

Chapter 8

BUILDING

BUILDING CODE

- 8.000 Administration and Enforcement.
- 8.005 Title.
- 8.010 Purpose.
- 8.015 Scope.
- 8.020 Definitions.
- 8.025 Alternate Materials and Methods.
- 8.030 Modifications.
- 8.035 Tests.
- 8.040 Powers and Duties of Building Official.
- 8.045 Appeals.
- 8.050 Plans and Permits.

BUILDING CODE STANDARDS

- 8.055 Structural Code.
- 8.060 Mechanical Code.
- 8.065 Plumbing Code.
- 8.070 Oregon Residential Specialty Code.
- 8.075 Manufactured Home Installations.
- 8.080 Recreational Park and Organizational Camp Regulations.
- 8.085 Dangerous Buildings Code.
- 8.090 Fees.
- 8.095 Severability.
- 8.100 Penalties.
- 8.105 Building Permittee Responsible for Erosion Prevention/Sediment Control.
- 8.110 Cleanup Deposit.
- 8.115 Prevention of Debris Accumulation on Adjacent Sites.

FIRE CODE

- 8.175 Code Adopted.

MOVING BUILDINGS

- 8.200 Permit Required.
- 8.205 Building Classes.
- 8.210 Permit Application--Contents.
- 8.215 Application Approval.
- 8.220 Safety Considerations.
- 8.225 Inspection of Building.
- 8.230 Engineering Considerations.
- 8.235 Insurance.
- 8.240 Unlawful to Leave Building on Streets.
- 8.245 Presence of Engineer.
- 8.250 Moving at Night.
- 8.255 Permit Fees.

HOUSE NUMBERING

- 8.275 Structures to be Numbered.
- 8.280 Map on File.
- 8.285 House Numbers--Furnished by City Manager.
- 8.290 House Numbers--Definition.
- 8.295 Posting Numbers Required.

ELECTRIC AND BARBWIRE FENCES

- 8.300 Barbwire and Electric Fences Prohibited.
- 8.305 Existing Fences.
- 8.310 Exception Procedure.
- 8.315 Permit Required.

COMMUNITY TREE ORDINANCE

- 8.500 Purpose.
- 8.510 Definitions.
- 8.520 Permit Authority.
- 8.530 City Approval Required.
- 8.535 Business License Required.
- 8.540 Fees.
- 8.560 Exemptions.
- 8.570 Development Review and Building Permit Process.

TREE REMOVAL

- 8.610 Contents of Application for Tree Removal.
- 8.620 Permit Process.
- 8.630 Tree Removal Permit Criteria.
- 8.640 Appeal.
- 8.650 Time Limits.
- 8.710 Heritage Trees.
- 8.720 Street Trees.
- 8.730 Emergency Permit Process.
- 8.740 Non-Compliance, Penalty, and Enforcement.
- 8.745 Tree-Topping Prohibited.
- 8.750 Abatement.
- 8.760 Tree Canopy Replacement Account
- 8.795 Fees/Classification of Fees and Costs
- 8.797 Disclaimer of Liability.
- 8.798 General Provisions.

Chapter 8

BUILDING

BUILDING CODE

8.000 Administration and Enforcement.

(1) The City shall provide for the administration of all plan checking, permit, and inspection programs that have been delegated by the State. The City program is applicable to public building, including state building, as well as private building.

(2) As modified by Sections 8.000 to 8.115. The standards applicable to buildings shall be as listed in Sections 8.055 - 8.085.

[Section 8.000 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.005 Title. These regulations shall be known as the City of West Linn Building Code, may be cited as such and will be referred to herein as "this Code."

[Section 8.005 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.010 Purpose. This Code will establish uniform performance standards providing safeguards for health, safety, welfare, comfort and security of these occupants and users of buildings in the City of West Linn and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

[Section 8.010 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.015 Scope. This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

Where, in any specific case, different sections of this code specify different materials, methods of construction or other

requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall control.

[Section 8.015 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.020 Definitions. For the purpose of the Code, the following definition shall apply:

Building Official is the duly appointed officer or other designated authority charged with the administration and enforcement of this code, and includes the Building Official's duly authorized deputies, officers, and inspectors.

[Section 8.020 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.025 Alternate Materials and Methods.

The provisions of this Code are not intended to prevent the use of any alternate material, design or method of construction not specifically prescribed by this Code, provided such alternate has been approved and its use authorized by the Building Official.

The Building Official may approve any such alternate material, design or method, provided the Building Official specifically finds the proposed material, design or method complies with the provisions of this Code and that is, for the purpose intended, at least the equivalent of that prescribed in this Code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The Building Official shall require that evidence or proof be submitted to

Deleted: 12

Deleted: 6

substantiate any claims that may be made regarding the alternate materials, designs or methods. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the Agency.

[Section 8.025 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.030 Modifications. When there are practical difficulties in carrying out the provisions of this code, the Building Official may grant modifications provided the Building Official finds the modification is in conformance with the intent and purpose of this Code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the Code Enforcement Agency.

[Section 8.030 renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.035 Tests. Whenever there is insufficient evidence of compliance with the provisions of this Code or that any material, method or design does not conform to the requirements of this Code, the Building Official may require tests as proof of compliance to be made at no expense to the City of West Linn.

Test methods shall be as specified by this Code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall have the sole and exclusive authority to determine appropriate test procedures. All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the Building Official for the period required for the retention of similar public records.

[Section 8.035 renamed and amended by Ordinance

No. 1399, adopted August 26, 1996.]

8.040 Powers and Duties of Building Official.

(1) **General.** There is hereby established a Code Enforcement Agency which shall be under the administrative and operational control of the Building Official.

The Building Official is authorized to enforce all the provisions of this Code.

The Building Official shall have the power to render written and oral interpretations of this Code and to adopt and enforce administrative procedures in order to clarify the application of its provisions.

(2) **Deputies.** In accordance with prescribed procedures and with the approval of the City, the Building Official may appoint technical officers and inspectors and other employees to carry out the functions of the code enforcement agency. The Building Official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction, so far as is required in the discharge of the duties required by this Code or other pertinent law or ordinance.

(3) **Liability Limitation.** The Building Official charged with the enforcement of this Code, acting in good faith and without malice in the discharge of the duties required by this Code or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the Building Official or employee because of such act or omission performed by the Building Official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the

enforcement of this Code or enforced by the code enforcement agency shall be defended by the City of West Linn until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the City of West Linn.

This Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure for any damages to persons or property caused by defects, nor shall the code enforcement agency or the City of West Linn be held assuming any such liability by reason of the inspections authorized by this Code or any permit or certificates issued under this Code.

(4) **Right of Entry.** When it may be necessary to inspect a building in order to enforce the provisions of this Code, or the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this Code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have the right to seek a search warrant from a judicial officer in order to secure entry.

(5) **Stop Work Orders.** Whenever any work is being done contrary to the provisions of this Code (or other pertinent laws or ordinances implemented through its enforcement), the Building Official may order

the work stopped by giving notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop any and all such work until specifically authorized or released by the Building Official to proceed herewith.

(6) **Authority to Disconnect Utilities in Emergencies.** The Building Official or the Building Official's authorized deputy shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within 24 hours thereafter.

(7) **Authority to Abate Hazardous Equipment.** When the Building Official ascertains that equipment, or any portion thereof, regulated by this Code has become or is hazardous to life, health or property, the Building Official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the equipment after receiving said notice, until authorized to do so by the Building Official.

When equipment (or an installation) is to be disconnected, written notice of the disconnection (and causes therefor) shall be given within 24 hours to the involved utility, the owner and/or occupant of the building, structure or premises. When equipment is used or maintained in violation of this Code

and in violation of a notice issued pursuant to the provisions of this section, the Building Official may institute such action as he/she deems necessary to prevent, restrain, correct or abate said use or maintenance.

(8) **Connection after Order to Disconnect.** No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this Code which has been disconnected or ordered disconnected or discontinued by the Building Official until the Building Official specifically authorized the reconnection and/or use of such equipment.

(9) **Maintenance.** All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this Code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the Building Official may cause a structure to be reinspected.

(10) **Occupancy Violations.** Whenever any building, structure or equipment therein regulated by this Code is used contrary to the provisions of this Code, the Building Official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official in his notice and make the structure, or portion thereof, comply with the requirements of this Code.

[Section 8.040 amended by Ordinance No. 1382, adopted October 23, 1995; renamed and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.045 Appeals.

(1) **Board of Appeals.** In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code, there shall be and is hereby created a Board of Appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the City of West Linn. The Building Official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The Board of Appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this Code nor shall the board be empowered to waive requirements imposed by this Code.

