

[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