendations; and
9. Signatures of a qualified tree professional and the property owner.

D. After the initial submittal and approval of the forest management plan, a forest management plan permit shall be submitted before subsequent tree management actions to ensure compliance with the forest management plan. Subsequent permits do not require reports written by a qualified tree professional unless the requested actions are not in alignment with the approved forest management plan.

E. The forest management plan is subject to the standards of this chapter including:

1. Trees to remain should be dominant or co-dominant in the stand, healthy and windfirm;
2. Unless otherwise permitted by this chapter, there shall be no removal of the following in a forest management plan:
  - a. Landmark or preserved grove trees;
  - b. Trees located in environmentally sensitive areas;
  - c. Trees located in high landslide susceptibility areas; and

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- d. Trees that would cause trees on adjacent properties to become hazardous;
  3. Trees planted for reforestation shall follow the minimum tree replacement standards of TMC 16.08.170, unless approved otherwise by the city;
  4. Logging operations shall be conducted to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, native vegetation and stumps shall be retained where feasible. Where not feasible, appropriate erosion control measures to be approved by the city shall be implemented;
  5. Removal of debris shall be done pursuant to city standards; and
  6. The code administrator may require a performance bond, pursuant to TMC 16.08.210, in order to ensure that the reforestation requirements of the approved forest management plan are met.
- F. The forest management plan is subject to TMC Title 16 and the shoreline master program.

### **Tree Retention**

The current version of the tree retention regulations is found in the standard sections, which was last amended in 2013. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Section 2.9.3 and feedback from the community included:

- Updating tree retention standards for the number of trees that need to be retained on a property either subject to or not part of a current development.
- Establishing tree condition rating standards
- Tree retention priorities and locations.
- Consider decreasing the removal allowances on developed properties.
- Establish tree size, species, and location as criteria for retention.
- Provide additional protections for retention of large diameter trees, such as those equal to or greater than 24 inch dimension at standard height.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

Current Version 16.08.070**16.08.070 Standards.**

All land clearing not exempt under TMC 16.08.080 shall conform to the approved plan and the following standards and provisions unless alternate procedures that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator:

- A. No land clearing and/or ground surface level changes shall occur in a greenbelt zone as delineated on the official zoning map except as required for uses permitted in that zone. In addition, such land clearing and/or ground surface changes shall be subject to all other applicable standards and regulations;
- B. Land clearing in designated greenbelt, open space, tree tract or buffer areas of approved and recorded subdivisions or approved projects which would substantially alter the character or purpose of said greenbelt or buffer areas is prohibited, except in cases involving land clearing plans approved by the code administrator for removal of hazard trees, invasive or noxious plant species and replanting with native plant and tree species;
- C. Erosion control measures shall be provided by the applicant's professional engineer, in conformance with the Drainage Design Erosion Control Manual for the Thurston Region, Washington, as currently written and subsequently amended. The erosion control measures shall be reviewed and subject to approval by the code administrator. The requirement for a professional engineer may be waived by the code administrator on a case-by-case basis;
- D. Land clearing shall be accomplished in a manner that will not create or contribute to landslides, accelerated soil creep, settlement and subsidence on the subject property and/or adjoining properties;
- E. When land clearing occurs that does not include development, the proposal shall contain provisions for the protection of natural land and water features, vegetation, drainage, retention of native ground cover, and other indigenous features of the site;
- F. Land clearing shall be accomplished in a manner that will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other form of pollution in a watercourse;
- G. Land clearing in wetlands, and fish and wildlife habitat areas shall be in accordance with the provisions of TMC Chapter 16.28, Wetland Protection Standards, and TMC Chapter 16.32, Fish and Wildlife Habitat Protection;
- H. During the months of November, December, and January, no land clearing shall be performed in areas with average slopes of fifteen percent or greater, or any slopes of forty percent or greater;
- I. During the months of November, December, and January, no land clearing shall be performed in areas with fine-grained soils and a slope greater than five percent. For the purposes of this section, fine-grained soils shall include any soil associations which are

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classified in hydrologic soil groups C or D, as mapped in the Thurston County Soil Survey, or as determined by a qualified soil scientist;

J. Land clearing shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character. The site shall be revegetated and landscaped as soon as practicable, in accordance with the approved revegetation plan. Where the construction schedule does not provide for revegetation of the site prior to October 15 of any year, all disturbed areas shall be hydro seeded or otherwise revegetated on an interim basis. The revegetation plan shall include plantings along public streets and adjoining property boundaries, especially between areas of differing intensities of development. For land clearing permits that are part of a specific development proposal, land use development shall be initiated or a vegetative screen or buffer established within six months of the date of initiation of land clearing activities;

K. Land clearing shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the construction schedule. Provisions shall be made for interim erosion control measures;

L. Land clearing activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on Saturdays in accordance with TMC Chapter 8.08;

M. Open burning of land clearing debris is prohibited. Slash shall be properly disposed of off site or chipped and applied to the site within six months of the completion of the land clearing. Chipped material deposited on the site shall be spread out or other means used to prevent fire hazard;

N. Any trees to be retained shall be flagged or otherwise marked to make it clear which tree or groups of trees are to be retained;

O. Any trees or groups of trees to be retained shall have temporary fencing installed around the critical root zone. Temporary fencing must be adequate to protect the critical root zone of trees designated for retention. On construction sites where circumstances warrant, the code administrator may require more substantial tree protection fencing, as necessary, to protect intrusion of construction activity into the CRZ areas. Machinery and storage of construction materials shall be kept outside of the CRZ of trees designated for retention. The code administrator may require fencing beyond the CRZ if, in the code administrator's determination, such additional protection is needed to protect the tree from damage. Trees designated for retention shall not be damaged by scoring, ground surface level changes, compaction of soil, attaching objects to trees, altering drainage or any other activities that may cause damage of roots, trunks, or surrounding ground cover;

P. Any trees designated for retention shall be field verified by the city tree protection professional before land clearing begins;

Q. Not more than thirty percent of the trees on any parcel of land shall be removed within any ten-year period, unless the clearing is accomplished as part of an approved development plan. Such clearing shall be done in such a way as to leave healthy dominant

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and codominant trees well distributed throughout the site (taking into account the interdependency of the trees) unless, according to the determination of the city tree protection professional, this requirement would conflict with other standards of this section. For every tree removed at least one replacement tree shall be planted. Replacement trees shall consist of seedlings of the same or similar species to those trees removed, which shall be at least two years old. In lieu of this planting of replacement trees, the applicant may contribute a cash payment to the city's tree account in an amount equal to one hundred twenty-five percent of the retail value replacement cost. The time schedule for the planting of replacement trees shall be specified in the approved plan. If a land clearing permit is applied for as part of a development plan within ten years of clearing under this subsection, all trees removed under this standard will be counted towards required tree retention/replacement when a land clearing permit is issued;

R. When land clearing is performed in conjunction with a specific development proposal not less than twenty percent of the trees, or not less than twelve trees per acre (whichever is greater), shall be retained.

Provided, however, where it can be demonstrated that the trees on a site were planted as part of a commercial Christmas tree farm, then no less than seventeen percent or twelve trees per acre, whichever is less, shall be retained. Commercial tree farm status must be verified by the city tree protection professional.

1. Size, Type and Condition of Retained Trees.

- a. For the purpose of calculating tree retention standards, trees twenty-four inches or greater in diameter measured four and one-half feet above ground level shall count as two trees.
- b. Species such as willow, cottonwood, poplar and other species, the roots of which are likely to obstruct or injure site improvements, sanitary sewers or other underground utilities, shall not be considered trees for the purpose of calculating tree retention standards if located within the buildable portion of the lot.
- c. A tree must meet the following standards in order to be counted for the purpose of meeting tree retention standards:
  - i. Must have a post-development life expectancy of greater than ten years;
  - ii. Must have a relatively sound and solid trunk with no extensive decay or significant trunk damage;
  - iii. Must have no major insect or pathological problems;
  - iv. Must have no significant crown damage;
  - v. Should be fully branched and generally proportional in height and breadth for the tree age;
  - vi. Must be windfirm in their post-development state.

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2. These standards may be waived or modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:
  - a. Removal of the tree or trees is needed to enable use of a solar system. A waiver for this reason must be accompanied by a bond assuring completion of the solar system within the timeframe associated with the underlying building permit issued for the project.
  - b. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios (FAR), parking requirements, stormwater requirements, street construction requirements, etc.
  - c. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the site is developed or modified and may pose a threat to life or property if retained.
  - d. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems and parking area(s) to avoid impacts to trees on the property.
  - e. For commercial and industrial land uses, the project pro forma demonstrates that economically viable use of the property cannot be achieved while meeting the tree retention standards in this chapter. This standard is presumed to be met without a pro forma if the area disturbed by development of the property would be less than eighty-five percent of the land.
  - f. The granting of the waiver or modification will not result in increasing the risk of slope failure, significant erosion or significant increases in surface water flows that cannot be controlled using best management practices.
3. Where the standard is waived or modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard.
  - a. These replacement trees shall be at least two inches in diameter measured at a height of six inches above the root collar.
  - b. Replacement trees shall be planted on the same parcel as the proposed development, unless the code administrator approves of an alternate location.
  - c. Replacement trees must first be planted in a "tree protection open space." The tree protection open space shall be comprised of a minimum of five percent of the buildable area for the purpose of retaining existing trees and/or for the planting of replacement trees. Replacement trees in the tree protection open space shall be a mix of native coniferous and deciduous trees. The tree protection open space shall

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- be a contiguous area. The tree protection open space is required to be eighty percent covered by tree canopy after fifteen years utilizing retained and/or replacement trees. Approved trees and their CRZ area within a critical area buffer may count for up to fifty percent of the required tree protection open space. Stormwater facilities can be considered as part of the tree protection open space if trees can be retained and/or planted successfully and not disable the operating functions of the facility.
- d. If more replacement trees are required than necessary to meet the canopy requirement in the tree protection open space, then these trees (either native and/or nonnative species) can be planted elsewhere on the parcel(s).
  - e. If the city tree protection professional determines that more replacement trees are required than can be planted in the tree protection open space and the rest of the parcel, then the applicant shall contribute a cash payment to the city's tree account in an amount determined by the current city fee resolution.
4. In situations where a parcel of land to be developed does not meet the retention standards above in an undeveloped state, the applicant shall be required to reforest the site to meet the applicable standard outlined above at a 1:1 ratio as a condition of project approval.
5. In determining which trees shall be given the highest priority for retention, the following criteria shall be used:
- a. Heritage or historic trees;
  - b. Trees which are unusual due to their size, age or rarity;
  - c. Trees in environmentally sensitive areas;
  - d. Trees that act as a buffer to separate incompatible land uses;
  - e. Trees which shelter other trees from strong winds that could otherwise cause them to blow down;
  - f. Trees within greenbelts, open space, tree protection open space or buffers;
  - g. Trees with significant habitat value as identified by a qualified wildlife biologist or by the city tree protection professional; and
  - h. Trees which are part of a continuous canopy or which are mutually dependent, as identified by a qualified professional forester or the city tree protection professional;
5. In addition to the provisions of this chapter, the cutting or clearing of historic trees requires the issuance of a certificate of appropriateness in accordance with TMC Chapter 2.62.

Proposed Version 16.08.150**16.08.150 Tree retention.****A. Size, Type, and Condition of Retained Trees.**

1. A tree must meet the following standards as determined by a qualified tree professional in order to be counted as meeting minimum tree credits, pursuant to TMC 16.08.070:

- a. A rating of excellent, good, or fair, pursuant to Table TMC 16.08.150-5 Tree Condition Rating;
- b. Must have a post-development life expectancy of greater than ten years; and
- c. Must be windfirm in their post-development state.

Table 16.08.150-5 Tree Condition Rating.<sup>1</sup>

Rating Category	Condition Components	
	Health	Structure
Excellent – 1	High vigor and nearly perfect health with little or no twig dieback, discoloration, or defoliation.	Nearly ideal and free of defects.
Good – 2	Vigor is normal for species. No significant damage due to diseases or pests. Twig dieback, defoliation, or discoloration is minor.	Well-developed structure. Defects are minor and can be corrected.
Fair – 3	Reduced vigor. Damage due to insects or diseases may be significant and associated with defoliation but is not likely to be fatal. Twig dieback, defoliation, discoloration, and/or dead branches may compromise up to fifty percent of the crown.	A single defect of a significant nature or multiple moderate defects. Defects are not practical to correct or would require multiple treatments over several years.

Rating Category	Condition Components	
	Health	Structure
Poor – 4	Unhealthy and declining in appearance. Poor vigor. Low foliage density and poor foliage color are present. Potentially fatal pest infestation. Extensive twig and/or branch dieback.	A single serious defect or multiple significant defects. Recent change in tree orientation. Observed structural problems cannot be corrected. Failure may occur at any time.
Very Poor – 5	Poor vigor. Appears dying and in the last stages of life. Little live foliage.	Single or multiple severe defects. Failure is probable or imminent.
Dead – 6	N/A	N/A

<sup>1</sup> Table 16.08.150-5 Tree Condition Rating is adapted from the Council of Tree & Landscape Appraisers. 2018. Guide for Plant Appraisal: 10th Edition. Champaign, IL: International Society of Arboriculture. Trees rated as Excellent, Good, or Fair are considered viable or healthy and suitable for retention pursuant to this chapter.

