

*City of Tigard*

# Urban Forestry Code Revisions Project

VOLUME III | NON LAND USE ELEMENTS | JULY 2012

**City of Tigard**  
COMMUNITY DEVELOPMENT DEPARTMENT  
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## Organization of the Urban Forestry Code Revisions Documents

The Urban Forestry Code Revisions project is presented in five volumes. Volume I provides the project overview and describes the process used to develop all of the elements. Volume II is the land use elements of the code, and Volume III the non land use elements. Volume IV contains the Urban Forestry Manual. Volume V contains technical reports and research that contributed to the code revisions along with details of the public input and deliberations to date.

### Volume I | Project Overview

**Project Overview** includes the following sections:

- Project Introduction
- Overview of Key Elements
- Key Element Summaries
  - Urban Forestry Standards for Development
  - Tree Grove Preservation Incentives
  - Tree Permit Requirements
  - Hazard Trees
  - Urban Forestry Manual

**Appendix A** includes additional detail about the information used to shape the Urban Forestry Code Revisions Project, and includes the following sections:

- Process summary
- Summary of Community Ideas and Concerns
- Summary of Planning Commission Deliberations
- Existing Conditions

### Volume II | Land Use Elements

**Community Development Code (Title 18)** is the Planning Commission's recommended draft of the Development Code. This section includes commentary on the amendments.

**Peer Review** demonstrates how the Planning Commission's recommended draft of the Development Code and Urban Forestry Manual will work in application.

**Tree Grove ESEE Analysis** is a report that addresses Statewide Planning Goal 5 - Natural Resources requirements for the preservation of Significant Tree Groves.

**Staff Report and findings** includes the staff recommendation for approval of the land use elements (Title 18 and the Comprehensive Plan Amendment) and the findings that demonstrate the land use elements meet the necessary approval criteria.

### Volume III | Non Land Use Elements

**Tigard Municipal Code** is the staff proposed draft of the Municipal Code (Title 8 and other Municipal Code titles). This section includes commentary on the amendments.

### Volume IV | Urban Forestry Manual (Administrative Rules)

**Urban Forestry Manual** consists of administrative rules that implement the technical details of the urban forestry related code provisions in Title 8, Title 18 and other applicable titles in the Tigard Municipal Code.

### Volume V | Additional Background Materials

**Planning Commission Deliberations** details Planning Commission discussion and decisions during the public hearing process.

**Amendment Requests Document for the Planning Commission** lists code amendment requests received in response to the first Planning Commission public hearing and staff responses.

**Outstanding Issues for the Urban Forestry Code Revisions** includes additional information on the outstanding issues that were further deliberated by the Planning Commission before making their final recommendation to City Council on May 7, 2012.

**Log of Input** lists the input received and any code changes from the last meeting of the CAC to the staff proposed draft of the Urban Forestry Code Revisions to Planning Commission.

**CAC Guiding Principles** includes the consensus view of the Citizens Advisory Committee (CAC) developed to help guide the legislative adoption process.

**Tree Values** includes information and current research on the environmental, economic, social and aesthetic benefits of trees.

**Canopy Standards** explains the reasons for adopting tree canopy cover requirements as well as the methods used to arrive at the requirements.

**Soil volume** details research about the soil volume required to support a mature tree canopy.

**Tree Canopy Fee** discusses research used to develop a square foot value for tree canopy.

**Regulatory Comparison** is an excerpted report prepared by Metro and the Audubon Society that summarizes and compares regional urban forestry programs and regulations.

**Urban Forestry Master Plan** is the City of Tigard's recommended plan for achieving the urban forestry goals in the Comprehensive Plan.

# Tigard Municipal Code – Staff Recommendation

## How to Read This Section

This section is organized by Municipal Code chapter number. Odd-numbered pages show the existing language with staff recommended amendments. Text that is recommended to be added to the code is shown with double underlines. Text that is recommended to be deleted is shown with strikethrough.