(2) **Appeal Procedure.** Any decision relating to the suitability of alternate materials and methods of construction or interpretation by the Building Official with regard to the Building Code may be appealed to the Board of Appeals in conformance with procedures provided herein.

[Section 8.045 amended by Ordinance No. 1399, adopted August 26, 1996.]

8.050 Plans and Permits.

(1) **Issuance.** The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the Building Official. Such plans may be reviewed by other West Linn departments to verify compliance with any

applicable laws under their jurisdiction. If the Building Official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this Code and other pertinent laws and ordinances, and that the fees have been paid, the Building Official shall issue a permit therefor to the applicant.

When the Building Official issues the permit where plans are required, the Building Official shall endorse in writing or stamp the plans and specifications APPROVED. Such approved plans and specifications shall not be changed, modified or altered without authorizations from the Building Official, and all work regulated by this Code shall be done in accordance with the approved plans.

The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this Code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

(2) **Retention of Plans.** One set of approved plans, specifications and computations shall be retained by the Building Official for a period of not less than 90 days from date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, with said set being kept at the site of the building or work at all times during which the work authorized thereby is in progress.

(3) **Validity of Permit.** The issuance or granting of a permit or approval of plans, specifications and computations

shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Code or of any other ordinance of the jurisdiction or any other federal, state, or local law, statute, rule, regulation, or ordinance.

The issuance of a permit based on plans, specifications and other data shall not prevent the Building Official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Code or of any other ordinances of the City of West Linn.

(4) **Expiration of Plan Reviews.**

Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(5) **Permit Expiration, Extension and Reinstatement.** Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section.

Every permit issued by the Building Official shall expire by limitation and become null and void if the building or work authorized by

such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the Building Official to indicate the intent to start and complete the project. The Building Official may require the permittee to document these activities.

Every permit issued by the Building Official shall expire by limitation and become null and void 24 months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

EXCEPTION: At the time of permit issuance, the Building Official may approve a period exceeding 24 months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within 24 months unreasonable.

Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days or written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

When a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

(a) The Building Code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.

(b) No changes have been made or will be made in the original plans and specifications for such work.

(c) The original permit expired less than one year from the request to reinstate.

The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

(6) Work Without a Permit/ Investigation Fees. Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from any penalty prescribed by law.

(7) Not Transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

(8) Suspension/Revocation. The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in

error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the City Code.

(9) **Inspections.** It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the Building Official. The permit holder shall not proceed with construction activity until authorized to do so by the Building Official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the Building Official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the Building Official.

[Section 8.050 repealed by Ordinance No. 1382, adopted October 23, 1995; amended by Ordinance No. 1399, adopted August 26, 1996.]

BUILDING CODE STANDARDS

8.055 Structural Code.

(1) Enforcement of State Code.

The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, including the following optional provisions, is adopted and enforced as part of this Code:

(A) Appendix Chapter G Flood-Resistant Construction.

(B) Appendix Chapter J Grading.

(C) Appendix Chapter K Fire-Extinguishing Systems.

[Section 8.055 added by Ordinance No. 1399, adopted August 26, 1996; amended by Ordinance No. 1481, adopted January 9, 2002. Section 8.055(3) Excavation and Grading/Erosion Control is repealed by Ordinance No. 1481, adopted January 9, 2002; Section 8.055 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.060 Mechanical Code.

(1) Enforcement of State Code.

The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, is adopted and enforced as part of this Code.

[Section 8.060 added by Ordinance No. 1399, adopted August 26, 1996; Section 8.060 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.065 Plumbing Code.

(1) Enforcement of State Code.

The Oregon Plumbing Specialty Code, as adopted by 918-750-0110, is adopted and enforced as part of this Code.

[Section 8.065 added by Ordinance No. 1399, adopted August 26, 1996; Section 8.065 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.070 Oregon Residential Specialty Code.

(1) Enforcement of State Code.

The Oregon Residential Specialty Code, as adopted by OAR 918-480-0005 and 918-480-0010, is adopted and enforced as part of this Code.

[Section 8.070 added by Ordinance No. 1399, adopted August 26, 1996; Section 8.070 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.075 Manufactured Home Installations.

(1) Enforcement of State Rules.

The manufactured dwelling rules, as adopted by OAR 918-500-0000 through 918-500-470 and OAR 918-520-0010 through 918-520-0020, are enforced as part of this Code.

[Section 8.075 added by Ordinance No. 1399, adopted August 26, 1996; Section 8.075 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.080 Recreational Park and Organizational Camp Regulations.

(1) Enforcement of State Rules.

The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0080, are enforced as part of this Code.

[Section 8.080 added by Ordinance No. 1399, adopted August 26, 1996; Section 8.080 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.085 Dangerous Buildings Code.

(1) Unsafe Buildings. All buildings or structures regulated by this Code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members

which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages.

All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Buildings Code or such alternate procedures as may have been or as may be adopted by the City of West Linn. As an alternative, the Building Official, or another employee or official of the City of West Linn, as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

(2) **Adoption of Uniform Abatement of Dangerous Buildings**. The current ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by the City of West Linn.

[Section 8.085 added by Ordinance No. 1399, adopted August 26, 1996]

8.090 FEES

The City Council shall by resolution establish fees for permits and inspections under this chapter. Any permit or inspection fee previously established by ordinance shall remain in effect until a new fee is established by resolution. For permit or inspection fees regulated by the State of Oregon for which no fee is set by resolution, the fee amount shall be the maximum allowed by the State. For any permit or inspection fee not established by resolution but for which an amount is set by a code adopted under this Chapter, the fee shall be the amount set in

the adopted code.

The Building Official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction.

The determination of value or valuation under any provisions of this code shall be made by the Building Official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

[Section 8.090 added by Ordinance No. 1399, adopted August 26, 1996; Section 8.090 amended by Ordinance No. 1530 adopted January 30, 2006.]

8.095 SEVERABILITY.

If any section, paragraph, subdivision, clause, sentence, or provisions of this Code shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the Code, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Code notwithstanding the parts to be declared unconstitutional and invalid.

[Section 8.095 added by Ordinance No. 1399, adopted August 26, 1996]

8.100 PENALTIES.

Any person violating any of the provisions herein for which a special penalty has not

been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed \$1000 per violation. Each day that a violation exists is a separate offense.

[Section 8.100 added by Ordinance No. 1399, adopted August 26, 1996]

8.105 Building Permittee Responsible for Erosion Prevention/Sediment Control

(1) Before a building permit may be issued for any project that will disturb vegetation or soil, the applicant shall obtain an erosion control permit.

(2) The applicant for a building permit, or if no building permit is applied for, the owner of the property, shall at all times be responsible for:

(a) The implementation, construction, maintenance, replacement and upgrading of all necessary erosion and sediment control measures consistent with the Clackamas County Erosion Prevention and Sediment Control Plan - Technical Guidance Handbook. The applicant or owner is responsible to ensure that no visible or measurable sediment leaves the permitted site; and

(b) Preventing debris, dirt, and foreign material from entering the public right of way, other public property, or the City's surface water drainage system either by direct or indirect deposit, discharge, or erosion.

(c) Removing all debris and excess dirt from the development or project. Dirt may be stored for future use/fill if the storage does not create a risk of erosion or sedimentation, but all excess dirt must be removed prior to completion and final inspection.

The applicant shall remain responsible for

compliance with these standards until final inspection and approval, including issuance of a certificate of occupancy, if applicable.

(3) The City Building Official, the City Engineer, or their delegates may issue a stop work order for any violation of this section and shall not permit any work to proceed until required erosion and sediment control measures are in place.

(4) The City may at any time take action to prevent the entry of sediment, dirt, debris or foreign materials onto the public right of way, public property, or into the City's drainage system.

(5) If the City is forced to take action to prevent the entry of sediment, dirt, debris, or foreign materials onto the public right of way, public property, or into the City's drainage system as a result of a violation of subsection 2 of this section, the responsible applicant or owner shall reimburse the City for the full cost of the City's actions, including administrative and legal costs. If the City hires a subcontractor, the full cost shall include any amount paid to the contractor plus any additional costs of administration. The following procedure shall be used:

(a) The City Manager, by registered or certified mail, postage prepaid, shall forward to the owner of the property and applicant if any, a notice stating:

(i) The total cost of the City's action, including the administrative overhead;

(ii) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice unless a notice of objection is filed;

(iii) That if the owner or person in charge of the property objects to the cost of the City's action as

indicated, he may file a notice of objection and request for hearing with the City Manager not more than ten days from the date of notice.

(b) The Council shall consider any objection and determine the amount to be paid at its first regularly scheduled meeting more than two days after the objection is filed.