2. Species such as willow, cottonwood, poplar and other species, the roots of which are likely to obstruct or injure site improvements, sanitary sewers or other underground utilities, shall not be considered trees for the purpose of calculating tree retention standards if located within the buildable portion of the property.

3. Tree species included in the city's prohibited vegetation and trees list or the most recent Washington state noxious weed list prepared by Thurston County containing vegetation and trees listed as 'Class A noxious weeds', 'Class B noxious weeds', or 'Class C noxious weeds' in accordance with RCW 17.10.090.

**\*\*\*[Staff is reviewing whether retention priorities for vegetation should be established.]\*\*\***

B. Retention Priorities. In determining which trees shall be given the highest priority for retention, the following order shall be used:

1. Heritage trees;
2. Landmark trees;
3. Trees in environmentally sensitive areas;
4. Trees with significant habitat value as identified by a qualified wildlife biologist or by the city tree protection professional;

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5. Trees within greenbelts, open space, tree protection areas, or buffers;
6. Trees that act as a buffer to separate incompatible land uses;
7. Trees that shelter other trees from strong winds that could otherwise cause them to blow down; and
8. Trees which are part of a continuous canopy or which are mutually dependent, as identified by a qualified professional forester or the city tree protection professional.

C. Tree Retention Location.

1. Tree protection areas.

- a. Trees retained on site shall be included in tree protection areas.
- b. A tree protection area shall be a contiguous space comprised of a minimum of [TBD] of the buildable area for retaining existing trees and/or for the planting of replacement trees.

*\*\*\*[Staff is reviewing the minimum size of a tree protection area.]\*\*\**

- c. Tree protection areas shall include the following:
  - i. A mix of native coniferous and deciduous trees;
  - ii. Eighty percent of the tree protection area shall be covered by tree canopy after fifteen years utilizing retained and/or replacement trees;
  - iii. Approved trees and their critical root zones within an environmentally sensitive area may count for up to TBD percent of a required tree protection area; and

*\*\*\*[Staff is reviewing how trees in environmental sensitive areas may count towards tree protection areas.]\*\*\**

- iv. Stormwater facilities may be considered as part of the tree protection area if trees can be retained and/or planted successfully, meet the requirements of the Drainage Design and Erosion Control Manual, and do not inhibit the operating functions of the facility.
- d. The locations of tree protection areas shall be identified in the project permit approvals and their locations recorded with the county auditor with the recording fee paid by the applicant.

**Tree Retention Plan**

This is a new section proposed to be added to TMC 16.08.160.

Gaps identified in Gap Analysis Sections 2.7.5 and 2.9.3 and feedback from the community included:

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- Updating how retained trees are identified, surveyed, and protected.
- Strengthen tree protections by outlining detailed requirements that are readily enforceable.
- Creating the standards for tree retention, protection, and replacement plans, arborist reports, and how that information should be reflected in the rest of a development project's application materials.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

Proposed Version 16.08.160

**16.08.160 Tree retention plan.**

A. The applicant shall submit a tree retention plan prepared by a qualified tree professional as part of the major tree and vegetation removal permit application. The tree retention plan shall contain the following components:

1. Site Plan.
  - a. General vicinity map;
  - b. Date, north arrow and scale;
  - c. Property boundaries, the extent and location of proposed land disturbance and major physical features of the property (streams, steep slopes, etc.);
  - d. Location of all proposed improvements, including building footprint, access, utilities, applicable setbacks, buffers, proposed tree protection areas, and required landscaped areas;
  - e. For all significant, landmark, grove, and heritage trees:
    - i. Surveyed location of all trees on the property. The site plan must also show the approximate trunk location of the critical root zones of trees that are impacted on adjacent properties;
    - ii. Critical root zones drawn to scale around all trees potentially impacted by the proposed development; and
    - iii. Trees proposed for removal should be noted by an "X" or ghosting out;
  - f. Location of fencing around the proposed tree protection zones, with distances from the applicable trunks to fencing noted;
  - g. Proposed location, size, and species of trees to be planted to meet required minimum tree credits;

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- h. Minimum tree credit calculation, pursuant to TMC 16.08.070;
  - i. Proposed location, size, and type of vegetation to be planted as part of the landscaping plan;
  - j. Specific tree and soil protection standards required during construction, as described in TMC 16.08.190, which can be supplemented by recommendations from a qualified tree professional; and
- 2. Tree Inventory Map. Drawn to scale on the site plan and shall include the following information:
  - a. The location, diameter at standard height, and species of all significant, landmark, grove, and heritage trees on the property;
  - b. Delineation of vegetation types present on the property and a general description of the vegetation present;
  - c. Trees labeled on all plan sheets with numbers that correspond to physical tags on the trees;
  - d. Critical root zones and proposed tree protection zones drawn to scale for all existing significant, landmark, grove, and heritage trees;
  - e. The approximate critical root zones and proposed tree protection zones of significant, landmark, grove, and heritage trees on adjoining properties that appear to have critical root zones extending onto the property, which could be adversely affected by the proposed development; and
- 3. Arborist Report.
  - a. A report prepared by a qualified tree professional documenting the current health and structural condition of all significant, landmark, grove, and heritage trees on the property, including off-site significant, landmark, grove, and heritage trees whose drip lines overhang the property or that may be impacted by the proposed development.
  - b. Arborist reports older than three years from the date of submittal shall be updated with current field observations and tree data.
  - c. A complete report shall include:
    - i. A description of the existing property conditions, including understory vegetation as shown on the tree inventory map;
    - ii. For all significant, landmark, grove, and heritage trees:
      - a) A condition or viability rating for each on-site tree based on their overall health and structure. Ratings shall be based on the most recent edition of the Guide for Plant Appraisers written by the Council of Tree and Landscape Appraisers;

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- b) An estimated condition of off-site trees that may be impacted by construction;
  - c) The feasibility of retaining trees based on existing conditions and proposed development, including but not limited to new structures, additions to existing structures, appurtenances, accessory structures, utilities, and driveways;
  - d) Narrative description of the potential for preservation for each tree that considers soils, wind throw potential, insect and disease problems, and approximate distance to existing and proposed targets; and
  - e) Description of off-site trees, which could be adversely affected by the proposed development;
- iii. A description of tree and soils protection measures, pursuant to TMC 16.08.190, and special measures required to protect the trees throughout construction, including but not limited to alternative excavation methods within tree protection zones, irrigation, mulch, and project arborist monitoring;
4. Tree Protection Plan.
- a. The tree protection plan shall be drawn to scale on the site plan, grading, erosion control, and landscape plans.
  - b. The tree protection plan shall include the following information:
    - i. Surveyed locations of proposed tree protection zones of significant, landmark, grove, and heritage trees to be preserved. Trees shall be identified and labeled corresponding to the numbering system set forth in the tree inventory;
    - ii. Limits of construction and existing and proposed grade changes on the property;
    - iii. Significant, landmark, grove, and heritage trees proposed to be removed, noted by an 'X';
    - iv. Location of fencing for tree protection at the proposed tree protection zones, with distances from the applicable trunks to fencing noted on the site plan;
    - v. Specific tree and soil protection standards required during construction, as described in TMC 16.08.190, which can be supplemented by recommendations from a qualified tree professional;
    - vi. Narrative description, including buildable area of the property, timeline for land disturbance, grading, installation and monitoring of tree protection measures; and

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- viii. The tree protection plan shall submitted with the project permit application;
- 5. Tree Replacement Plan.
  - a. The tree replacement plan shall be drawn to scale on the site and landscape plans.
  - b. The tree replacement plan shall be developed by a licensed Washington landscape architect, Washington certified nursery professional, International Society of Arboriculture certified arborist, board certified horticulturist, qualified professional forester or Washington certified landscaper.
  - c. The tree replacement plan shall include the following information:
    - i. Minimum tree credit calculation, pursuant to TMC 16.08.070;
    - ii. Existing significant, landmark, grove, and heritage trees on-site to be retained or off-site trees with drip lines that overhang the property;
    - iii. Location, size, species, and numbers of trees to be planted;
    - iv. Narrative description and detail showing site preparation, installation, and maintenance measures necessary for the long-term survival and health of the trees;
    - v. Narrative description and detail showing proposed locations of required tree planting and additional vegetation, site preparation, installation and maintenance within critical root zones of preserved significant, landmark, grove, and heritage trees;
    - vi. Cost estimate for the purchase, installation, and three years' maintenance of trees; and
    - vii. A timeline for implementation and monitoring of the tree protection plan and/or tree replacement plan;
- 6. A proposed time schedule for tree and vegetation removal, land restoration, revegetation, landscaping, implementation of erosion control, and construction of improvements;
- 7. Information indicating the method to be followed in erosion control and restoration of land during and immediately following tree and vegetation removal consistent with the most recent version of the Drainage Design and Erosion Control Manual;
- 8. A note indicating that the city shall have the right of entry upon the property for performing inspections consistent with the provisions of this chapter;
- 9. The approved tree protection plan shall be included in contractor's packet of approved plans used for construction on the project; and

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10. Other information as deemed appropriate to this chapter and necessary by the code administrator.

B. [TBD]

\*\*\*[Staff is reviewing this section for clarity.]\*\*\*

C. Each application shall be submitted with a fee established by resolution of the city council, to help defray the cost of handling the application, no part of which fee is refundable.

D. Once issued, the tree and vegetation removal permit shall be posted by the applicant on the property, in a manner so that the tree and vegetation removal permit is visible to the public.

### **Replacement Trees**

The current version of the replacement trees regulations is found in the standard sections, which was last amended in 2013. It has been revised and updated in the proposed version.

Gaps identified in Gap Analysis Sections 2.7.5 and 2.9.4 and feedback from the community included:

- Revisions to address proposed amendments elsewhere in TMC 16.08.
- Establish tree replacement standards and ratios that related to tree credits.
- Update standards related to tree species section, location, and quality.

Replacement requirements are applicable if tree retention does not meet code standards.

In the current version of TMC 16.08, on sites without a development proposal, a 1:1 placement ratio is required with trees 24 inches or more in diameter equal to two trees. On sites with new development, a 3:1 replacement ratio is required. Replacement trees as required in the existing code must be seedlings at least two years of age of the same or similar species of the trees removed [TMC 16.08.070(R)].

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Current Version 16.08.070**

#### **16.08.070 Standards.**

All land clearing not exempt under TMC 16.08.080 shall conform to the approved plan and the following standards and provisions unless alternate procedures that are equal to or

superior in achieving the purposes of this chapter are authorized in writing by the code administrator:

- A. No land clearing and/or ground surface level changes shall occur in a greenbelt zone as delineated on the official zoning map except as required for uses permitted in that zone. In addition, such land clearing and/or ground surface changes shall be subject to all other applicable standards and regulations;
- B. Land clearing in designated greenbelt, open space, tree tract or buffer areas of approved and recorded subdivisions or approved projects which would substantially alter the character or purpose of said greenbelt or buffer areas is prohibited, except in cases involving land clearing plans approved by the code administrator for removal of hazard trees, invasive or noxious plant species and replanting with native plant and tree species;
- C. Erosion control measures shall be provided by the applicant's professional engineer, in conformance with the Drainage Design Erosion Control Manual for the Thurston Region, Washington, as currently written and subsequently amended. The erosion control measures shall be reviewed and subject to approval by the code administrator. The requirement for a professional engineer may be waived by the code administrator on a case-by-case basis;
- D. Land clearing shall be accomplished in a manner that will not create or contribute to landslides, accelerated soil creep, settlement and subsidence on the subject property and/or adjoining properties;
- E. When land clearing occurs that does not include development, the proposal shall contain provisions for the protection of natural land and water features, vegetation, drainage, retention of native ground cover, and other indigenous features of the site;
- F. Land clearing shall be accomplished in a manner that will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other form of pollution in a watercourse;
- G. Land clearing in wetlands, and fish and wildlife habitat areas shall be in accordance with the provisions of TMC Chapter 16.28, Wetland Protection Standards, and TMC Chapter 16.32, Fish and Wildlife Habitat Protection;
- H. During the months of November, December, and January, no land clearing shall be performed in areas with average slopes of fifteen percent or greater, or any slopes of forty percent or greater;
- I. During the months of November, December, and January, no land clearing shall be performed in areas with fine-grained soils and a slope greater than five percent. For the purposes of this section, fine-grained soils shall include any soil associations which are classified in hydrologic soil groups C or D, as mapped in the Thurston County Soil Survey, or as determined by a qualified soil scientist;
- J. Land clearing shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character. The site shall be revegetated and landscaped as soon as

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practicable, in accordance with the approved revegetation plan. Where the construction schedule does not provide for revegetation of the site prior to October 15 of any year, all disturbed areas shall be hydro seeded or otherwise revegetated on an interim basis. The revegetation plan shall include plantings along public streets and adjoining property boundaries, especially between areas of differing intensities of development. For land clearing permits that are part of a specific development proposal, land use development shall be initiated or a vegetative screen or buffer established within six months of the date of initiation of land clearing activities;

K. Land clearing shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the construction schedule. Provisions shall be made for interim erosion control measures;

L. Land clearing activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on Saturdays in accordance with TMC Chapter 8.08;

M. Open burning of land clearing debris is prohibited. Slash shall be properly disposed of off site or chipped and applied to the site within six months of the completion of the land clearing. Chipped material deposited on the site shall be spread out or other means used to prevent fire hazard;

N. Any trees to be retained shall be flagged or otherwise marked to make it clear which tree or groups of trees are to be retained;

O. Any trees or groups of trees to be retained shall have temporary fencing installed around the critical root zone. Temporary fencing must be adequate to protect the critical root zone of trees designated for retention. On construction sites where circumstances warrant, the code administrator may require more substantial tree protection fencing, as necessary, to protect intrusion of construction activity into the CRZ areas. Machinery and storage of construction materials shall be kept outside of the CRZ of trees designated for retention. The code administrator may require fencing beyond the CRZ if, in the code administrator's determination, such additional protection is needed to protect the tree from damage. Trees designated for retention shall not be damaged by scoring, ground surface level changes, compaction of soil, attaching objects to trees, altering drainage or any other activities that may cause damage of roots, trunks, or surrounding ground cover;

P. Any trees designated for retention shall be field verified by the city tree protection professional before land clearing begins;

Q. Not more than thirty percent of the trees on any parcel of land shall be removed within any ten-year period, unless the clearing is accomplished as part of an approved development plan. Such clearing shall be done in such a way as to leave healthy dominant and codominant trees well distributed throughout the site (taking into account the interdependency of the trees) unless, according to the determination of the city tree protection professional, this requirement would conflict with other standards of this section. For every tree removed at least one replacement tree shall be planted.