(c) If the costs of the City's action are not paid within thirty days from the date of the notice if no objection is filed, or ten days from the date of hearing if an objection is filed, the costs as stated in the notice or as determined by the Council shall be entered in the docket of City liens and, upon such entry being made, shall constitute a lien upon the property where the violation occurred.

(d) The lien shall be enforced in the same manner and have the same priority as liens for street improvements and shall bear interest at the rate of nine percent per year. Such interest shall commence to run from date of the entry of the lien in the lien docket.

(e) An error in the name of the owner or person in charge of the property shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

6. The applicant shall provide the City with information where a responsible contact person can be reached at all times to ensure immediate response to any threatened or actual erosion or sedimentation.

7. Under emergency situations, the City may enter into the permitted property to prevent erosion or sedimentation that presents a danger to the public health, safety or welfare.

8. Violation of subsections 2 or 6 of this section shall be a Class A Civil Infraction.

[Section 8.105 added by Ordinance No. 1399, adopted August 26, 1996; amended by Ordinance No. 1453, adopted June 12, 2000.]

8.110 Cleanup Deposit.

In the event there are three or more occasions within a calendar year when the City is forced to clean up debris, dirt or foreign material on sidewalks or roadways from an individual building site, the applicant for the building permit shall deposit with the City a sum in an amount set by council resolution which shall be retained by the city as a fund to utilize for street-cleaning purposes pursuant to the provisions of sections 8.000 to 8.115. Failure of the building permit applicant to maintain said sum for a period of over ten days shall result in the issuance of a stop-work order, which shall remain in effect until the fund is restored by the applicant for the building permit.

[Section 8.110 added by Ordinance No. 1399, adopted August 26, 1996]

8.115 Prevention of Debris Accumulation on Adjacent Sites.

Before a building permit shall be issued for the purposes set forth in Section 8.110, the applicant for the building permit shall agree that, if required by the City, he/she will deposit rock and gravel to the specifications of the City in such locations and quantity adjacent to and on the building site so as to help prevent the deposit of debris, dirt, or other foreign material from the building site upon adjacent sidewalks and roadways.

[Section 8.115 added by Ordinance No. 1399, adopted August 26, 1996]

FIRE CODE

8.175 Code Adopted.

(1) For the purposes of prescribing regulations and governing conditions hazardous to life and property from fire or explosion, the 2007 Oregon Fire Code based on the 2006 International Fire Code (IFC) as amended by the Oregon Fire Marshal's Office and Tualatin Valley Fire and Rescue (TVF&R) is adopted as part of this code.

(2) The 2006 International Fire Code Standards, a companion document to the 2006 International Fire Code, as adopted by TVF&R, is adopted as part of this code.

[Section 8.075 renumbered 8.175 by Ordinance No. 1399, adopted August 26, 1996; amended by Ordinance No. 1438 adopted June 28, 1999 and effective July 1, 1999; Section 8.175 amended by Ordinance No. 1530 adopted January 30, 2006; Section 8.175 amended by Ordinance No. 1560 adopted February 11, 2008]

MOVING BUILDINGS

8.200 Permit Required. It is unlawful for any person, firm or corporation to move any building or structure upon, over, or along with any public street, alley or highway within the city without first obtaining a permit from the city engineer. The provisions of sections 8.200 to 8.255 shall not apply to the moving or hauling of any building or structure loaded upon a truck when such building or structure is of a size and weight not exceeding the maximum width, length, height, or weight of a truck load that may be lawfully moved over a public highway without a special permit from the Oregon Department of Transportation or any other public authority.

[Section 8.100 renumbered 8.200 and amended by

Ordinance No. 1399, adopted August 26, 1996.]

8.205 Building Classes. For the purpose of sections 8.200 to 8.255, buildings and structures to which the provisions herein are applicable shall be separated into three classes, namely:

(1) Class One. Frame buildings only, having an overall width not exceeding 14 feet and an overall length not exceeding 22 feet, when moved as a load upon a motor truck;

(2) Class Two. Frame buildings only, having an overall width at least two feet less than the width of the most narrow street, measured from curb to curb, along the route over which any such building or structure is to be moved, the moving of which will be done on pneumatic dollies; and

(3) Class Three. All buildings or structures for the moving of which a permit is required, and not included in Classes One and Two, having an overall width of at least two feet less than the width of the most narrow street, measured from curb to curb, along the route over which any such building or structure is to be moved.

[Section 8.105 renumbered 8.205 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.210 Permit Application--Contents.

(1) Application for a permit to move any building or structure upon, over, or along any public street, alley, or highway shall be made in writing at the office of the city engineer upon a form provided by the engineer. The application, which shall be signed by the owner of the building or structure to be moved or by the person, firm, or corporation engaged to move the same, shall contain the following information:

(a) The name and address of the owner of the building or structure;

(b) The location of the building before moving;

(c) The location where the building is proposed to be set or reestablished;

(d) The type, age, width, length, and height of the building;

(e) The use or purpose for which the building was designed;

(f) The use or occupancy to be made of the building at its new location;

(g) The name and address of the person, firm, or corporation engaged to move the building;

(h) The means or manner the building is to be moved and type of equipment used therefore;

(i) The route over or along which the buildings are to be moved;

(j) The time that will be required to move the building including the day and hour when any part thereof will enter any street and the approximate date and hour every part of the building will be off of every street, alley, or highway, and the time that will be required to complete the reestablishment and relocation of the building upon its new site; and

(k) Such other information as the city engineer may deem necessary.

(2) Where the building is to be moved outside of the corporate limits of the city the information required by subsections (1)(e) and (1)(f) of this section need not be given.

(3) Except as to Class One buildings, less than fourteen feet in height, there shall be attached to the application signed written statements from each person, firm, or corporation owning or operating any public utility maintaining any wires, conduits, cables, poles, or other appliances, or appurtenances thereto, along, over, or across any street, alley, or highway along the route

over which the building or structure is to be moved by or for the applicant, which statements shall state or set forth that the moving of such building will not molest, damage, or interfere with, or interrupt the service of, any such wires, conduits, cables, poles, or other appliances, or appurtenances or that the applicant has made appropriate arrangements for clearing the same at the time the building is to be moved.

(4) Any such application shall also contain a statement or agreement to the effect that the applicant will not damage any real or personal property upon, along, or adjacent to any street, alley, or highway while moving any building and that in case any damage is so caused, that the applicant will pay therefor.

(5) The application for the moving of a building shall be accompanied by plans and specifications drawn upon substantial paper which shall indicate the nature and extent of the exterior work proposed in connection with the relocation and reestablishment of the building, and such other data as may be required by the city engineer.

[Section 8.110 renumbered 8.210 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.215 Application Approval.

No permit shall be issued by the city engineer until the application therefor is approved by the chief of police, the building inspector, the city engineer, and, in case of Class Three buildings, and houses or buildings of any class moved within or into the most restricted residential district as such districts are classified by the West Linn zoning ordinance, by the city council, and will not then unless the person, firm, or corporation who will move the building has furnished a bond or insurance as provided in sections 8.200 to 8.255.

[Section 8.115 renumbered 8.215 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.220 Safety Considerations.

The chief of police shall consider the probable effect of the proposed moving on the public safety, and he shall not approve the application for moving permit except where such moving will not jeopardize the public safety and the route proposed to be followed is the one least dangerous to the citizens of the city and the general public.

[Section 8.120 renumbered 8.220 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.225 Inspection of Building.

The building inspector shall inspect the building to be moved, and, if he finds that the building is of substantial construction and in condition that it may be moved without collapsing or falling apart and without endangering any person upon, along, or adjacent to any public street, and further finds that the building is designed and adaptable for the purpose, use or occupancy to which it is proposed to put the same at the new location and that it conforms to the requirements of the fire zone of the new location, then he shall approve the application.

[Section 8.125 renumbered 8.225 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.230 Engineering Considerations.

The city engineer, before approving an application for a permit to move any building or structure, shall determine the size and dimensions of the building, and shall not approve an application for the moving of any building of a greater size than permitted under sections 8.100 to 8.155. The city engineer shall further determine that the mover has safe and sufficient equipment and facilities for moving the building or structure within the time allowed by the engineer for such moving, and that the mover has sufficient and adequate barricades, lights, flags and personnel for warning the public both

day and night, and for the safe direction of traffic and that the streets and the bridges in the streets, along the route to be traversed by the moving are of sufficient width and strength and in condition to bear the moving of the building or structure described in the application, and that such moving will not endanger any trees, shrubs, or improvements in, upon, or adjacent to any street. In addition to the matters in this section enumerated, the engineer shall require compliance of all provisions of sections 8.100 to 8.155 which are a prerequisite to the granting of a moving permit.