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## TREE AND VEGETATION PRESERVATION

Replacement trees shall consist of seedlings of the same or similar species to those trees removed, which shall be at least two years old. In lieu of this planting of replacement trees, the applicant may contribute a cash payment to the city's tree account in an amount equal to one hundred twenty-five percent of the retail value replacement cost. The time schedule for the planting of replacement trees shall be specified in the approved plan. If a land clearing permit is applied for as part of a development plan within ten years of clearing under this subsection, all trees removed under this standard will be counted towards required tree retention/replacement when a land clearing permit is issued;

R. When land clearing is performed in conjunction with a specific development proposal not less than twenty percent of the trees, or not less than twelve trees per acre (whichever is greater), shall be retained.

Provided, however, where it can be demonstrated that the trees on a site were planted as part of a commercial Christmas tree farm, then no less than seventeen percent or twelve trees per acre, whichever is less, shall be retained. Commercial tree farm status must be verified by the city tree protection professional.

1. Size, Type and Condition of Retained Trees.

a. For the purpose of calculating tree retention standards, trees twenty-four inches or greater in diameter measured four and one-half feet above ground level shall count as two trees.

b. Species such as willow, cottonwood, poplar and other species, the roots of which are likely to obstruct or injure site improvements, sanitary sewers or other underground utilities, shall not be considered trees for the purpose of calculating tree retention standards if located within the buildable portion of the lot.

c. A tree must meet the following standards in order to be counted for the purpose of meeting tree retention standards:

- i. Must have a post-development life expectancy of greater than ten years;
- ii. Must have a relatively sound and solid trunk with no extensive decay or significant trunk damage;
- iii. Must have no major insect or pathological problems;
- iv. Must have no significant crown damage;
- v. Should be fully branched and generally proportional in height and breadth for the tree age;
- vi. Must be windfirm in their post-development state.

2. These standards may be waived or modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:

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## TREE AND VEGETATION PRESERVATION

- a. Removal of the tree or trees is needed to enable use of a solar system. A waiver for this reason must be accompanied by a bond assuring completion of the solar system within the timeframe associated with the underlying building permit issued for the project.
  - b. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios (FAR), parking requirements, stormwater requirements, street construction requirements, etc.
  - c. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the site is developed or modified and may pose a threat to life or property if retained.
  - d. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems and parking area(s) to avoid impacts to trees on the property.
  - e. For commercial and industrial land uses, the project pro forma demonstrates that economically viable use of the property cannot be achieved while meeting the tree retention standards in this chapter. This standard is presumed to be met without a pro forma if the area disturbed by development of the property would be less than eighty-five percent of the land.
  - f. The granting of the waiver or modification will not result in increasing the risk of slope failure, significant erosion or significant increases in surface water flows that cannot be controlled using best management practices.
3. Where the standard is waived or modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard.
- a. These replacement trees shall be at least two inches in diameter measured at a height of six inches above the root collar.
  - b. Replacement trees shall be planted on the same parcel as the proposed development, unless the code administrator approves of an alternate location.
  - c. Replacement trees must first be planted in a “tree protection open space.” The tree protection open space shall be comprised of a minimum of five percent of the buildable area for the purpose of retaining existing trees and/or for the planting of replacement trees. Replacement trees in the tree protection open space shall be a mix of native coniferous and deciduous trees. The tree protection open space shall be a contiguous area. The tree protection open space is required to be eighty percent covered by tree canopy after fifteen years utilizing retained and/or replacement trees. Approved trees and their CRZ area within a critical area buffer may count for up to fifty percent of the required tree protection open space.

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- Stormwater facilities can be considered as part of the tree protection open space if trees can be retained and/or planted successfully and not disable the operating functions of the facility.
- d. If more replacement trees are required than necessary to meet the canopy requirement in the tree protection open space, then these trees (either native and/or nonnative species) can be planted elsewhere on the parcel(s).
  - e. If the city tree protection professional determines that more replacement trees are required than can be planted in the tree protection open space and the rest of the parcel, then the applicant shall contribute a cash payment to the city's tree account in an amount determined by the current city fee resolution.
4. In situations where a parcel of land to be developed does not meet the retention standards above in an undeveloped state, the applicant shall be required to reforest the site to meet the applicable standard outlined above at a 1:1 ratio as a condition of project approval.
5. In determining which trees shall be given the highest priority for retention, the following criteria shall be used:
- a. Heritage or historic trees;
  - b. Trees which are unusual due to their size, age or rarity;
  - c. Trees in environmentally sensitive areas;
  - d. Trees that act as a buffer to separate incompatible land uses;
  - e. Trees which shelter other trees from strong winds that could otherwise cause them to blow down;
  - f. Trees within greenbelts, open space, tree protection open space or buffers;
  - g. Trees with significant habitat value as identified by a qualified wildlife biologist or by the city tree protection professional; and
  - h. Trees which are part of a continuous canopy or which are mutually dependent, as identified by a qualified professional forester or the city tree protection professional;
- S. In addition to the provisions of this chapter, the cutting or clearing of historic trees requires the issuance of a certificate of appropriateness in accordance with TMC Chapter 2.62.



Proposed Version 16.08.170**16.08.170 Replacement trees.****A. Minimum Size.**

1. The required minimum size of a replacement tree shall be:
  - a. Native or other evergreen conifer – six feet tall measured from treetop to the root flare at the time of planting; and
  - b. Deciduous or broad-leaf tree – two-inch caliper at the time of planting.
2. A replacement tree meeting the required minimum size is worth one tree credit.
3. Additional tree credits may be awarded for a larger sized tree as decided by the code administrator.

**B. Planting Locations.** When designing a proposal to meet the required tree credits, the replacement trees shall be planted in the following order of priority:

1. On-Site.
  - i. In tree protection areas as outlined in TMC 16.08.150, preserved grove trees, environmentally sensitive areas, or required landscape buffers;
  - ii. Site perimeter – the area of the property that is within ten feet from the property line;
  - iii. Entrance landscaping, traffic islands, and other common areas within a subdivision; and
  - iv. Integrated in or adjacent to stormwater facilities, pursuant to the design criteria in the Drainage Design and Erosion Control Manual.
2. Off-Site. When space is unavailable for planting the required replacement trees on-site, then they may be planted at another approved location in the city subject to approval by the code administrator. Trees that are planted off-site from the property shall be subject to a five-year maintenance agreement.

**C. Tree Species and Planting Standards.**

1. Species of replacement trees shall be selected from the city maintained prohibited vegetation and trees list in order to ensure consistency with the guiding principle of “right tree, right place.”
2. Replacement trees shall:
  - a. Adhere to all size requirements and standards in the latest version of the American Standard for Nursery Stock (ANSI Z60.1);
  - b. Be planted with the following requirements, unless they are planted within the tree protection zones of retained trees, in which case the code administrator may approve alternative specifications:

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**TREE AND VEGETATION PRESERVATION**

- i. Soil shall be loosened within the planting hole three times the widest dimension of the root ball;
    - ii. The top of the root ball shall be placed at finished grade and a four-inch high berm shall be constructed around the root ball edge;
    - iii. The root ball shall be placed on existing or recompact soil to prevent settling;
    - iv. Four inches of woodchip or bark mulch shall be placed over the loosened soil, tapering so no woodchip or bark mulch touches the tree trunk; and
    - v. Organic matter or fertilizer shall be incorporated with native soils as needed according to best management practices; and
  - c. Be native or climate-adapted.
3. Where the site allows, large and medium statured tree species shall be planted as replacement trees.
- D. The code administrator may consider smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, site conditions, and to the purposes of this chapter, and are planted in sufficient quantities to result in greater canopy coverage within fifteen years.
- E. Prohibited trees on the prohibited vegetation and trees list shall not be replacement trees.
- F. Installation of required replacement trees shall comply with the approved tree replacement plan that shall be submitted with the project permit.
- G. All required tree replacement and other required mitigation shall be completed before issuance of the certificate of occupancy, and are subject to maintenance requirements in BMC 19.26.110.
- H. A tree illegally removed pursuant to this chapter shall be replaced at the following ratio in TMC Table 16.08.170-6 Tree Replacement for Removal of Trees without a Permit.

Table 16.08.170-6 Tree Replacement for Removal of Trees without a Permit.

<b>Diameter at Standard Height of Tree Removed</b>	<b>Number of Required Replacement Trees</b>
6 inches to less than 10 inches	1
10 inches to less than 14 inches	2
14 inches to less than 18 inches	3
18 inches to less than 22 inches	4

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Diameter at Standard Height of Tree Removed	Number of Required Replacement Trees
22 inches to less than 26 inches	5
26 inches to less than 30 inches	6
Larger than 30 inches	7
Heritage Trees	8

I. Fee-in-lieu.

1. After the city determines that all replacement options have been considered and are infeasible, the applicant may pay a fee-in-lieu for each required replacement tree that is not planted.
2. Each fee-in-lieu will count as one tree credit.
3. Fee-in-lieu payments will be deposited into the tree account and used pursuant to TMC 16.08.100.
4. The amount of a fee-in-lieu shall be \$1,000 multiplied by the number of tree credits necessary to satisfy the tree replacement requirements of this section and the fee shall be deposited into the city's tree account.
5. Fee-in-lieus shall be paid to the city prior to the issuance of a tree and vegetation removal permit and associated project permit.
6. For each landmark or heritage tree removed, a fee-in-lieu based on an appraisal of the tree value by the city tree protection professional using the trunk formula method in the current edition of the Guide for Plant Appraisal written by the Council of Tree and Landscape Appraisers shall be required.

**Erosion Control**

The current version of the erosion control regulations is found in the standard sections, which was last amended in 2013. It has been revised and updated in the proposed version.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

Current Version 16.08.070**16.08.070 Standards.**

All land clearing not exempt under TMC 16.08.080 shall conform to the approved plan and the following standards and provisions unless alternate procedures that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator:

- A. No land clearing and/or ground surface level changes shall occur in a greenbelt zone as delineated on the official zoning map except as required for uses permitted in that zone. In addition, such land clearing and/or ground surface changes shall be subject to all other applicable standards and regulations;
- B. Land clearing in designated greenbelt, open space, tree tract or buffer areas of approved and recorded subdivisions or approved projects which would substantially alter the character or purpose of said greenbelt or buffer areas is prohibited, except in cases involving land clearing plans approved by the code administrator for removal of hazard trees, invasive or noxious plant species and replanting with native plant and tree species;
- C. Erosion control measures shall be provided by the applicant's professional engineer, in conformance with the Drainage Design Erosion Control Manual for the Thurston Region, Washington, as currently written and subsequently amended. The erosion control measures shall be reviewed and subject to approval by the code administrator. The requirement for a professional engineer may be waived by the code administrator on a case-by-case basis;
- D. Land clearing shall be accomplished in a manner that will not create or contribute to landslides, accelerated soil creep, settlement and subsidence on the subject property and/or adjoining properties;
- E. When land clearing occurs that does not include development, the proposal shall contain provisions for the protection of natural land and water features, vegetation, drainage, retention of native ground cover, and other indigenous features of the site;
- F. Land clearing shall be accomplished in a manner that will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other form of pollution in a watercourse;
- G. Land clearing in wetlands, and fish and wildlife habitat areas shall be in accordance with the provisions of TMC Chapter 16.28, Wetland Protection Standards, and TMC Chapter 16.32, Fish and Wildlife Habitat Protection;
- H. During the months of November, December, and January, no land clearing shall be performed in areas with average slopes of fifteen percent or greater, or any slopes of forty percent or greater;
- I. During the months of November, December, and January, no land clearing shall be performed in areas with fine-grained soils and a slope greater than five percent. For the purposes of this section, fine-grained soils shall include any soil associations which are

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classified in hydrologic soil groups C or D, as mapped in the Thurston County Soil Survey, or as determined by a qualified soil scientist;

J. Land clearing shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character. The site shall be revegetated and landscaped as soon as practicable, in accordance with the approved revegetation plan. Where the construction schedule does not provide for revegetation of the site prior to October 15 of any year, all disturbed areas shall be hydro seeded or otherwise revegetated on an interim basis. The revegetation plan shall include plantings along public streets and adjoining property boundaries, especially between areas of differing intensities of development. For land clearing permits that are part of a specific development proposal, land use development shall be initiated or a vegetative screen or buffer established within six months of the date of initiation of land clearing activities;

K. Land clearing shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the construction schedule. Provisions shall be made for interim erosion control measures;

L. Land clearing activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on Saturdays in accordance with TMC Chapter 8.08;

M. Open burning of land clearing debris is prohibited. Slash shall be properly disposed of off site or chipped and applied to the site within six months of the completion of the land clearing. Chipped material deposited on the site shall be spread out or other means used to prevent fire hazard;

N. Any trees to be retained shall be flagged or otherwise marked to make it clear which tree or groups of trees are to be retained;

O. Any trees or groups of trees to be retained shall have temporary fencing installed around the critical root zone. Temporary fencing must be adequate to protect the critical root zone of trees designated for retention. On construction sites where circumstances warrant, the code administrator may require more substantial tree protection fencing, as necessary, to protect intrusion of construction activity into the CRZ areas. Machinery and storage of construction materials shall be kept outside of the CRZ of trees designated for retention. The code administrator may require fencing beyond the CRZ if, in the code administrator's determination, such additional protection is needed to protect the tree from damage. Trees designated for retention shall not be damaged by scoring, ground surface level changes, compaction of soil, attaching objects to trees, altering drainage or any other activities that may cause damage of roots, trunks, or surrounding ground cover;

P. Any trees designated for retention shall be field verified by the city tree protection professional before land clearing begins;

Q. Not more than thirty percent of the trees on any parcel of land shall be removed within any ten-year period, unless the clearing is accomplished as part of an approved development plan. Such clearing shall be done in such a way as to leave healthy dominant

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and codominant trees well distributed throughout the site (taking into account the interdependency of the trees) unless, according to the determination of the city tree protection professional, this requirement would conflict with other standards of this section. For every tree removed at least one replacement tree shall be planted. Replacement trees shall consist of seedlings of the same or similar species to those trees removed, which shall be at least two years old. In lieu of this planting of replacement trees, the applicant may contribute a cash payment to the city's tree account in an amount equal to one hundred twenty-five percent of the retail value replacement cost. The time schedule for the planting of replacement trees shall be specified in the approved plan. If a land clearing permit is applied for as part of a development plan within ten years of clearing under this subsection, all trees removed under this standard will be counted towards required tree retention/replacement when a land clearing permit is issued;

R. When land clearing is performed in conjunction with a specific development proposal not less than twenty percent of the trees, or not less than twelve trees per acre (whichever is greater), shall be retained.

Provided, however, where it can be demonstrated that the trees on a site were planted as part of a commercial Christmas tree farm, then no less than seventeen percent or twelve trees per acre, whichever is less, shall be retained. Commercial tree farm status must be verified by the city tree protection professional.

1. Size, Type and Condition of Retained Trees.

- a. For the purpose of calculating tree retention standards, trees twenty-four inches or greater in diameter measured four and one-half feet above ground level shall count as two trees.
- b. Species such as willow, cottonwood, poplar and other species, the roots of which are likely to obstruct or injure site improvements, sanitary sewers or other underground utilities, shall not be considered trees for the purpose of calculating tree retention standards if located within the buildable portion of the lot.
- c. A tree must meet the following standards in order to be counted for the purpose of meeting tree retention standards:
  - i. Must have a post-development life expectancy of greater than ten years;
  - ii. Must have a relatively sound and solid trunk with no extensive decay or significant trunk damage;
  - iii. Must have no major insect or pathological problems;
  - iv. Must have no significant crown damage;
  - v. Should be fully branched and generally proportional in height and breadth for the tree age;
  - vi. Must be windfirm in their post-development state.

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2. These standards may be waived or modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:
  - a. Removal of the tree or trees is needed to enable use of a solar system. A waiver for this reason must be accompanied by a bond assuring completion of the solar system within the timeframe associated with the underlying building permit issued for the project.
  - b. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios (FAR), parking requirements, stormwater requirements, street construction requirements, etc.
  - c. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the site is developed or modified and may pose a threat to life or property if retained.
  - d. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems and parking area(s) to avoid impacts to trees on the property.
  - e. For commercial and industrial land uses, the project pro forma demonstrates that economically viable use of the property cannot be achieved while meeting the tree retention standards in this chapter. This standard is presumed to be met without a pro forma if the area disturbed by development of the property would be less than eighty-five percent of the land.
  - f. The granting of the waiver or modification will not result in increasing the risk of slope failure, significant erosion or significant increases in surface water flows that cannot be controlled using best management practices.
3. Where the standard is waived or modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard.
  - a. These replacement trees shall be at least two inches in diameter measured at a height of six inches above the root collar.
  - b. Replacement trees shall be planted on the same parcel as the proposed development, unless the code administrator approves of an alternate location.
  - c. Replacement trees must first be planted in a "tree protection open space." The tree protection open space shall be comprised of a minimum of five percent of the buildable area for the purpose of retaining existing trees and/or for the planting of replacement trees. Replacement trees in the tree protection open space shall be a mix of native coniferous and deciduous trees. The tree protection open space shall

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- be a contiguous area. The tree protection open space is required to be eighty percent covered by tree canopy after fifteen years utilizing retained and/or replacement trees. Approved trees and their CRZ area within a critical area buffer may count for up to fifty percent of the required tree protection open space. Stormwater facilities can be considered as part of the tree protection open space if trees can be retained and/or planted successfully and not disable the operating functions of the facility.
- d. If more replacement trees are required than necessary to meet the canopy requirement in the tree protection open space, then these trees (either native and/or nonnative species) can be planted elsewhere on the parcel(s).
  - e. If the city tree protection professional determines that more replacement trees are required than can be planted in the tree protection open space and the rest of the parcel, then the applicant shall contribute a cash payment to the city's tree account in an amount determined by the current city fee resolution.
4. In situations where a parcel of land to be developed does not meet the retention standards above in an undeveloped state, the applicant shall be required to reforest the site to meet the applicable standard outlined above at a 1:1 ratio as a condition of project approval.
5. In determining which trees shall be given the highest priority for retention, the following criteria shall be used:
- a. Heritage or historic trees;
  - b. Trees which are unusual due to their size, age or rarity;
  - c. Trees in environmentally sensitive areas;
  - d. Trees that act as a buffer to separate incompatible land uses;
  - e. Trees which shelter other trees from strong winds that could otherwise cause them to blow down;
  - f. Trees within greenbelts, open space, tree protection open space or buffers;
  - g. Trees with significant habitat value as identified by a qualified wildlife biologist or by the city tree protection professional; and
  - h. Trees which are part of a continuous canopy or which are mutually dependent, as identified by a qualified professional forester or the city tree protection professional;
5. In addition to the provisions of this chapter, the cutting or clearing of historic trees requires the issuance of a certificate of appropriateness in accordance with TMC Chapter 2.62.



Proposed Version 16.08.180**16.08.180 Erosion control.**

- A. Erosion control measures shall be provided by the applicant's professional engineer, in conformance with the most recent version of the Drainage Design and Erosion Control Manual, as currently written and subsequently amended.
- B. The erosion control measures shall be reviewed and subject to approval by the transportation and engineering department.
- C. Tree and vegetation removal shall be accomplished in a manner that will not create or contribute to the following:
  - 1. Landslides, accelerated soil creep, settlement, and subsidence on the property and/or adjoining properties.
  - 2. Flooding, erosion, or increased turbidity, siltation, or other form of pollution in a watercourse.
- D. The Drainage Design and Erosion Control Manual shall be followed for construction on slopes and for stabilizing soils during wet seasons.
- E. Tree and vegetation removal in wetlands, and fish and wildlife habitat areas shall be in accordance with the provisions of TMC Chapter 16.28 and TMC Chapter 16.32.
- F. Tree and vegetation removal shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character.
  - 1. The property shall be revegetated and landscaped as soon as practicable, in accordance with the approved landscape plan.
  - 2. The tree retention plan shall include plantings along streets and adjoining property boundaries, especially between areas of differing intensities of development.
  - 3. For tree and vegetation removal permits that are part of a specific proposal for development, development shall be initiated or a vegetative screen or buffer established within six months of the date of initiation of tree and vegetation removal.
- G. Tree and vegetation removal shall be conducted to expose the smallest practical area of soil to erosion for the least possible time, consistent with the construction schedule. Provisions for interim erosion control measures shall be made by the certified erosion and sediment control lead or the person responsible for the project if a certified erosion and sediment control lead is not required and documented on the stormwater pollution prevention plan.
- H. Noise generated by tree and vegetation removal shall be in accordance with TMC Chapter 8.08.
- I. Open burning of tree and vegetation removal debris is prohibited.

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1. Slash shall be properly disposed of off-site or chipped and applied to the property within six months of the completion of the tree and vegetation removal.
2. Chipped material deposited on the property shall be spread out or other means used to prevent fire hazard.

**Tree and Soil Protection during Construction**

The current version of the tree and soil protection during construction regulations is found in the standard sections, which was last amended in 2013. It has been revised and updated in the proposed version.

Updates to tree protection measures were referenced in the Gap Analysis under 2.7.5 Tree Protection and Replacement Plan 2.7.5.1 'General Provisions' and 2.7.5.2 'Tree Protection Detail and Signage' and feedback from the community. The proposed version of the amendments expands on the ideas presented in the Gap Analysis.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Current Version 16.08.070****16.08.070 Standards.**

All land clearing not exempt under TMC 16.08.080 shall conform to the approved plan and the following standards and provisions unless alternate procedures that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator:

- A. No land clearing and/or ground surface level changes shall occur in a greenbelt zone as delineated on the official zoning map except as required for uses permitted in that zone. In addition, such land clearing and/or ground surface changes shall be subject to all other applicable standards and regulations;
- B. Land clearing in designated greenbelt, open space, tree tract or buffer areas of approved and recorded subdivisions or approved projects which would substantially alter the character or purpose of said greenbelt or buffer areas is prohibited, except in cases involving land clearing plans approved by the code administrator for removal of hazard trees, invasive or noxious plant species and replanting with native plant and tree species;
- C. Erosion control measures shall be provided by the applicant's professional engineer, in conformance with the Drainage Design Erosion Control Manual for the Thurston Region, Washington, as currently written and subsequently amended. The erosion control measures shall be reviewed and subject to approval by the code administrator. The requirement for a professional engineer may be waived by the code administrator on a case-by-case basis;

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- D. Land clearing shall be accomplished in a manner that will not create or contribute to landslides, accelerated soil creep, settlement and subsidence on the subject property and/or adjoining properties;
- E. When land clearing occurs that does not include development, the proposal shall contain provisions for the protection of natural land and water features, vegetation, drainage, retention of native ground cover, and other indigenous features of the site;
- F. Land clearing shall be accomplished in a manner that will not create or contribute to flooding, erosion, or increased turbidity, siltation, or other form of pollution in a watercourse;
- G. Land clearing in wetlands, and fish and wildlife habitat areas shall be in accordance with the provisions of TMC Chapter 16.28, Wetland Protection Standards, and TMC Chapter 16.32, Fish and Wildlife Habitat Protection;
- H. During the months of November, December, and January, no land clearing shall be performed in areas with average slopes of fifteen percent or greater, or any slopes of forty percent or greater;
- I. During the months of November, December, and January, no land clearing shall be performed in areas with fine-grained soils and a slope greater than five percent. For the purposes of this section, fine-grained soils shall include any soil associations which are classified in hydrologic soil groups C or D, as mapped in the Thurston County Soil Survey, or as determined by a qualified soil scientist;
- J. Land clearing shall be undertaken in such a manner as to preserve and enhance the city's aesthetic character. The site shall be revegetated and landscaped as soon as practicable, in accordance with the approved revegetation plan. Where the construction schedule does not provide for revegetation of the site prior to October 15 of any year, all disturbed areas shall be hydro seeded or otherwise revegetated on an interim basis. The revegetation plan shall include plantings along public streets and adjoining property boundaries, especially between areas of differing intensities of development. For land clearing permits that are part of a specific development proposal, land use development shall be initiated or a vegetative screen or buffer established within six months of the date of initiation of land clearing activities;
- K. Land clearing shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with the construction schedule. Provisions shall be made for interim erosion control measures;
- L. Land clearing activities shall be limited to the hours of 7:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on Saturdays in accordance with TMC Chapter 8.08;
- M. Open burning of land clearing debris is prohibited. Slash shall be properly disposed of off site or chipped and applied to the site within six months of the completion of the land

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clearing. Chipped material deposited on the site shall be spread out or other means used to prevent fire hazard;

N. Any trees to be retained shall be flagged or otherwise marked to make it clear which tree or groups of trees are to be retained;

O. Any trees or groups of trees to be retained shall have temporary fencing installed around the critical root zone. Temporary fencing must be adequate to protect the critical root zone of trees designated for retention. On construction sites where circumstances warrant, the code administrator may require more substantial tree protection fencing, as necessary, to protect intrusion of construction activity into the CRZ areas. Machinery and storage of construction materials shall be kept outside of the CRZ of trees designated for retention. The code administrator may require fencing beyond the CRZ if, in the code administrator's determination, such additional protection is needed to protect the tree from damage. Trees designated for retention shall not be damaged by scoring, ground surface level changes, compaction of soil, attaching objects to trees, altering drainage or any other activities that may cause damage of roots, trunks, or surrounding ground cover;

P. Any trees designated for retention shall be field verified by the city tree protection professional before land clearing begins;

Q. Not more than thirty percent of the trees on any parcel of land shall be removed within any ten-year period, unless the clearing is accomplished as part of an approved development plan. Such clearing shall be done in such a way as to leave healthy dominant and codominant trees well distributed throughout the site (taking into account the interdependency of the trees) unless, according to the determination of the city tree protection professional, this requirement would conflict with other standards of this section. For every tree removed at least one replacement tree shall be planted.