[Section 8.130 renumbered 8.230 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.235 Insurance.

No permit to move a building or structure shall be granted unless the movers shall furnish a certificate of public liability insurance which shall be approved by the city attorney as follows:

(1) For the moving of a building or structure in Classes One, Two or Three as hereinabove set forth, the mover shall furnish a certificate of public liability insurance with the following coverage limits: \$500,000 property damage, \$100,000 personal injury for any one person, and \$500,000 personal injury for any one occurrence. Said certificate shall provide that the mover shall be responsible for any injuries or for the death of any person or persons and any damage to any property or any person, and damages to streets, bridges, and other public property owned or maintained by the city, or any other public corporation, on account or by reason of any of the operations of the mover while engaged in the moving of any building or structure, including injuries or damages occasioned by the falling or collapsing of, or the weight of, or collisions with any such building or structure.

(2) Before issuing any permit, the city manager shall also require the owner of the building to provide a bond or cash security in an amount approved by the city engineer to be filed in the office of the city manager, and to be conditioned that in the relocation and the reestablishment of any building that is moved, the principal will make and complete such relocation and reestablishment in accordance with the plans and specifications submitted with the application, as provided in section 8.210, and in substantial accordance with the regulations and provisions contained in sections 8.200 to 8.255 or any other ordinance of the city, and that in case the principal fails to do so, make and complete such relocation and reestablishment, then the surety upon such bond will be liable to the city and have cash security to be deposited in lieu of a surety bond, then the council may forfeit all or a portion of such deposit in case the applicant or owner of the building fails to complete the relocation thereof in accordance with the plans and specifications set forth.

[Section 8.135 renumbered 8.235 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.240 Unlawful to Leave Building on Streets.

After a building or any part thereof extends over or into or is upon any part of any street, alley, or highway, by virtue of the moving thereof, the person, firm, or corporation moving the same shall diligently and continuously employ himself, his, their or its agents, employees and facilities in the moving of such building until the same reaches its destination, or is removed from any and all streets, alleys, or highways, and, except when the mover shall have the permission of the city engineer, it is unlawful for any such mover to leave standing or abandon the moving of such building while the same or any part thereof is in or upon

any part of any street, alley, or highway.

[Section 8.140 renumbered 8.240 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.245 Presence of Engineer. The city engineer, or his deputy or such inspector or inspectors as the engineer may designate, shall be present and about any building or structure being moved at all times the same is within any street.

[Section 8.145 renumbered 8.245 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.250 Moving at Night. In case any building is moved at night, the mover shall provide such barricades, lights, flares, and watchmen as may be necessary to safeguard the traffic and persons using the street.

[Section 8.150 renumbered 8.250 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.255 Permit Fees. When application is made for a permit under sections 8.200 to 8.255, the applicant shall pay permit fees in an amount set by council resolution.

[Section 8.155 renumbered 8.255 and amended by Ordinance No. 1399, adopted August 26, 1996.]

HOUSE NUMBERING

8.275 Structures to be Numbered. The city shall be laid out into certain areas, and structures within these areas shall be given numbers as a means of facilitating identification of said structures.

[Section 8.175 renumbered 8.275 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.280 Map on File. There shall be on file with the city manager a map or similar means of furnishing to applicants who reside within the city limits of West Linn a "house number" and said number is to be the identification for a structure at a certain loca-

tion on a street.

[Section 8.180 renumbered 8.280 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.285 House Numbers--Furnished by City Manager. House numbers shall be furnished to applicants by the city manager free of any cost to the applicant.

[Section 8.185 renumbered 8.285 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.290 House Numbers--Definition. By "house numbers", it shall be understood to be an identification only that is given to the applicant.

[Section 8.190 renumbered 8.290 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.295 Posting Numbers Required. All residential, commercial, and industrial structures for which a house number has been designated by the city, shall bear upon the front thereof or upon a post or standard at or near the street, house numbers which are clearly legible from the street. House number designations in Roman numerals shall be prohibited. No new residential, commercial, or industrial structure may be issued an occupancy permit by the city without complying with this section. Upon issuance of a building permit for the new construction of a structure which will require marking by permanent house number after the completion thereof, there shall be posted upon the premises or upon a post or standard near the street, temporary house numbers clearly legible from the street.

[Section 8.195 renumbered 8.295 and amended by Ordinance No. 1399, adopted August 26, 1996.]

ELECTRIC AND BARBWIRE FENCES

8.300 Barbwire and Electric Fences Prohibited. No person, firm or

corporation shall erect, construct, or maintain any barbwire or electric fence within the city unless the requirements of section 8.310 are met, or unless it is erected with the purpose of containing livestock upon a lot of a minimum of one acre in area; provided further, that in said one acre lot at least 20,000 square feet must be present per head of livestock. In addition to the above requirements, no barbwire or electric fence may be erected, constructed, or maintained within five feet of the right-of-way of any public street, alley, pedestrian way, bike way, hiking trail, or other public way; and further provided, that no such fence may be located within 100 feet of a residence other than a dwelling upon the same lot, except that an electric fence may be located within 100 feet of a residence other than a dwelling upon the same lot if the requirements of section 8.310 are met.

[Section 8.200 renumbered 8.300 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.305 Existing Fences. The owner, occupant, or custodian of the premises upon which there is situated a barbwire or electric fence existing on the effective date of the ordinance codified in sections 8.300 to 8.315 which is in violation of the requirements set forth herein, shall be notified by the city manager by certified or registered mail of the existence of said violation. The notice shall provide that such existing fence must be removed within 30 days of receipt of said notice. Failure to remove a violating barbwire or electric fence within said 30-day period shall constitute a violation of sections 8.300 to 8.315.

[Section 8.205 renumbered 8.305 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.310 Exception Procedure. The city manager shall have the authority to authorize issuance of permits for the erection, construction, or maintenance of electric fences

other than electric fences for the containment of livestock as set forth in section 8.300 if he finds that all of the following requirements are met:

(1) That the electric fence is located within an entirely fenced and/or enclosed area in which appropriate and suitable measures have been taken to render the area secure from children other than children of the owners, occupants, or custodians of the premises.

(2) That the electric fence shall be utilized for the sole purpose of preventing damage to property of the owner, occupant or custodian of the premises by wild animals, such as raccoons, opossums, or deer. Substantial evidence of the presence of a threat of such damage and that there are no other reasonable methods of control must be established to the satisfaction of the city manager.

(3) Appeal of any decision of the city manager pursuant to the terms of sections 8.300 to 8.315 may be made by any interested party to the city council within 15 days of the date of the city manager's decision.

[Section 8.210 renumbered 8.310 and amended by Ordinance No. 1399, adopted August 26, 1996.]

8.315 Permit Required. Prior to erecting or constructing any barbwire or electric fence pursuant to sections 8.300 or 8.310, the person, firm or corporation erecting such fence or desiring to erect the same shall first obtain a permit from the city. The application for such permit shall be accompanied by an accurate scale drawing which shall indicate the location of such fence with reference to any public way, property line and structure. No fee shall be charged for such a permit.

[Section 8.215 renumbered 8.315 and amended by Ordinance No. 1399, adopted August 26, 1996.]

[Sections 8.400 to 8.495 (Street Trees) repealed by Ordinance No. 1503, adopted May 5, 2004, adding new Sections 8.500 to 8.798.]

[Section 8.395 renumbered 8.495 and amended by Ordinance No. 1399, adopted August 26, 1996.]

COMMUNITY TREE ORDINANCE

8.500 PURPOSE. The purpose of Sections 8.500 to 8.798 is to ensure that the City and any areas that may become part of the City of West Linn will continue to realize the benefits provided by its urban forest, and to establish a process and standards which will minimize uncontrolled cutting or destruction of trees or wooded areas within West Linn. It is the intent of Sections 8.500 to 8.798 to establish, maintain, and increase the quality of tree cover on public and private lands within the City; maintain City trees in a healthy and non-hazardous condition through good arboricultural practices; and to provide a stable and sustainable urban forest. Sections 8.500 to 8.798 also recognize the value of the urban forest for its effect enhancement of the urban environment in the following ways:

1. Healthy, well-maintained trees enhance business and residential environmental and property values.
2. Trees reduce air pollution by trapping dust on their leaves and in their bark, while also absorbing gaseous and liquid pollutants in their leaves and roots and returning oxygen to the atmosphere.
3. Tree roots stabilize the soil and impede erosion.
4. Trees reduce summer heat by blocking direct sunlight and glare. Evaporation of moisture from the leaves cools the surrounding air and

moderates temperatures. Trees preserve and enhance water quality in streams and rivers.