Replacement trees shall consist of seedlings of the same or similar species to those trees removed, which shall be at least two years old. In lieu of this planting of replacement trees, the applicant may contribute a cash payment to the city's tree account in an amount equal to one hundred twenty-five percent of the retail value replacement cost. The time schedule for the planting of replacement trees shall be specified in the approved plan. If a land clearing permit is applied for as part of a development plan within ten years of clearing under this subsection, all trees removed under this standard will be counted towards required tree retention/replacement when a land clearing permit is issued;

R. When land clearing is performed in conjunction with a specific development proposal not less than twenty percent of the trees, or not less than twelve trees per acre (whichever is greater), shall be retained.

Provided, however, where it can be demonstrated that the trees on a site were planted as part of a commercial Christmas tree farm, then no less than seventeen percent or twelve trees per acre, whichever is less, shall be retained. Commercial tree farm status must be verified by the city tree protection professional.

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## TREE AND VEGETATION PRESERVATION

1. Size, Type and Condition of Retained Trees.
  - a. For the purpose of calculating tree retention standards, trees twenty-four inches or greater in diameter measured four and one-half feet above ground level shall count as two trees.
  - b. Species such as willow, cottonwood, poplar and other species, the roots of which are likely to obstruct or injure site improvements, sanitary sewers or other underground utilities, shall not be considered trees for the purpose of calculating tree retention standards if located within the buildable portion of the lot.
  - c. A tree must meet the following standards in order to be counted for the purpose of meeting tree retention standards:
    - i. Must have a post-development life expectancy of greater than ten years;
    - ii. Must have a relatively sound and solid trunk with no extensive decay or significant trunk damage;
    - iii. Must have no major insect or pathological problems;
    - iv. Must have no significant crown damage;
    - v. Should be fully branched and generally proportional in height and breadth for the tree age;
    - vi. Must be windfirm in their post-development state.
2. These standards may be waived or modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:
  - a. Removal of the tree or trees is needed to enable use of a solar system. A waiver for this reason must be accompanied by a bond assuring completion of the solar system within the timeframe associated with the underlying building permit issued for the project.
  - b. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios (FAR), parking requirements, stormwater requirements, street construction requirements, etc.
  - c. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the site is developed or modified and may pose a threat to life or property if retained.

- d. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems and parking area(s) to avoid impacts to trees on the property.
  - e. For commercial and industrial land uses, the project pro forma demonstrates that economically viable use of the property cannot be achieved while meeting the tree retention standards in this chapter. This standard is presumed to be met without a pro forma if the area disturbed by development of the property would be less than eighty-five percent of the land.
  - f. The granting of the waiver or modification will not result in increasing the risk of slope failure, significant erosion or significant increases in surface water flows that cannot be controlled using best management practices.
3. Where the standard is waived or modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard.
- a. These replacement trees shall be at least two inches in diameter measured at a height of six inches above the root collar.
  - b. Replacement trees shall be planted on the same parcel as the proposed development, unless the code administrator approves of an alternate location.
  - c. Replacement trees must first be planted in a “tree protection open space.” The tree protection open space shall be comprised of a minimum of five percent of the buildable area for the purpose of retaining existing trees and/or for the planting of replacement trees. Replacement trees in the tree protection open space shall be a mix of native coniferous and deciduous trees. The tree protection open space shall be a contiguous area. The tree protection open space is required to be eighty percent covered by tree canopy after fifteen years utilizing retained and/or replacement trees. Approved trees and their CRZ area within a critical area buffer may count for up to fifty percent of the required tree protection open space. Stormwater facilities can be considered as part of the tree protection open space if trees can be retained and/or planted successfully and not disable the operating functions of the facility.
  - d. If more replacement trees are required than necessary to meet the canopy requirement in the tree protection open space, then these trees (either native and/or nonnative species) can be planted elsewhere on the parcel(s).
  - e. If the city tree protection professional determines that more replacement trees are required than can be planted in the tree protection open space and the rest of the parcel, then the applicant shall contribute a cash payment to the city’s tree account in an amount determined by the current city fee resolution.
4. In situations where a parcel of land to be developed does not meet the retention standards above in an undeveloped state, the applicant shall be required to reforest the

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site to meet the applicable standard outlined above at a 1:1 ratio as a condition of project approval.

5. In determining which trees shall be given the highest priority for retention, the following criteria shall be used:

- a. Heritage or historic trees;
- b. Trees which are unusual due to their size, age or rarity;
- c. Trees in environmentally sensitive areas;
- d. Trees that act as a buffer to separate incompatible land uses;
- e. Trees which shelter other trees from strong winds that could otherwise cause them to blow down;
- f. Trees within greenbelts, open space, tree protection open space or buffers;
- g. Trees with significant habitat value as identified by a qualified wildlife biologist or by the city tree protection professional; and
- h. Trees which are part of a continuous canopy or which are mutually dependent, as identified by a qualified professional forester or the city tree protection professional;

S. In addition to the provisions of this chapter, the cutting or clearing of historic trees requires the issuance of a certificate of appropriateness in accordance with TMC Chapter 2.62.

#### Proposed Version 16.08.190

##### **16.08.190 Tree and soil protection during construction.**

Prior to construction or tree and vegetation removal on a property, vegetated areas, individual trees, and soils to be preserved shall be protected during construction, pursuant to the International Society of Arboriculture and American National Standards Institute standards for tree protection as follows.

A. Trees to be retained shall have readily visible temporary protection at their approved critical root zones.

1. Temporary fencing must be adequate to protect the critical root zones of trees designated for retention, vegetation, and native soil.
2. Fencing shall be constructed of chain link and be at least six feet high unless another type of fencing is authorized by the code administrator.

B. Where circumstances warrant, the code administrator may require more substantial tree protection fencing, as necessary, to protect intrusion of construction into the critical

root zones. Tree protection fencing for trees designated for retention shall be field verified by the city tree protection professional before tree and vegetation removal begins.

C. Highly visible signs spaced no further than fifteen feet along the entirety of the tree protection fencing shall be installed. Said language must be approved by the code administrator and shall state at a minimum "Tree and Soil Protection Area, Entry Prohibited" and shall provide the city phone number for code enforcement to report violations.

D. No person shall conduct any activity within the tree protection fencing of a retained tree.

1. Machinery and storage of construction materials shall be kept outside of the critical root zones of trees designated for retention.

2. The code administrator may require fencing beyond the critical root zones if, in the code administrator's determination, such additional protection is needed to protect the tree from damage.

3. Trees designated for retention shall not be damaged by scoring, grading, compaction of soil, dumping concrete washout or other chemicals, attaching objects to trees, altering drainage, or other activities that may cause damage of roots, trunks, or surrounding vegetation.

4. The code administrator may allow certain activities approved by and under the supervision of a qualified tree professional at the expense of the applicant.

E. When feasible, applicant shall shore basements and other extensive excavations in order to avoid impacts within critical root zones and cantilever structures over critical root zones.

### **Maintenance**

The current version of the maintenance section was last amended in 2006. It has been revised and updated in the proposed version was based on the Gap Analysis and feedback from the community.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

### **Current Version 16.08.072**

#### **16.08.072 Maintenance requirements.**

A. Maintenance Requirement. Trees are to be maintained in a vigorous and healthy condition, free from diseases, pests and weeds. Trees which become diseased, severely

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damaged or which die shall be removed by the owner as soon as possible but no later than sixty days after notification by the city. As it pertains to this section, all replacement trees that die shall be replaced with healthy trees of the same size and species as required by the approved tree protection plan for the property. If retained trees die due to construction damage or negligence on the part of the applicant, the city tree protection professional shall determine the appraised landscape value of the dead trees, and the applicant shall plant the equivalent value of trees back onto the site. In the event that space is not available for the required replacement trees (as determined by the city tree protection professional), the equivalent value shall be paid into the tree fund.

B. For areas dedicated as tree protection open space areas, street trees and single-family residential land divisions, the maintenance requirement of this section shall be in effect for three years from the date the final plat is approved or the trees are planted. The tree plan shall be a condition of approval and identified on the face of the plat. The applicant shall also execute a covenant in a form agreeable to the city, which shall require the applicant and his successors to comply with the maintenance requirement of this section. The covenant shall obligate both the property owner and the homeowner's association and shall be recorded with the county auditor. The recording fee shall be paid by the applicant.

C. For multifamily residential, commercial, and industrial developments, the maintenance requirement for all trees covered by the tree plan shall apply in perpetuity. The applicant shall execute a covenant in a form agreeable to the city, which shall require that the applicant and his successors comply with the maintenance requirement imposed by this section. The covenant shall be binding on successor property owners and owners' associations. The covenant shall be recorded with the county auditor and the recording fee shall be paid by the applicant.

D. Maintenance Agreement. Each development to which the maintenance requirement for this chapter applies and that contain a heritage tree(s) shall also be subject to a maintenance agreement. The code administrator shall require the applicant to execute a maintenance agreement with the city, in a form acceptable to the city attorney, which shall include the provisions of the maintenance requirement in this chapter, to ensure the survival and proper care of any heritage trees identified in the tree plan.

E. Failure to Maintain. Retained trees, replacement trees and street trees as per the requirements of this chapter and/or TMC Chapter 18.47, Landscaping, shall be maintained according to the American National Standards Institute, current edition of the American National Standards, ANSI A300. Failure to regularly maintain the trees as required in this section shall constitute a violation of this chapter and, if applicable, the plat covenant.

#### Proposed Version 16.08.200

#### **16.08.200 Maintenance.**

A. Maintenance Requirements.

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### **TREE AND VEGETATION PRESERVATION**

1. Significant, landmark, grove, and heritage trees shall be maintained for the life of the project in a vigorous and healthy condition, free from diseases and pests and not become a nuisance. Trees that become diseased, severely damaged, or which die shall be removed by the owner as soon as possible but no later than sixty days after notification by the city.
2. The maintenance requirement for all trees covered by this section shall apply in perpetuity.
  - a. For major tree and vegetation removal permits, applicant shall execute a covenant in a form agreeable to the city, which shall require that the applicant and his successors comply with the maintenance requirement of this section.
  - b. The covenant shall be binding on successor property owners and owners' associations.
  - c. The covenant shall be recorded with the county auditor and the recording fee shall be paid by the applicant.
  - d. For land divisions, the tree protection and replacement plans shall be also a condition of approval and identified on the face of the final plat.
3. As it pertains to this section, all replacement trees that die shall be replaced with healthy trees of the same size and species as required by the approved tree protection and replacement plans for the property within six months or during the next planting season. If retained significant, landmark or heritage trees die due to construction damage or negligence on the part of the applicant, the city tree protection professional shall determine the appraised landscape value of the dead trees, and the applicant shall plant the equivalent value of trees back onto the property.
4. In the event that space is not available for the required replacement trees as determined by the city tree protection professional, a fee-in-lieu shall be paid into the tree account.

B. Maintenance Agreement.

1. Each development to which the maintenance requirement for this chapter applies shall also be subject to a maintenance agreement.
2. The code administrator shall require the applicant to execute a maintenance agreement with the city, in a form acceptable to the city attorney, which shall include the provisions of the maintenance requirement in this chapter, to ensure the survival and proper care of trees identified in the tree protection and replacement plans.

C Tree pruning.