5. Trees soften the geometric rigidity and hard surfaces of streets and buildings.
6. Trees muffle and buffer city noises.
7. Trees are recognized by a majority of residents as an essential component to community livability and quality of life. Trees foster a sense of connection to the natural environment and are widely considered to be a key component to the overall aesthetics of a community.

It is the goal of the City of West Linn, through implementation of this ordinance and through other measures designed to encourage and promote tree conservation and planting on both public and private lands, to maintain and increase tree canopy coverage within the City. In addition to and separate from this ordinance are standards concerning trees and tree protection in the Community Development Code (CDC).

[Section 8.500 added by Ordinance No. 1503, adopted May 5, 2004]

8.510 DEFINITIONS.

Basal Flare: That portion of a tree where there is a rapid increase in diameter at the confluence of the trunk and root crown.

Building footprint: The two-dimensional configuration of an existing building's perimeter boundaries as measured on a horizontal plane at ground level.

Business Days: Monday through Friday – exempting any holidays.

Calendar Days: All days as noted on a calendar, inclusive of weekends and holidays.

Certified Arborist: An individual who has either obtained certification as an arborist from the International Society of Arboriculture, or who is a member of the American Society of Consulting Arborists.

City Arborist: The person designated as such by the City Manager.

City Manager: The City Manager or his/her designee.

City Right of Way: Land that is not owned by a private individual or company that has been either deeded or dedicated to the City for a public purpose. As referred to with a road, the area of the road and area adjacent to the road in City ownership.

DBH: Diameter at Breast Height is a tree's diameter (circumference) at 4-1/2 feet or 54 inches above the highest natural ground level. DBH measured in this fashion is considered the accepted method for measuring the size of a tree, by both industry and scientific standards.

Dead Tree: A tree that is dead or has been damaged beyond repair or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs, or branches exists to sustain life) and has been determined to be such by a certified arborist.

Disturbance: All of the various activities from construction or development that may damage trees.

Drip line area: The area under the tree's canopy as defined by an imaginary vertical

line extending downward from the outermost tips of a tree's natural length branches to the ground.

Erosion: Detachment and movement of soil, rock fragments, mulch, fill, or sediment.

Excessive pruning: Removal of more than one-third of the functioning leaf, stem, or root area of a tree in any twelve-month period, or removal of foliage so as to cause the unbalancing of a tree. Removal of more than one-third of functioning leaf, stem, or root area is considered a tree removal.

Groves: A group of two or more trees with meeting or overlapping canopies. The trees need not be the same species.

Hazard tree: Any tree with a structural defect and/or disease which makes it subject to a high probability of failure, and which threatens persons or property, including other trees.

Hazardous Growth Habit: The development of a tree that, due to a combination of structural defect, disease, or existing disturbance, is subject to a high probability of failure; and such failure would result in a threat to persons or improved property.

Heritage Tree: A tree designated by the City Council as having significant historic or community value to the City of West Linn.

ISA: International Society of Arboriculture.

Injury: A wound resulting from any activity, including but not limited to excessive pruning, cutting, trenching, excavating, altering the grade, or paving/compaction within the tree protection zone of a tree.

Injury shall include bruising, scarring, tearing or breaking of roots, bark, trunk branches or foliage, herbicide or poisoning, or any other action foreseeable leading to the death or permanent damage to tree health.

Permit Fee: A fee for tree removal permits shall be established by Council resolution.

Protected Tree: All trees that are specifically designated to be saved on private property pursuant to an approved development permit, or for which the City Manager has not issued a tree removal permit. Protected trees are to be indicated on building permit or development plans submitted for approval.

Protected Tree Fencing: A temporary enclosure erected around a tree to be protected at the boundary of the tree protection zone. The fence serves three primary functions: 1) to keep the foliage crown, branch structure and trunk clear from direct contact and damage by equipment, materials, or disturbances; 2) to preserve roots and soil in an intact and non-compacted state; and 3) to identify the tree protection zone in which no soil disturbance is permitted and activities are restricted.

Soil Compaction: The compression of soil particles that may result from the movement of heavy machinery and trucks, storage of construction materials, structures, paving, etc., within the tree protection zone. Soil compaction can result in atrophy of roots and potential death of the tree, with symptoms often taking years to manifest.

Street Tree: Any tree planted by the City or authorized to be planted by another party in a Right of Way and designated as such. Street Trees do not include existing native or

non-native trees or new plantings that are not authorized by the City.

Topping: The severe cutting back of a tree's limbs within the tree's crown so as to remove the natural canopy and disfigure the tree.

Deleted: ¶

Tree: For the purposes of determining whether a tree removal permit is required, the following definition of Tree is used. Only those trees that meet or exceed the size standards stipulated in this definition require permits to be removed. It is to be explicitly understood, however, that within this Ordinance there are some references to "Tree" or "Trees" (such as with street trees or replacement trees) where the term "Tree" is used (because it would be cumbersome to invent a different term) but to which the size requirements do not apply.

Any woody, perennial plant, deciduous, evergreen, or coniferous, having a main stem or trunk of a minimum of 6 inch DBH for Oregon white oak, Pacific madrone, and Pacific dogwood, and 12 inch DBH for all other tree species. Trees with multiple trunks will be measured at the 54-inch standard and computed as a total DBH. Plants that otherwise meet the above description but are typically grown as shrubs will not be considered trees. Some typical examples of these we see commonly are hazelnut, photinia, and laurel.

(Note: Also see Exemptions – Section 8.560)

Tree Appraisal: A method of determining the monetary value of a tree as it relates to the real estate value of the property, neighborhood, or community. When required, a certified arborist determines the appraisal

by adjusting a tree's basic value by its condition, location, and species using the most recent edition of the *Guide for Plant Appraisal*, published by the Council of Tree and Landscape Appraisers.

Tree Canopy: For the purposes of determining tree removal, it is the sum total of the branch and leaf structure of a tree including the trunk and/or trunks. When referred to as the City tree canopy, it refers to the total ground area that is shielded by tree foliage as would be determined from an aerial view of the City.

Tree Protection and Preservation Plan: A plan prepared by a certified arborist that outlines measures to preserve protected trees on a project site. This plan shall include requirements for pre-construction, treatments during demolition and/or construction, establishment of a tree protection zone for each tree, tree monitoring and inspection schedule, and provide for continuing maintenance of those trees after construction according to the requirements in this Manual.

Tree Protection Zone (TPZ): Unless otherwise specified by a project arborist or City Arborist, the area of temporary fenced tree enclosure. The Tree Protection Zone is a restricted activity zone where no soil disturbance is permitted, unless otherwise approved. The TPZ will normally be measured at ½ foot radius per caliper inch for any given tree.

Tree Removal: Any of the following: (1) Complete removal, such as cutting to the ground or extraction, of a tree; (2) Taking any action foreseeably leading to the death of a tree or permanent damage to its health; including but not limited to excessive

pruning, cutting, girdling, poisoning, over watering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, compacting the soil or paving within the drip line area of a tree; (3) removal of more than one-third of functioning leaf and stem area of a tree in any 12-month period, or removal of foliage so as to cause the unbalancing of a tree is considered as removal for purposes of this ordinance. For fruit-bearing trees, see Section 8.560.

Visually Prominent: Visible from 1000 feet of the tree. Removal of a visually prominent tree would result in a marked difference in a view from an adjacent property or from a public right-of-way.

[Section 8.510 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.510 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.520 PERMIT AUTHORITY. The City Manager, or designee, shall have the authority to issue tree removal permits. In the absence of the City Manager, the City Council shall delegate this authority to another City employee.

[Section 8.520 added by Ordinance No. 1503, adopted May 5, 2004]

8.530 CITY APPROVAL REQUIRED.

Unless specifically exempted, any removal of a tree as defined by this ordinance within the City of West Linn on public or private lands shall require a tree removal permit.

[Section 8.530 added by Ordinance No. 1503, adopted May 5, 2004]

8.535 BUSINESS LICENSE REQUIRED.

It shall be unlawful for any person to engage in the business, occupation or profession of tree pruning or removal within the corporate limits of the City of West Linn

without first obtaining a business license therefore as provided in sections 7.000 to 7.080 of this code.

[Section 8.535 added by Ordinance No. 1503, adopted May 5, 2004]

8.540 FEES.

The City Council shall have the authority to set a tree removal permit fee schedule, and approve appropriate permit application forms. Such fees shall be adopted by Ordinance of the City Council. The fee for a tree removal permit shall be zero.