1. Minor pruning or thinning of trees is allowed; provided, that such activity is consistent with the most recent version of the American National Standards Institute A300 Part 1 – Pruning standards and the following requirements:

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- a. The selective removal of branches in the inner crown of the tree provided no more than twenty-five percent of a tree's leaf-bearing crown is removed. An even distribution of interior small branches and foliage on remaining limbs shall be maintained to avoid excessive thinning or removal of interior branches and leaving of foliage on the end of a branch;
    - b. Work involving the removal of more than twenty-five percent of a tree's crown mass shall demonstrate that the removal is necessary for the clearance of electrical distribution, service lines, or cable, telephone, and wireless facilities only;
    - c. The removal of the lower branches of a tree; provided, that the height of the pruned portion shall not exceed one-third of the total tree height and that removal of branches from the lower portion shall not exceed twenty-five percent of the tree's leaf-bearing crown; and
    - d. Mature and old growth trees are more susceptible to permanent damage or death from pruning. Pruning of mature trees should only be done as a corrective or preventative measure, such as the removal of decayed, rubbing, or crowded branches.
  2. Tree topping is prohibited and shall be considered tree removal that requires a minor tree and vegetation removal permit, pursuant to TMC 16.08.120.
  3. A tree and vegetation removal permit is not required to prune trees; however, pruning of the following categories of trees does require prior written approval from the city:
    - a. Tree located within environmentally sensitive areas; or
    - b. Grove trees preserved, pursuant to TMC 16.08.XXX.
- D Maintenance on city property.
1. Tree and vegetation maintenance on city property, including the pruning of street trees, shall conform to the following:
    - a. Permit Requirements. Other than city crews and city-authorized contractors, no person, directly or indirectly, shall prune, trim, modify, alter, or damage a tree or vegetation on city property without first obtaining a tree and vegetation removal permit as provided in this chapter, unless the activity falls under the exemptions, pursuant to TMC 16.08.220, or falls within the maintenance exceptions set forth in TMC 16.08.200(E)(1)(c);
    - b. Pruning Standards. The most recent version of the American National Standards Institute A300 Part 1 – Pruning standards applies. Tree topping is not allowed. Pruning which results in the removal of more than twenty-five percent of the live crown is not an acceptable pruning practice; and
    - c. Maintenance of Street Trees. The responsibility for maintenance of street trees is established in TMC Chapter 12.24. Maintenance may include pruning for nuisance

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abatement as defined in this chapter, TMC Chapter 8.04, and TMC Chapter 12.24 and does not require a tree and vegetation removal permit. The city reserves the right to have city or city-authorized contractors perform routine pruning and maintenance of street trees.

E. Failure to Maintain.

1. Retained, replacement, and street trees shall be maintained pursuant to the current edition of the American National Standards Institute A300 standards.
2. Failure to maintain the trees regularly as required in this section or allowing trees to become a nuisance, a hazard, or unhealthy shall constitute a violation of this chapter and, if applicable, the plat covenant.

**Performance and Maintenance Bonds**

The current version of the performance and maintenance bonds section was last amended in 2006. It has been revised and updated in the proposed version.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Current Version 16.08.060**

**16.08.060 Performance and maintenance bond may be required.**

- A. The code administrator may require bonds and bond agreements in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with the permit. Bonds, if required, shall be furnished by the applicant or property owner. A bond agreement shall provide assurance that the applicant has sufficient right, title and interest in the property to grant the city all rights set forth in the agreement.
- B. In lieu of a bond, the applicant may file assigned funds or an instrument of credit with the city in an amount equal to that which would be required in a bond.
- C. The amount of bonds or other assurance instrument shall not exceed the estimated cost of the total restoration, revegetation, planting or landscaping work planned, as determined by the code administrator.
- D. The duration of any bond or other required surety shall be not less than three years from the date that said restoration, revegetation, planting or landscaping has been accepted by the code administrator.

**Proposed Version 16.08.210**

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**TREE AND VEGETATION PRESERVATION**

**16.08.210 Performance and maintenance bonds.**

- A. The code administrator may require bonds and bond agreements in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with a tree and vegetation removal permit.
- B. Bonds, if required, shall be furnished by the applicant or property owner. A bond agreement shall provide assurance that the applicant has sufficient right, title, and interest in the property to grant the city all rights set forth in the agreement.
- C. In lieu of a bond, the applicant may file assigned funds or an instrument of credit with the city in an amount equal to that which would be required in a bond.
- D. The amount of bonds or other assurance instrument shall not exceed the estimated cost of the total restoration, revegetation, planting or landscaping work planned, as determined by the code administrator.
- E. The duration of a bond or other required surety shall be not less than three years from the date that said restoration, revegetation, planting or landscaping has been accepted by the code administrator.

**Exemptions**

The current version of the exemptions section was last amended in 2006. It has been revised and updated in the proposed version was based on the Gap Analysis and feedback from the community.

Gaps identified in Gap Analysis Section 2.12 included:

- Reviewed current exemptions
- Finding that the exemptions in the current version of TMC 16.08 are generally consistent with exemptions found in tree preservation codes reviewed from other jurisdictions as part of the Gap Analysis.
- Incorporating an exemption to TMC 16.08 to allow for actions under a federally approved Habitat Conservation Plan. This is supported by Action 4.1.A of the Urban Forestry Management Plan, which states, “Ensure that mitigation and conservation areas created under an approved Habitat Conservation Plan are exempt from tree preservation regulations.”

An exemption was added to address reasonable use of properties based on the current version of TMC 16.087.07(R).

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

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**TREE AND VEGETATION PRESERVATION**

Current Version 16.08.070(R) and 16.08.080**16.08.070 Standards.**

All land clearing not exempt under TMC 16.08.080 shall conform to the approved plan and the following standards and provisions unless alternate procedures that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator:

[...]

R. When land clearing is performed in conjunction with a specific development proposal not less than twenty percent of the trees, or not less than twelve trees per acre (whichever is greater), shall be retained.

Provided, however, where it can be demonstrated that the trees on a site were planted as part of a commercial Christmas tree farm, then no less than seventeen percent or twelve trees per acre, whichever is less, shall be retained. Commercial tree farm status must be verified by the city tree protection professional.

[....]

2. These standards may be waived or modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:

- a. Removal of the tree or trees is needed to enable use of a solar system. A waiver for this reason must be accompanied by a bond assuring completion of the solar system within the timeframe associated with the underlying building permit issued for the project.
- b. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios (FAR), parking requirements, stormwater requirements, street construction requirements, etc.
- c. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the site is developed or modified and may pose a threat to life or property if retained.
- d. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems and parking area(s) to avoid impacts to trees on the property.
- e. For commercial and industrial land uses, the project pro forma demonstrates that economically viable use of the property cannot be achieved while meeting the tree retention standards in this chapter. This standard is presumed to be met

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**TREE AND VEGETATION PRESERVATION**

without a pro forma if the area disturbed by development of the property would be less than eighty-five percent of the land.

f. The granting of the waiver or modification will not result in increasing the risk of slope failure, significant erosion or significant increases in surface water flows that cannot be controlled using best management practices.

3. Where the standard is waived or modified, the applicant shall plant not less than three trees for each tree cleared in excess of the standard.

a. These replacement trees shall be at least two inches in diameter measured at a height of six inches above the root collar.

b. Replacement trees shall be planted on the same parcel as the proposed development, unless the code administrator approves of an alternate location.

c. Replacement trees must first be planted in a "tree protection open space." The tree protection open space shall be comprised of a minimum of five percent of the buildable area for the purpose of retaining existing trees and/or for the planting of replacement trees. Replacement trees in the tree protection open space shall be a mix of native coniferous and deciduous trees. The tree protection open space shall be a contiguous area. The tree protection open space is required to be eighty percent covered by tree canopy after fifteen years utilizing retained and/or replacement trees. Approved trees and their CRZ area within a critical area buffer may count for up to fifty percent of the required tree protection open space. Stormwater facilities can be considered as part of the tree protection open space if trees can be retained and/or planted successfully and not disable the operating functions of the facility.

d. If more replacement trees are required than necessary to meet the canopy requirement in the tree protection open space, then these trees (either native and/or nonnative species) can be planted elsewhere on the parcel(s).

e. If the city tree protection professional determines that more replacement trees are required than can be planted in the tree protection open space and the rest of the parcel, then the applicant shall contribute a cash payment to the city's tree account in an amount determined by the current city fee resolution.

[...]

#### **16.08.080 Exemptions.**

The following shall be exempt from the provisions of this chapter; provided however, the code administrator may require reasonable documentation verifying circumstances associated with any proposal to remove trees under any of the following exemptions:

A. Land clearing in emergency situations involving immediate danger to life or property. For every tree cleared under this exemption, at least one replacement tree shall be planted.

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## **TREE AND VEGETATION PRESERVATION**

Except for the number of trees, replacement trees shall conform to the standard for replacement trees described in TMC 16.08.070(R);

B. Land clearing associated with routine maintenance by utility companies such as the power company and telephone company. Utility companies shall notify the community development department at least two weeks prior to the start of work and shall follow appropriate vegetation management practices;

C. Land clearing performed within any public right-of-way or any public easement, when such work is performed by a public agency and the work relates to the installation of utilities and transportation facilities (such as streets, sidewalks and bike paths). To the greatest extent possible, all such work shall conform to the standards set forth in this chapter;

D. Land clearing within ten feet (when required for construction) of the perimeter of the single-family or duplex dwellings and associated driveways or septic systems must be indicated on the plot plan submitted to the building official with an application for a building permit. This exemption does not apply to land clearing located within environmentally sensitive areas, or to areas subject to the provisions of the shoreline master program;

E. Clearing of dead, diseased, or hazardous trees, after verification by the city tree protection professional. For every tree cleared under this exemption, at least one replacement tree shall be planted. Except for the number of trees, replacement trees shall conform to the standard for replacement trees described in TMC 16.08.070(R);

F. Clearing of trees that act as obstructions at intersections in accordance with the municipal code;

G. The removal of not more than six trees from any parcel of land in three consecutive calendar years. This exemption does not apply to heritage or historic trees, or to trees located in a greenbelt or greenbelt zone, or in wetlands or critical areas and their buffers or to tree topping. A letter of "waiver" for the exempt removals must be obtained from the community development department prior to tree removal;

H. Land clearing associated with tree farming operations specifically preempted by Chapter 76.09 RCW, Washington Forest Practices Act; provided, that a harvesting and reforestation plan is submitted to the code administrator prior to any land clearing;

I. Clearing of noxious ground cover for the purposes of utility maintenance, landscaping, or gardening. This exemption applies solely to ground cover, for protected trees clearing must conform to subsection G of this section;

J. Clearing of trees that obstruct or impede the operation of air traffic or air operations at the Olympia Airport. The tree replacement standards of this chapter must be met. Trees should be replanted outside the air operations area;

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K. Clearing of not more than six trees every three consecutive calendar years on developed properties, when such clearing is necessary to allow for the proper functioning of a solar-powered energy system. Such clearing may be done only after verification of the need to clear the trees, issuance of a waiver letter, and the issuance of a building permit for such a system by the code administrator.

Proposed Version 16.08.220

**16.08.220 Exemptions.**

The following activities shall be exempt from the provisions of this chapter; provided however, the code administrator shall require documentation to verify circumstances associated with a proposal to remove trees pursuant to one of the following exemptions:

A. Reasonable use.

1. The standards of this chapter may be modified by the code administrator if the applicant provides substantial evidence demonstrating that strict compliance would make reasonable use of the property impracticable for three or more of the following reasons:

- a. The tree retention standard cannot be achieved because of the necessity of complying with applicable zoning and development requirements including, but not limited to, residential densities, open space requirements for active recreation, floor area ratios, parking requirements, stormwater requirements, street construction requirements, etc.
- b. The tree retention standard cannot be achieved because the tree or trees do not have a reasonable chance of survival once the property is developed or modified and may pose a threat to life or property if retained.
- c. The applicant has made reasonable efforts to reconfigure or reduce the building footprint(s), site access, on-site utility systems, and parking area(s) to avoid impacts to trees on the property.
- d. For project permits other than permits for individual single-family residential and duplex dwelling units, the project pro forma demonstrates that economically viable use of the subject property cannot be achieved while meeting the tree retention standards in this chapter.

B. Emergency tree and vegetation removal.

1. A tree or vegetation that poses an immediate danger to life or property may be removed.
2. The city must be notified within seven days after the emergency tree removal with evidence of the threat for removing the tree to be considered exempt from this chapter.

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3. If the code administrator determines that the emergency tree removal was not warranted or if the removed tree was required to be retained or planted pursuant to a project permit, then the removal will be subject to code enforcement, including fines and restoration.
  4. For every tree cleared pursuant to this exemption, at least one replacement tree shall be planted.
  5. Except for the number of trees, replacement trees shall conform to the standard for replacement trees described in TMC 16.08.170.
- C. Utilities and transportation facilities.
1. Trees and vegetation may be removed when associated with routine maintenance of utilities or transportation facilities. The community development department shall be notified at least two weeks prior to the start of work and work shall follow appropriate tree and vegetation management practices. A separate right-of-way permit may be required.
  2. Tree and vegetation removal may be performed within the right-of-way or an easement, when such work is performed by the appropriate public agency and the work relates to the installation of utilities and transportation facilities, such as streets, sidewalks, and bike paths.
- D. Tree farms.
1. Tree and vegetation removal associated with tree farming operations specifically preempted by Chapter 76.09 RCW, Washington Forest Practices Act, is allowed pursuant to this chapter; provided, that a harvesting and reforestation plan is submitted to the code administrator prior to tree removal.
- E. General landscape maintenance.
1. Routine landscaping and maintenance of trees and vegetation, such as pruning and planting, removal of invasive species, management of brush and seedling trees.
  2. Pruning shall comply with TMC 16.08.200.
  3. This exemption applies solely to trees under six inches in diameter at standard height and vegetation.
- F. Air traffic operations.
1. Tree and vegetation removal is allowed when they obstruct or impede the operation of air traffic or air operations at the Olympia regional airport.
  2. The tree replacement standards of this chapter must be met. Trees should be replanted outside the air operations area.
- G. Solar-powered energy systems.