[Section 8.540 added by Ordinance No. 1503, adopted May 5, 2004]

8.560 EXEMPTIONS.

ORCHARD TREES, TREE FARMS, AND COMMERCIAL NURSERIES EXEMPTION: The City shall not require a permit for removal of trees that are being grown for orchard trees, tree farms and commercial nurseries.

FRUIT BEARING TREES, NON-COMMER-CIAL, EXEMPTION: Recognizing that the generally accepted pruning of some trees, such as fruit-bearing trees, requires significantly more pruning without damage to the trees, such pruning shall be exempt from the permitting process.

[Section 8.560 added by Ordinance No. 1503, adopted May 5, 2004]

8.570 DEVELOPMENT REVIEW AND BUILDING PERMIT PROCESS.

A. Development Review

1. Any tree which has been approved for removal through the development review process (governed by the Community Development Code, or CDC), either as part of the provision of public improvements or as part of the ultimate

development of the site, shall not require an additional tree-removal permit. However, any tree not approved for removal through the development review process, but later is found to require removal during the public improvement or grading review process, shall require approval of a tree removal permit by the City. In such cases, in addition to the findings in Section 8.630, the City may consider whether alternative public improvements or grading plans are feasible and can result in saving the threatened tree.

2. Non-compliance with CDC governed trees shall result in enforcement in accordance with section 8.740 of this code, in addition to any penalties set forth in the CDC.

B. Building Permits

1. Trees that are within the otherwise approved footprint of a project requiring a building permit will not need an additional permit for removal.

2. The City may require the applicant to make minor modifications to a building plan to save significant trees on the property, provided other City mandated regulations, such as lot setback distances, are met. Minor modifications include but are not limited to moving the footprint to a different location on the lot and changes to the driveway shape and location.

C. Details and specifications regarding tree protection and removal for trees governed by the CDC and building permits can be found in the City's Tree Technical Manual.

[Section 8.570 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.570 amended by Ordinance No. 1542, adopted November 27, 2006.]

TREE REMOVAL

8.610 CONTENTS OF APPLICATION FOR TREE REMOVAL. A permit shall be

required to remove any tree in West Linn unless such permit is waived by the City Manager. For the purposes of this ordinance, only trees meeting the criteria set forth in the definitions section (8.510) and Street Trees section (8.720) are required to get a permit. Trees of smaller diameter than the standards stipulated in WLMC 8.510 do not require a permit to be removed.

The application shall include:

1. A completed Tree Removal Permit Application. This includes the following information:
 - a. The owner's name, address, and phone number;
 - b. The site address for the tree removal;
 - c. The number, diameter, and species of trees requested to be removed;
 - d. Reasons justifying the removal, referencing the criteria in section 8.630;
 - e. The owner's signature and date.
2. A site plan of the property upon which the tree proposed for removal is located. Applicants may use maps available through the City's GIS mapping system. The site plan should show the following:
 - a. The location of the tree(s) to be removed;
 - b. The location of any existing building footprint(s);
 - c. The location of any new or planned building expansion(s). (This applies to construction that is exempt from permitting under the Building Code.);

d. The location of any paved or concreted areas on the property.

3. After clearly marking the tree(s) on the property with brightly colored tape, the applicant shall take and include with the application photograph(s) of the tree(s) to be removed and the surrounding area.
4. The applicant may, at their discretion, submit a report by an arborist on the health and structure of the tree(s) to be removed and the impact of such removal upon surrounding trees. In no way should this be construed to mean that the City requires such a report, except as noted below. Reports from other professionals (engineers, appraisers, etc.) may also be included in the application but are not required.

a. If the application is being made on the criteria in Section 8.630 A-2 "damaged root structure that will lead to death," then a formal report from an arborist is required.

[Section 8.610 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.610 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.620 PERMIT PROCESS.

Upon receipt of a permit request for tree removal, the City Manager shall take the following steps:

Upon receipt of an application for a Tree Removal Permit, the City Arborist shall take the following steps:

1. Determine if the application is complete. A complete application shall include all information requested on the application and as defined in Section 8.610 - Contents of

Application for Tree Removal.

If the application is incomplete, notify the applicant within 10 business days of the deficiencies and information necessary to complete the application.

2. Once the application is complete:

a. The City will visit the site to identify and verify the specific tree(s) requested for removal and will note the following:

(1) The accuracy of the application, including the location of the tree(s);

(2) That the tree(s) are visibly identified with brightly colored tape;

(3) The diameter and species of the tree(s).

b. The City will determine the level of notification needed based on the approval criteria in section 8.630.

(1) If approval criteria A.1.a. through d. apply, then no notification is needed.

(2) If approval criteria A.1.a. through d. and denial criteria A.2.a. and c. do not apply the City shall erect a sign on the right of way on the subject property, clearly visible from the public right-of-way, giving notice of the proposed tree cutting, including the same or similar information as provided on the property owner notice below. The sign shall be placed on the property at least 10 days prior to the issuance of a decision on the permit. If the property has no frontage on a public

right-of-way, a second sign shall be placed on the nearest such right-of-way directing individuals to the property.

(3) For all other trees the City shall, in addition to the sign notification described above, notify all property owners within 500 feet of the property for which the permit is being requested. The notice shall be sent via US Mail at least 10 business days prior to the issuance of a decision, and shall include the following:

(a) The address (or legal description) of the property

(b) A copy of the applicant's site plan

(c) A description of the trees to be removed including the diameter and species

(d) The reasons stated by the property owner justifying the removal

(e) The expected City Manager's decision date

(f) How to request a copy of the decision on the application

(g) The appeal rights and process (see Section 8.640)

(h) The address and contact information of the City staff person for questions and comments

3. Within 20 business days of completion of the application, issue a decision on the permit request, using the decision-making criteria defined in Section 8.630. The City shall mail a copy of the decision to the applicant and any other individual or organization requesting a copy of the decision within two business days of the decision. Upon special request, additional information

may be included with the mailed decision, including, but not limited to the appeal rights and process, public comments received by the City, and comments on how the decision criteria in section 8.630 were applied.

4. Final Decision date and Issuance of permit: A decision of the City Arborist becomes final 10 business days after it (the decision) is issued. If the decision is to grant the permit, the permit shall be issued only after the decision becomes final. If there is no appeal filed, the decision of the City Arborist becomes final 10 business days after it (the decision) is issued. The permit to remove the tree(s) will not be issued until the decision becomes final.

[Section 8.620 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.620 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.630 TREE REMOVAL PERMIT CRITERIA.

- A. In making a determination whether to grant a permit, the City shall consider the criteria listed below. The decision shall include findings that cite each of these criteria. These criteria are meant to be guides, and the varying importance or weight of each in determining the appropriate-ness of tree removal shall be as expressed in the findings:

1. Any of the following criteria shall be considered as aspects likely to warrant approval of a tree removal permit:

(a) The tree is determined to be dead, or dying and not recoverable.

(b) The tree is determined

to have a significantly damaged root structure that will adversely impact the health and stability of the tree. Such a determination shall be based upon a report provided by the applicant. The report shall be reviewed and verified by the City Arborist.

(c) The tree is determined to exhibit a hazardous growth habit.

(d) The tree is interfering with utility service in such a manner that full restoration or maintenance of service requires removal of the tree.

(e) The tree encroaches in the public right-of-way so as to cause damage to improvements within the public right-of-way such as street pavement and sidewalks.

(f) The tree is causing structural damage that includes, but is not limited to, foundations, water lines and sewer lines.

(g) The basal flare of the tree is within 10 feet of an existing building footprint.

(h) An existing building footprint lies within the drip line of the tree.

(i) Trees that have been maintained in the applicant's property for the purpose of growing fruit which are no longer bearing fruit or have suffered a significant reduction in fruit bearing.

(j) Removal of trees is being done for thinning purposes to

enhance the health of other trees.

(k) In the absence of denial criteria listed below, removal is for the owner's landscape improvement but does not jeopardize the aesthetics of the neighborhood.

(l) The removal would allow solar access for an otherwise extremely shaded property.

2. Any of the following criteria shall be considered as aspects likely to warrant denial of a tree removal permit:

(a) The tree is visually prominent.

(b) The tree is generally healthy and of sound structure.

(c) The tree is of significant size.

(d) The tree is part of a larger grove or grouping of trees, and its removal will adversely affect the health and safety of the remaining trees within the grove or grouping.

(e) The tree is on land that is sloped, and removal of the tree may exacerbate erosion or soil slumping in the vicinity of the tree.

(f) The tree acts as a privacy barrier for adjacent properties.

(g) Tree removal is solely to improve a view.

B. The City shall deny a tree removal permit if any of the following criteria is met:

1. The tree is designated by the City of West Linn as a heritage tree, unless one of the criteria 8.630.A.1.a. through d. above applies and the hearing is followed, as noted in Section 8.710.

2. The tree is located within an open space drainageway, drainageway transition area, wetland, wetland transition area, Willamette River Greenway area, or Tualatin River protection zone as defined by the West Linn Community Development Code, unless one of the criteria 8.630 1.a. through d. above apply.

3. The tree is protected by an existing tree conservation easement, unless criterion 8.630 1.a. through d. above apply.

C. It is encouraged, but not mandated, that the property owner replace a tree that is removed.

[Section 8.630 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.630 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.640 APPEAL.

Any decision of the City Arborist regarding a tree removal permit may be appealed to the City Manager if such appeal is filed within 10 business days of the date of the City Arborist's decision. The written appeal shall include a statement from the

appellant listing the errors the appellant believes the City Arborist has made in issuing the decision. Any decision of the City Manager regarding a tree removal permit may be appealed to the City Council if such appeal is filed within 10 business days of the date of the City Manager's decision. If appealed, the City Council shall cause a public hearing to be held, notice to be given in a manner similar to the original notice, and in addition shall publish notice of the hearing in a newspaper of general circulation at least 10 business days prior to the hearing. The City Council shall consider the same approval criteria as considered by the City Arborist and City Manager. Any decision of the City Council shall be final.

Note: All references to business days shall mean working days, Monday through Friday, not counting Federal or State holidays.

[Section 8.640 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.640 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.650 TIME LIMITS.

If the City Arborist does not issue a decision within 20 business days from the submittal of a complete tree cutting application, or the City Council does not consider an appeal of the City Manager's decision within 30 business days of the filing of such appeal, the permit shall be deemed to be approved.

An approved tree-removal permit shall be valid for twelve months from the date of issuance.

[Section 8.650 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.650 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.710 HERITAGE TREES.

Heritage Trees.

1. Heritage trees shall be those trees designated by the City Council following review of a nomination form submitted by a citizen and accepted, in writing, by the property owner. If a proposed Heritage Tree is on private property, the property owner must give written consent to the Heritage Tree Application before such application can proceed. The written consent of the property owner shall include provisions for the City to have reasonable access to the tree for maintenance and such necessary pruning as is required. It shall also be expressly understood that the Heritage Tree designation, once approved by the City Council, shall be an encumbrance on the property containing the Heritage Tree and shall be listed as a deed restriction. Such legal costs associated with this provision shall be borne by the City.

2. The following criteria shall be used:

Minimum circumference at 5 feet above ground level = point value 5

Rapid growing (Douglas Fir, Giant Sequoia, etc.) – 138"

Moderate growing (Oregon White Oak, Scarlet Oak) – 107"

Slow and smaller growing (Ginkgo, Madrone) – 86"

Location factor point values:

6 Commercial areas

5 Yard adjacent to street

4 Side yard

3 Wooded lot within subdivision

1 Forested area

Condition factor point values:

5 Excellent – perfect form,

- little or no dead wood, all limbs have good attachments, no sign of decay
- 4 Very good – good form, multi-leaders, but with good attachments, 10% or less large dead wood
- 2 Good – unbalanced or incomplete crown, tight limb angles, 15% - 20% larger dead wood
- 1 Poor – evidence of some decay, 20%-30% larger dead wood, history of being topped
- 0 Very poor - structurally unsound, extensive decay, dieback, poor form, unbalanced or greatly reduced crown.

Historical factor is determined by the tree's relative historic significance. Historic significance may be determined by the tree's association with historic or famous events, the cultural history of the nation, state, community or person or persons who have significantly contributed to the history of the nation, state or community. Local historians may be called upon for research assistance for this category. Point values:

- 5 Very significant
- 4 Significant
- 3 Somewhat significant
- 2 Marginally significant
- 1 Not significant

Formula: size x location x condition x historical factor = heritage tree points

Trees shall accumulate a minimum of 180 points to receive consideration as a heritage tree.

3. Upon a tree being designated as a Heritage Tree, a plaque so designating may be placed upon or near said tree. It shall become the obligation of the Parks and Recreation Department to maintain such tree. A Heritage Tree may not be removed without a public hearing at least 30 days prior to the proposed date of removal.

4. This section is intended to give, and does hereby give full and complete authority to the City Manager over any and all heritage trees in the City upon written consent of private property owners.

[Section 8.710 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.710 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.720 STREET TREES.

A. Street Tree Plan and List of Trees.
Street trees shall not fall under the definition of tree as provided in the definition portion of this ordinance.

1. It is in the best interest of the City that a Street Tree Plan be developed and established for the planting, maintenance and replacement of trees in and along its streets. This section is adopted for the purpose of providing for such a plan and for the establishment of regulations necessary to carry out its purpose.

2. The City shall prepare or cause to be prepared a Street Tree Plan for the planting and maintenance of trees in the streets of the City.

3. The Street Tree Plan should include, but shall not be limited to, a series of

maps of City streets upon which is designated a scheme for the planting of trees and the designation of streets for certain types of trees. Such maps shall show the interval between existing trees and the approximate place where each new tree is to be planted.

4. A survey of the street trees presently existing in the City and their condition may be taken.

5. Approval and amendments of the Street Tree Plan shall be based on consideration of the following criteria:

- a. Existing and planned street width.
- b. Existing and planned utilities.
- c. Pedestrian and vehicular traffic.
- d. Proposed trees are included in the City Arborist's listing of approved species.

6. The City Arborist shall maintain a list of approved varieties of trees that may be planted on any street within the City in accordance with the Street Tree Plan. Approval shall be based upon considerations such as maturity, height, susceptibility to disease or pests, reasonable expected freedom from nuisance characteristics and general suitability for any particular locations. The City Arborist's listing of approved varieties shall not prevent the seeking of approval of unlisted varieties.

B. Funding.

1. A separate account shall be established and maintained for revenues and expenditures created by the street tree program.

2. Property owners of new developments will pay a set amount per street tree in new developments. The money collected will be used by the City to purchase

and install street trees and the amount will be based on the current price of 1.75 inch caliper nursery stock installed to City standards. The number of trees in new developments will be set at two per lot, and four for corner lots, for single family homes. For multi-family housing and commercial developments the number of trees will be based on linear feet of street frontage with one tree per 25-40 feet of frontage.

C. Planting of Street Trees.

1. The City may plant street trees along the streets of the City in accordance with the Street Tree Plan or approved development plan.

2. It shall be unlawful for any person to plant or set out any tree or authorize or cause or procure any person to plant or set out any tree in or upon any part of any street or public right-of-way without:

- a. Obtaining from the City Arborist a written permit to do so; and;
- b. Complying in all respects with the conditions set forth in such written permit and with the provisions of this ordinance.

3. All applications for such permit shall describe work to be done and the variety, size and precise location of each tree to be planted. Upon review of the application:

- a. If the City Arborist has found that the proposed planting is in accord with the Street Tree Plan, the City Arborist shall grant a permit, and the trees shall become part of the City's street tree inventory.
- b. If the City Arborist finds that the proposed planting is not in accord with the Street Tree Plan, but that the trees proposed to be planted have a reasonable likelihood of pros-

pering and the application specifies the location, variety and grade of each tree and method of planting, including among other things, the supplying of suitable soil, then the City Arborist may grant a permit, and the tree shall become part of the City's street tree inventory.

4. The permit shall be good only for the planting season stated.

5. All street trees shall be planted in accordance with specifications in the Tree Technical Manual.

D. Protection of Street Trees.

1. It shall be unlawful for any person to attach or keep attached to any tree in or upon any public street or to the guard or stake intended for the protection of such tree, any ropes, wires, chains, or other device whatsoever, except that the same may be attached to any tree as support or protection thereof.

2. During the erection, repair, alteration or removal of any buildings or structure, it shall be unlawful for the person in charge of such erection, repair, alteration or removal to leave any tree in or upon any street in the vicinity of such building or structure without a good and sufficient guard or protector as to prevent injury to such tree arising out of, or by reason of such erection, repair, alteration or removal. See West Linn Tree Technical Manual for details regarding tree protection during construction.

E. Permit Requirements and Conditions.

The City maintains sole authority over the planting, pruning and removal of all trees and foliage on City property, including, but not limited to, street trees in the City's Right of

Way. Private individuals shall only be allowed to prune, remove or plant any tree on City property, including the Right of Way, with express written permission of the City. However, such small scale and minor pruning of street trees in the City's right of way directly abutting private property shall be done by that property owner to maintain minimum sidewalk and road clearance as described in Section 8.720. Any such minor pruning shall only be deemed exempt from this permitting provided that it is the minimum reasonable amount necessary to achieve the clearance minima.