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**TREE AND VEGETATION PRESERVATION**

1. Removal of the tree or trees is allowed as needed to enable use of a solar system.
2. On projects with new development, a waiver must be accompanied by a bond assuring completion of the solar system within the period associated with the underlying building permit issued for the project.
3. Limited tree and vegetation removal allowed when necessary to maintain the proper functioning of an existing solar-powered energy system on a developed property.
4. Such removal may be done only after verification of the need to clear the trees, issuance of a waiver letter, and the issuance of a building permit for such a system by the code administrator.

G. Endangered Species Act compliance.

1. The city is home to unique flora and fauna of the south Puget Sound prairie ecosystem and it is critical habitat for two federally listed prairie species protected pursuant to the Endangered Species Act including the Olympia pocket gopher (*Thomomys mazama pugetensis*) and the streaked horned lark (*Eremophila alpestris strigata*).
2. In order to meet the requirements of Section 10 of the Endangered Species Act and the provisions of a federally issued incidental take permit, mitigation actions and conservation areas created pursuant to a federally approved habitat conservation plan and incidental take permit are exempt from the requirements of this chapter.

*\*\*\*[Staff is reviewing whether some exemptions in the current version of TMC 16.08 should be included in the proposed version of TMC 16.08 related to removal of trees in intersections, tree farming with a FPA permit, and clearing noxious land weeds.]\*\*\**

### **Alternative Plans**

The current version of the alternative plans section was last amended in 2006. It has been revised and updated in the proposed version was based on the Gap Analysis and feedback from the community.

Gaps identified in Gap Analysis Section 2.13 included:

- Moving alternative plans to the section where permitting criteria will be located, as this will apply to alternative reports or plans submitted in place of the required site plans and arborist report for a development project or land clearing permit.
- Considering naming section 'Modification plans', a modification approval may be tracked administratively within a land use decision or noted in an administrative report by City planning staff.

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## **TREE AND VEGETATION PRESERVATION**

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

#### Current Version 16.08.090

##### **16.08.090 Alternative plans.**

Required tree mitigation must conform to the standards contained in this chapter unless alternate plans that are equal to or superior in achieving the purposes of this chapter are authorized in writing by the code administrator. The code administrator may modify or waive the requirements of this chapter only after consideration of a written request for any of the following reasons:

- A. Special circumstances relating to the size, shape, topography or physical conditions, location, or surroundings of the subject property, or to provide it with use rights and privileges permitted to other properties in the vicinity and zone in which it is located;
- B. Improvement as required without modification or waiver would not function properly or safely or would not be advantageous or harmonious to the neighborhood or city as a whole;
- C. The proposed modification would result in an increased retention of mature trees and/or naturally occurring vegetation on the site;
- D. The proposed modification represents a superior result than that which could be achieved by strictly following the requirements of this chapter, the proposed modification complies with the stated purpose of TMC 16.08.020 and the proposed modification will not violate any city of Tumwater codes or ordinances.

Any modifications under this chapter shall be as limited as possible to achieve the aim of relating required mitigation for tree protection to the impacts caused by the individual development.

#### Proposed Version 16.08.230

##### **16.08.230 Alternative plans.**

- A. Required tree and vegetation mitigation must conform to the standards contained in this chapter unless an alternative plan that is equal to or superior in achieving the purposes of this chapter is authorized in writing by the code administrator.
- B. The code administrator may modify the requirements of this chapter and approve an alternative plan only after consideration and approval of a written request for the following reasons:
  - 1. Special circumstances related to the size, shape, topography or physical conditions, or location of the subject property;

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## **TREE AND VEGETATION PRESERVATION**

2. Improvement as required without modification would not function safely; or
  3. A proposed alternative plan would result in an increased retention of significant, landmark, or heritage trees and/or naturally occurring vegetation on the site.
- C. An alternative plan shall comply with the stated purposes of the chapter and not violate any city codes or ordinances.
- D. Any alternative plan pursuant to TMC 16.08.230 shall be as limited as possible to achieve the aim of relating required mitigation for tree and vegetation protection to the impacts caused by the proposed development.

### **Appeal Procedure**

The current version of the appeal procedure section was last amended in 2017. It has been revised and updated in the proposed version was based on the Gap Analysis and feedback from the community.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

#### **Current Version 16.08.100**

##### **16.08.100 Appeal procedure.**

Any person aggrieved by a decision or an action of the code administrator in the enforcement or implementation of this chapter may, within fourteen calendar days of such decision or action, file a written appeal to the hearing examiner. Any decision of the hearing examiner may be appealed to the Thurston County superior court in accordance with the provisions of TMC Chapter 2.58.

#### **Proposed Version 16.08.240**

##### **16.08.240 Appeal procedure.**

- A. Any person aggrieved by a decision or an action of the code administrator in the enforcement or implementation of this chapter may, within fourteen calendar days of such decision or action, file a written appeal to the hearing examiner.
- B. A decision of the hearing examiner may be appealed to the Thurston County superior court in accordance with the provisions of TMC Chapter 2.58.

**Violation – Criminal Penalties**

The current version of the criminal penalties section was last amended in 2002. It has been revised and updated in the proposed version was based on the Gap Analysis and feedback from the community.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

**Current Version 16.08.110****16.08.110 Violation – Criminal penalties.**

A. Any person who violates the provisions of this chapter or fails to comply with any of the requirements shall be guilty of a misdemeanor and subject to the penalties set forth in TMC 1.12.010. In keeping with the city's concern regarding protection of the environment, the court should consider the imposition of minimum fines of no less than \$1,000 per occurrence. Each day such violation continues shall be considered a separate, distinct offense. In cases involving land clearing in violation of this chapter, the clearing of any area up to the first acre shall be considered one offense, and the clearing of each additional acre and of any additional fractional portion that does not equal one more acre shall each be considered a separate and distinct offense.

B. Any person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in subsection A of this section.

C. In addition to the penalties set forth in subsections A and B of this section, any violation of the provisions of this chapter is declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

D. Upon determination that a violation of the provisions of this chapter has occurred, the building official shall withhold issuance of building permits for the affected property until corrective action is taken by the responsible party. However, if mitigating circumstances exist and reasonable commitments for corrective action are made, the building official may issue building permits. Such corrective action may include:

1. Restoration and replanting of surface vegetation with plant material similar in character and extent as existed prior to the unauthorized clearing;
2. Implementation of drainage and erosion control measures;
3. Replanting of trees equal in value to those lost through unauthorized clearing. The value of the trees removed shall be determined by the city's tree protection

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**TREE AND VEGETATION PRESERVATION**

professional using landscape tree appraisal methodology published in the current edition of the International Society of Arboriculture's Guide for Plant Appraisal.

Proposed Version 16.08.250

**16.08.250 Violation – Criminal penalties.**

A. A person who violates the provisions of this chapter or fails to comply with its requirements shall be guilty of a misdemeanor and subject to the penalties set forth in TMC 1.12.010. If the requirements imposed by this chapter conflict with other requirements, the more restrictive requirements shall apply.

1. In keeping with the city's concern regarding protection of the environment, the court should consider the imposition of fines, pursuant to TMC 16.08.260(C).
2. Each day such violation continues shall be considered a separate, distinct offense.

B. Anyone who commits, participates in, assists, or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in TMC 16.08.250(A). This includes a qualified tree professional or company pruning or removing the tree.

C. In addition to the penalties set forth in TMC 16.08.250(A) and (B), a violation of the provisions of this chapter is declared a nuisance pursuant to TMC Chapter 8.04 and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

D. Upon determination that a violation of the provisions of this chapter has occurred, the code administrator shall withhold issuance of project permits for the affected property until corrective action is taken by the responsible party. However, if reasonable commitments for corrective action are made, the code administrator shall issue project permits. Such corrective action may include:

1. Restoration and replanting of trees and vegetation with plant material similar in character and extent as existed prior to the unauthorized tree and vegetation removal;
2. Implementation of required drainage and erosion control measures; and
3. Replanting of trees equal or greater in value to those lost through unauthorized tree and vegetation removal. The value of the trees removed shall be determined by the city tree protection professional using landscape tree appraisal methodology published in the current edition of the International Society of Arboriculture's Guide for Plant Appraisal.

**Violation – Civil Penalties – Presumption – Other Remedies**

The current version of the violation – civil penalties – presumption – other remedies section was last amended in 2002. It has been revised and updated in the proposed version was based on the Gap Analysis and feedback from the community.

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**TREE AND VEGETATION PRESERVATION**

Gaps identified in Gap Analysis Section 2.16 included:

- Reviewing the current minimum costs for tree replacement, materials, and installation in addition to the administration and staff time to process violations to match inflation.

*Please note that the final version of this section presented in the ordinance and staff report at the June 13, 2023 joint Planning Commission and Tree Board worksession may differ from the draft version presented in this staff report.*

Current Version 16.08.120

**16.08.120 Violation – Civil penalties – Presumption – Other remedies.**

A. As a supplement or alternative to the remedies set forth in TMC 16.08.110, the code administrator shall have the authority to seek civil penalties for violation of the provisions of this chapter.

Any person, corporation, partnership or other entity being the owner of real property or holder of timber rights upon such property who violates the provision of this chapter or fails to comply with any of its requirements shall upon a proper showing be deemed to have committed a class 1 civil infraction as defined by TMC 1.10.120(D)(1). Civil liability shall also attach to others who violate the provisions of this chapter, whether or not such violation occurs at the direction of the owners or holder of timber rights.

As provided by law, the Tumwater municipal court is hereby vested with jurisdiction to hear civil infraction cases under this chapter. Said cases shall be heard by the court without jury and upon a finding that the infraction has been committed by a preponderance of the evidence.

The code administrator shall have the authority to charge as a separate violation each such tree removed or destroyed.

B. Presumption. For purposes of administration and prosecution of alleged violations of this chapter, there is hereby created a rebuttable presumption that the person whose name appears on tax records of the Thurston County assessor, with respect to the real property in question, has responsibility for ensuring that violations of provisions of this chapter do not occur on the property in question.

C. In addition to the penalties set forth in this chapter, any violation of the provisions of this chapter is declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

D. Upon determination that a violation of the provisions of this chapter has occurred, the building official shall withhold issuance of building permits for their affected property until corrective action is taken by the responsible party. However, if mitigating circumstances

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**TREE AND VEGETATION PRESERVATION**



exist and reasonable commitments for corrective action are made, the building official may issue building permits. Such corrective action may include:

1. Restoration of surface vegetation with plant material similar in character and extent as existed prior to the unauthorized clearing;
2. Implementation of drainage and erosion control measures;
3. Replanting of trees equal in value to those lost through unauthorized clearing. The value of the trees removed shall be determined by the city's tree protection professional using landscape tree appraisal methodology published in the current edition of the International Society of Arboriculture's Guide for Plant Appraisal.

Proposed Version 16.08.260

**16.08.260 Violation – Civil penalties – Presumption – Other remedies.**

A. As a supplement or alternative to the remedies set forth in TMC 16.08.250, the code administrator shall have the authority to seek civil penalties for violation of the provisions of this chapter.

1. A person, corporation, partnership, or other entity being the owner of real property or holder of timber rights upon such property who violates the provisions of this chapter or fails to comply with its requirements shall upon a proper showing be deemed to have committed a class 1 civil infraction as defined by TMC 1.10.120(D)(1). Civil liability shall also attach to others who violate the provisions of this chapter, whether or not such violation occurs at the direction of the property owners or holder of timber rights.
2. As provided by law, the city's municipal court is hereby vested with jurisdiction to hear civil infraction cases pursuant to this chapter. Said cases shall be heard by the court without jury and upon a finding that the infraction has been committed by a preponderance of the evidence.
3. The code administrator shall have the authority to charge as a separate violation each such tree removed or destroyed.

B. Presumption. For purposes of administration and prosecution of alleged violations of this chapter, there is hereby created a rebuttable presumption that the person whose name appears on tax records of the Thurston County assessor, with respect to the real property in question, has responsibility for ensuring that violations of provisions of this chapter do not occur on the property in question.

C. Fines. Fines shall be assessed in accordance with TMC Table 16.08.260-7 Fines for Unlawful Tree Removal, based on the diameter at standard height of each unlawfully removed or damaged tree trunk.

1. If the diameter at standard height of an unlawfully removed or damaged tree cannot be established, the diameter of the remaining stump top shall be used in lieu of diameter at standard height.

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**TREE AND VEGETATION PRESERVATION**

2. In cases where the stump has been removed, the city will approximate the size of the removed tree(s) based on available evidence. TMC Table 16.08.260-7 Fines for Unlawful Tree Removal establishes the minimum fine amount; fine will be based on an assessment of the actual tree size when evidence allows.

3. If there is inadequate evidence, city shall assess a minimum ten thousand dollar fine for each unlawfully removed tree. Fines and tree restoration cost(s) may be assessed against the responsible party.

Table 16.08.260-7 Fines for Unlawful Tree Removal.

<b>Unlawfully Removed or Damaged Tree Diameter at Standard Height or Stump Diameter</b>	<b>Fines per Unlawfully Removed or Damaged Tree</b>	<b>Fines per Unlawfully Removed or Damaged Tree when Protected through Easement, Tracts, or Similar Document</b>
Smaller than 6 inches	\$700 for replacement trees or trees planted to meet minimum tree credits	\$1,000
6 inches to less than 12 inches	\$1,000	\$1,500
12 inches to less than 18 inches	\$3,000	\$4,000
18 inches to less than 24 inches	\$5,000	\$6,000
24 inches to less than 30 inches	\$7,000	\$8,000
Larger than 30 inches	\$9,000	\$10,000
Heritage trees	\$12,000	\$15,000
Tree stump has been removed	\$10,000	\$15,000

\*\*\*[Staff is reviewing proposed fines for unlawful tree removal.]\*\*\*

4. The tree penalty fine for repeat violations shall be determined by multiplying the fine(s) for each tree fine amount in TMC Table 16.08.260-7 Fines for Unlawful Tree Removal by the number of violations. For example, the tree penalty fine for a second

violation is multiplied by two, and a third violation is multiplied by three, and so on. A repeat violation occurs when a violation happens after notice.

5. If an arborist is required to determine the tree type or size, the responsible party shall pay the arborist fees.

6. A code enforcement officer may permit a violator of this chapter to perform city-approved community service voluntarily in lieu of paying some or the entire civil penalty. Community service may include, but is not limited to, restoration or education programs. The amount of community service shall reasonably relate to the comparable value of the civil penalties imposed.

D. In addition to the penalties set forth in this chapter, a violation of the provisions of this chapter is declared a nuisance pursuant to TMC Chapter 8.04 and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction.

E. Tree and Site Restoration.

1. Upon determination that a violation of the provisions of this chapter has occurred, the code administrator shall withhold issuance of project permits for the affected property until tree and site restoration action is taken by the responsible party. However, if mitigating circumstances exist and reasonable commitments for corrective action are made, the code administrator may issue project permits.

2. Restoration Plan.

a. Violators of this chapter shall be responsible for restoring unlawfully damaged areas. The restoration plan should recreate the site condition that would have existed in the absence of the violation to the greatest extent practical.

b. A restoration plan shall be prepared pursuant to TMC 16.08.160 and depict repairs of any environmental and property damage and restoration of the site.

c. Tree violations that occur in critical areas and their buffers or on properties within shoreline jurisdiction are also subject to any restoration plan requirements in TMC Title 16 and the city's shoreline master program, respectively.

d. Restoration plans must be submitted to the code administrator for consideration and possible approval.

3. Restoration Plan Standards. A restoration plan shall be in accordance with TMC 16.08.170 and the following standards:

a. The number of trees required to be planted shall be equal to the size and number of illegally removed trees according to TMC 16.08.250-6 Fines for Unlawful Tree Removal;

b. The minimum size and standards for a tree shall be in accordance with TMC 16.08.170;

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## TREE AND VEGETATION PRESERVATION

- c. Restoration of trees and vegetation shall be with plant material similar in character and extent as existed prior to the unauthorized tree and vegetation removal;
  - d. The restoration plan shall address implementation of required drainage and erosion control measures;
  - e. The restoration plan shall include the replanting of trees equal in value to those lost through unauthorized tree and vegetation removal. The value of the trees removed shall be determined by the process in TMC 16.08.170(H); and
  - f. The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a minimum three-year period.
4. In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall pay a fee-in-lieu of restoration to the city. The fee-in-lieu shall be as set forth in TMC 16.08.170(I) and is in addition to any other fines assessed pursuant to TMC 16.08.260.

## **Related Issues**

Some related issues will need to be addressed as part of the code amendment process.

### **Process for Regulating Businesses that Prune and Remove Trees**

Staff and DCG/Watershed are reviewing processes for regulating businesses that prune and remove trees. These processes could include the following:

- Requiring registration and education with penalties if trees are pruned or removed improperly or without a permit.
- Requiring that any arboriculture or forestry professional working within the City be licensed and bonded, obtain a City endorsement to their State Business License, as well as submit a signed statement declaring their understanding of the City's urban forestry regulations.

### **Wildlife Urban Interface**

- In late April 2023, the State Building Code Council under WAC 51-55-0500 adopted the International Wildland Urban Interface Code. The ICC code language can be found at <https://codes.iccsafe.org>. The State amendments can be located at [www.sbccc.wa.gov](http://www.sbccc.wa.gov).
- International Wildland Urban Interface Code established minimum requirements for land use and built environment in designated wildland-urban interface areas, such as limiting the amount and type of trees and vegetation that are near structures.

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## **TREE AND VEGETATION PRESERVATION**

- The City will likely adopt the International Wildland Urban Interface Code as part of its building code update that needs to be complete by July 1, 2023.
- The City has started to use the wildlife urban interface data as part of its update work on the 2016 Hazard Mitigation Plan, which will be completed this year.
- From review of mapping, it appears that more than half the City will be affected by the new requirements.
- The City is in the process of evaluating how the adoption of the International Wildland Urban Interface Code will affect the update to TMC 16.08 as well as the update to the City's landscaping code (TMC 18.47).
- The adoption of the International Wildland Urban Interface Code may result in changes to the proposed version of TMC 16.08.

### **Status of Other Related Urban Forestry Code Update Projects**

In addition to the proposed amendments to TMC 16.08, the City is working on revision to its street tree and landscaping regulations.

#### **Street Tree Code Update (TMC 12.24) and Street Tree Plan**

In July 2022, after an RFP process, the City contracted with DCG/Watershed as project consultant to update Street Tree Code (TMC 12.24) and Street Tree Plan.

The following tasks have been completed:

1. Background research in fall 2022
1. Public Engagement Plan in fall 2022
2. Community engagement process in fall 2022 and winter 2023
  - a. [Project website](#) and social media
  - b. Three Community Conversations in winter 2023
  - c. Discussions with Planning Commission, Tree Board, and General Government Committee winter 2023
  - d. Internal stakeholder meetings winter 2023
3. Gap Analysis in winter 2023

DCG/Watershed is drafting code amendments and the Street Tree Plan in spring 2023 for staff review. Ordinance review, recommendation, and approval are expected in fall 2023 and winter 2024.

#### **Landscaping Code Update (TMC 18.47)**

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## **TREE AND VEGETATION PRESERVATION**

In September 2022, after an RFP process, the City contracted with SCJ Alliance as project consultant to update the City's landscaping regulations (TMC 18.47).

The following tasks have been completed:

1. Background research in fall 2022 and winter 2023
2. Public Engagement Plan in winter 2022
3. Community engagement process in winter and spring 2023
  - a. [Project website](#) and social media
  - b. Two Community Conversations in winter and spring 2023
  - c. Discussions with Planning Commission, Tree Board, and General Government Committee winter 2023
  - d. Internal stakeholder meeting winter 2023
4. Gap Analysis winter 2023

DCG/Watershed is drafting code amendments in spring 2023. Ordinance review, recommendation, and approval are expected in summer and fall 2023.

## **Public Approval Process**

### **SEPA Environmental Review and Commerce Notice of Intent**

Once Ordinance No. O2023-006 is complete; an Environmental Checklist for a non-project action is expected to be prepared in May 2023 under the State Environmental Policy Act (Chapter 43.21C RCW), pursuant to Chapter 197-11 WAC, and a Determination of Non-Significance is expected to be issued in May or June 2023.

The ordinance will be sent to the Washington State Department of Commerce in May or June 2023 for the required 60-day Notice of Intent review before the proposed text amendments can be adopted, in accordance with RCW 36.70A.106.

### **Planning Commission and Tree Board Review and Recommendation**

#### **Briefing and Worksessions**

The Planning Commission and Tree Board will hold joint briefing on the scope of the proposed amendments and the amendment review and approval process on Tuesday, May 9, 2023. The Planning Commission will hold a worksession on Tuesday, May 23, 2023 to follow up on questions raised at the May 9, 2023 briefing.

The Planning Commission and Tree Board are expected to hold worksessions to review the Ordinance No. O2023-006 on the following dates:

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## **TREE AND VEGETATION PRESERVATION**

- **Joint Planning Commission and Tree Board Worksession** – Tuesday, June 13, 2023 to start review of the ordinance

*The expected focus of this joint worksession will be definitions, landmark trees, tree credits, and tree account.*

- **Planning Commission Worksession** – Tuesday, June 27, 2023 to follow up on questions raised at the June 13, 2023 joint worksession

- **Joint Planning Commission and Tree Board Worksession** – Tuesday, July 11, 2023

*The expected focus of this joint worksession will be tree retention and replacement, tree and vegetation removal permits system, exemptions, and alternative plans.*

- **Planning Commission Worksession** – Tuesday, July 25, 2023 to follow up on questions raised at the July 11, 2023 joint worksession

- **Joint Planning Commission and Tree Board Worksession** – Tuesday, August 8, 2023

*The expected focus of this joint worksession will be sections addressing forest management plans, construction, maintenance, and violations*

The briefing and worksessions will be hybrid meetings and start at 7 p.m. The meeting agendas will have information on how to attend meetings in person or remotely.

Planning Commission and Tree Board meeting agendas, agenda packets and minutes can be found here: <https://www.ci.tumwater.wa.us/departments/city-meetings>.

#### Public Comment at Planning Commission and Tree Board Meetings

Written comments from the public will be accepted at any time and can be submitted to the City by email to [tumwatertrees@ci.tumwater.wa.us](mailto:tumwatertrees@ci.tumwater.wa.us) or [bmedrud@ci.tumwater.wa.us](mailto:bmedrud@ci.tumwater.wa.us) or be mailed or dropped off at the following address:

Brad Medrud, Planning Manager  
City of Tumwater City Hall  
Community Development Department  
555 Israel Road SW  
Tumwater, WA 98501

If you would like your written comments considered by the Planning Commission and Tree Board at their meetings, please submit your comments one week ahead of the meeting date to ensure that the comments can be included in the meeting packets.

There is a public comment period at the start of every Planning Commission and Tree Board meeting. While the worksessions are intended primarily to allow for discussion between members of the Planning Commission and Tree Board, the Planning Commission and Tree Board chairs may decide to allow public comment outside of the established public comment period at their discretion.

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#### TREE AND VEGETATION PRESERVATION

### Public Hearing

A Notice of Public Hearing for the Planning Commission is expected to be issued on Friday, September 15, 2023 prior to a public hearing. The notice will be posted, published as a press release, distributed to interested individuals and entities that have requested such notices, and published in *The Olympian*.

The Planning Commission is expected to hold a public hearing for the proposed amendments on Tuesday, September 26, 2023.

The public will have the opportunity to present oral and written comments at the public hearing for consideration by the Planning Commission.

Following the public hearing and deliberations, the Planning Commission will make a recommendation that Council on the proposed amendments.

### City Council Ordinance Approval Process

The General Government Committee will have two briefings during the Planning Commission and Tree Board review process to be kept informed of the ordinance discussions. The briefings are scheduled for Wednesday, May 10, 2023 and Wednesday, August 9, 2023. General Government Committee meetings start at 8:00 a.m.

Once the Planning Commission completes the public hearing process and forwards its recommendation on the ordinance, the City Council will review and consider the recommendation.

The General Government Committee is scheduled to review the proposed amendments in a briefing on Wednesday, October 11, 2023 and recommend that the ordinance be discussed at a City Council worksession. The General Government Committee meetings start at 8:00 a.m.

The City Council is scheduled to review the amendments at worksessions on Tuesday, October 24, 2023 and Tuesday, November 14, 2023. City Council worksessions start at 6:00 p.m.

The City Council is scheduled to consider the amendments on at a regular meeting on Tuesday, December 5, 2023. City Council regular meetings start at 7:00 p.m.

The City Council has established procedures for taking comments from the public during their meetings, which can be found here: <https://www.ci.tumwater.wa.us/departments/city-meetings/attending-a-city-council-meeting>.

City Council meeting agendas, agenda packets and minutes can be found here: <https://www.ci.tumwater.wa.us/departments/city-meetings>.

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## **TREE AND VEGETATION PRESERVATION**



**Staff Conclusions**

1. Staff will need to conclude that the proposed text amendments are consistent with the goals of the Washington State Growth Management Act.
  - a. The ordinance will need to be consistent with Goal 7 of the Growth Management Act which states:

*“Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.”*

The Ordinance will need to establish concise requirements for the application, review process, and approval of planned unit developments.

2. Staff will need to conclude that the proposed text amendments are consistent with the Urban Forestry Management Plan because the proposed amendments improve the clarity and specificity of the regulations for submittal, review, and approval of permits related to the community and urban forest.
3. Based on the above review and analysis, staff will need to conclude that the proposed text amendments are consistent with the requirements of the Washington State Growth Management Act and the Tumwater Comprehensive Plan.

**Staff Recommendation**

A formal staff recommendation will accompany the ordinance that the Planning Commission and Tree Board review at their June 13, 2023 joint worksession.

**Effects of the Proposed Amendments**

The proposed text amendments would necessitate changes to the Tumwater Municipal Code that will be reflected in the ordinance that the Planning Commission and Tree Board review.

**Staff Contact**

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360-754-4180  
[bmedrud@ci.tumwater.wa.us](mailto:bmedrud@ci.tumwater.wa.us)