Should a citizen so desire, a request can be made to the City to have a City tree removed. The request will be reviewed, utilizing the guidelines for tree removal as presented herein. Minimum size thresholds shall not apply for street trees.

F. Maintenance.

1. It shall be the responsibility of the property owner adjacent to any street tree to maintain the tree according to the tree maintenance standards detailed in the City's Tree Technical Manual. Maintenance includes replacement of trees that are dead, or in need of replacement due to injury, disease, etc. A fee may be paid to the City in lieu of replacement. In this case the City shall replace the tree at the time of its regular scheduled street tree plantings.

2. All street trees must be pruned to ISA Pruning Standards for Shade Trees. See pruning guidelines in Tree Technical Manual for details.

3. Street trees having branches projecting into the street or sidewalk shall be pruned by the owners of the property adjacent to where the trees are growing and shall be done according to the requirements for tree branch clearance over street and sidewalk

areas, and signs as set forth in this ordinance.

4. Limbs of trees may be allowed to project over the sidewalk area at an elevation of not less than 7 1/2 feet above the sidewalk level, and over the street area at an elevation of not less than 10 feet above the street level. However, on any street designated as an arterial and where parking has been prohibited, limbs of trees shall be pruned to a height of not less than 13 feet above the street level. Trees, which are not trimmed so as to meet the above specifications, shall be deemed to present an unreasonable risk of harm to persons or property.

5. The City may cause to be pruned and maintained, all of the trees within the City street right of way.

5. A private utility maintaining its utility system in a street may prune or cause to be pruned in accordance with the terms and conditions of their franchise agreement with the City.

6. It shall be unlawful for any person, firm, or City department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted by the City Arborist.

[Section 8.720 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.720 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.730 EMERGENCY PERMIT PROCESS.

A. The City Manager or designee shall have the authority to issue an emergency tree-removal permit if the condition of the tree presents an

immediate danger of collapse, and/or represents a clear and present hazard to persons or property.

For purposes of this section, a hazardous growth habit which will likely result in failure of the tree prior to consideration of the permit through the normal process means that the tree is already leaning, with the surrounding soil heaving, or showing other clear signs of imminent failure, and that the problem cannot be resolved through pruning, trimming, or other preventive maintenance.

- B. An emergency tree-removal permit shall not require mailed or posted notice.
- C. An emergency tree-removal permit denial may not be appealed to the City Council.
- D. If the City Manager denies an emergency tree-removal permit, the applicant may apply for a tree-removal permit through the standard process.
- E. A property owner may remove a tree which he/she has determined is in imminent danger of falling and/or posing a threat to life and/or property prior to the ability of the City to consider issuing an emergency tree removal permit (e.g., on a weekend day). In such cases, within five business days of the tree's removal, the property owner shall provide written and photographic documentation of the condition of the tree prior to removal. If the City Manager does not agree with the

property owner's decision, the property owner may be subject to enforcement and mitigation action pursuant to Section 8.740.

- F. Any officer of the Police Department or the Fire District may also require removal of a tree if, in the judgment of the officer during the performance of his or her public duties, the tree is in a hazardous or dangerous condition threatening life and/or property.

[Section 8.730 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.730 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.740 NON-COMPLIANCE, PENALTY, AND ENFORCEMENT. Any violation of the terms of Sections 8.500 to 8.798 is a class A civil infraction. Each tree involved in the violation constitutes a separate offense. In addition, the city attorney shall institute any necessary legal proceedings to enforce the provision of this section. These rights shall be in addition to any other remedies allowed by law. Upon discovery of a violation, the City shall notify the violator of the alleged violation and of the procedures and potential penalties associated with said violations.

The City Manager shall make a determination of whether the violation was knowing, willful and intentional on the part of the violator. If the City Manager determines that there is ample reason to believe that the violation was accidental or unintentional, the violator shall be permitted the opportunity to mitigate the violation through voluntary compliance process as found in Section 8.740(A). Intentional violators shall be subject to penalties as listed on 8.740(B) as well as the tree replacement requirements of 8.740(A)(1). Fines and penalties shall be submitted to the West Linn Municipal Court pursuant to the rules and procedures and authority of the

Municipal Court to assess fines and other penalties for violation of the West Linn Municipal Code.

- A. Voluntary compliance process. A voluntary compliance agreement shall contain the following:

1. A commitment by the violator to submit and carry out a tree replacement program that is approved by the City Manager. The agreement shall require at minimum the planting of replacement trees at a 1:1 inch per inch (circumference) ratio to the trees removed illegally. The size and quality of the mitigation nursery stock shall be approved by the City. If the applicant's property is deemed inadequate in size to accommodate the replacement trees, then a fee may be paid into the Tree Canopy Replacement Fund at the minimum rate for installation of a 1.75 inch caliper tree to City standards.
2. Payment of a fee deposit, calculated based upon anticipated staff time devoted to investigation of the violation and review and approval of the voluntary compliance agreement and related compliance inspections. The actual staff time shall be tracked and charged against the fee deposit. At the conclusion of the process, any unused funds in the deposit shall be refunded. If the deposit funds run out prior to

completion of the voluntary compliance process, the violator shall pay an additional deposit calculated as necessary to complete the process. If the violator does not pay such an additional deposit, the voluntary compliance process shall be terminated and the City Manager shall initiate enforcement action against the violator.

- 3. Trees that have been planted as part of a mitigation planting will not be covered by the minimum thresholds for trees requiring a permit for removal.

- B. Penalties. Any person, firm, or corporation causing the illegal removal of a tree who does not enter into a voluntary compliance agreement may upon conviction be fined a sum not to exceed the equivalent of three times the appraised value of the tree based on the latest revision of the Council of Tree and Landscape Appraisers evaluation method plus cost of prosecution including attorney's fees for each tree removed, but in any case an amount not less than \$500.00.

[Section 8.740 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.740 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.745 TREE-TOPPING PROHIBITED.

[Section 8.745 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.745 deleted by Ordinance No. 1542, adopted November 27, 2006.]

8.750 ABATEMENT.

Abatement.

1. When any tree located on private property is dead (and deemed to create a hazard) or infested with a disease or insects or is, in the opinion of the City Arborist, infectious and may spread such disease or insects to other trees in the City or otherwise an imminent hazard to persons or property, the City may remove or treat the tree or cause same to be removed or treated. Such removal or treatment shall be the responsibility of the property owner.

2. The City may abate or remove, or cause to be abated or removed, any tree located in the street right of way, or which encroaches from private property into the street right of way because of age, disease or other debilitating cause, death, insecure root system, or any other condition which, in the opinion of the City, causes its continued existence to be detrimental to the public interest.

3. If sections of the Community Tree Ordinance impose an undue hardship on an individual property owner, assistance by a grant-in-aid may be available through the City Manager's office pursuant to the City's Grant-In-Aid Policy.

[Section 8.750 added by Ordinance No. 1503, adopted May 5, 2004; Section 8.750 amended by Ordinance No. 1542, adopted November 27, 2006.]

8.760 TREE CANOPY REPLACEMENT ACCOUNT.

A. An account shall be established and maintained for various tree related revenues and expenditures.

Sources of revenue for this account include the following:

1. Fees paid as part of voluntary compliance mitigation.

2. Fees paid as part of

development mitigation.

3. Fines paid for non-compliance.

4. Gifts received by the City for the purpose of tree canopy replacement.

Expenditures for this account may include but are not limited to the following:

1. New tree installations on City property.

2. Natural area restorations on City property.

3. Street tree replacement programs.

4. New street tree installations in older neighborhoods.

[Section 8.760 added by Ordinance No. 1542, adopted November 27, 2006.]

If any provision or any portion thereof contained in this ordinance is held to be unconstitutional, invalid or unenforceable, the remainder of this ordinance, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

[Section 8.798 added by Ordinance No. 1503, adopted May 5, 2004]

8.795 FEES/CLASSIFICATION OF FEES AND COSTS.

Fees shall be established by Ordinance of the City Council and may be amended from time to time. The City Council determines that the fees and costs imposed by this ordinance are not a tax subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution.

[Section 8.795 added by Ordinance No. 1503, adopted May 5, 2004]

8.797 DISCLAIMER OF LIABILITY.

Nothing contained in Section 8.500 to 8.798 shall be deemed to impose any liability upon the City, its officers or employees, or to relieve the owner of any private property from the duty to keep any tree, shrub or plant on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any public right-of-way, park, or public place within the City.

[Section 8.797 added by Ordinance No. 1503, adopted May 5, 2004]

8.798 GENERAL PROVISIONS.