Even-numbered pages contain commentary on the amendments, which establish, in part, the legislative intent in adopting these amendments. Staff recommends focusing on the commentary to gain a better understanding of the purpose of the code amendments.

The Urban Forestry Manual consists of administrative rules that implement the details of the urban forestry related code provisions in Title 8, Title 18 and other applicable titles in the Tigard Municipal Code. Section 8.02.040 of the Tigard Municipal Code enables administrative rulemaking for the Urban Forestry Manual. The city manager is authorized to adopt and amend the Urban Forestry Manual according to the procedures in Chapter 2.04 after council adoption of Section 8.02.040. The Urban Forestry Manual is referenced as if it has already been adopted in order to demonstrate how it relates to the code.

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## Commentary

### 1.16 Civil Infractions

Currently, the “illegal tree removal” section in Chapter 18.790 outlines penalties for tree violations. As part of the city’s Regulatory Improvement Initiative, similar code items are being consolidated wherever possible. Rather than retaining penalties for tree violations in Chapter 18.790, they are being moved to Chapter 1.16, where nuisance infractions are already consolidated. Penalties for violations of Title 8 (Urban Forestry) are also outlined in Chapter 1.16.

The table of contents for Articles I, II, III, and IV of Chapter 1.16 are unchanged. See Section 1.16.640 for code amendments.

**Chapter 1.16 CIVIL INFRACTIONS.**

**Sections:**

**ARTICLE I. GENERAL PROVISIONS**

[No change to table of contents.]

**ARTICLE II. JUDICIAL ENFORCEMENT**

[No change to table of contents.]

**ARTICLE III. ADMINISTRATIVE ENFORCEMENT**

[No change to table of contents.]

**ARTICLE IV. PENALTIES, FEES AND COSTS**

[No change to table of contents.]

Commentary

1.16 Article I. General Provisions

Articles I, II and III are unchanged. Article IV, Sections 1.16.600 through 1.16.630 are unchanged.

**ARTICLE I. GENERAL PROVISIONS**

[No change.]

**ARTICLE II. JUDICIAL ENFORCEMENT**

[No change.]

**ARTICLE III. ADMINISTRATIVE ENFORCEMENT**

[No change.]

**ARTICLE IV. PENALTIES, FEES AND COSTS**

**1.16.600 through 1.16.630**

[No change.]

## Commentary

### 1.16.640 Penalties and Fees—Amounts to be Assessed

Violations of Title 8 (Urban Forestry) and Title 18 (Community Development Code) are Class 1 civil infractions. Penalties for Class 1 civil infractions are contained in Section 1.16.640.A.

Existing Chapter 18.790 outlines additional penalties for illegal tree removal, which includes a civil penalty of up to \$500, an additional penalty for the appraised value of the tree and mitigation based on the size of tree removed. These additional penalties recognize the significant value that trees provide to the community and the fact that once a mature tree is removed, it cannot be replaced.

Based on community discussions, additional penalties for illegal tree removal are still warranted. However, flexibility in the penalty amount is desired so that the city has the ability to scale the penalty based on the circumstances surrounding a particular case. A maximum penalty is desired to protect citizens from disproportionate amounts.

During the development process, unauthorized moving, removing or damaging of tree protection fencing and failure to provide required arborist inspection reports have been chronic issues. In many cases, it is less expensive for violators to not comply, rather than hire an arborist as required. A minimum penalty that is more than the cost of hiring an arborist will incentivize compliance and reduce city staff time and resources associated with enforcement.

In addition to the general Class 1 civil infraction penalties for noncompliance with Titles 8 and 18, the following specific penalties for the specific violations described above are:

- A minimum fine of \$250 for illegal tree removal and a maximum fine of the cost to plant and maintain for three years per tree care industry standards and the standards in the Urban Forestry Manual a number of 1 ½ caliper trees equal to the diameter of the tree removed;
- A minimum fine of \$250 and maximum fine of \$500 for unauthorized moving, removing or damaging of tree protection fencing; and
- A minimum fine of \$250 and maximum fine of \$500 for each late or omitted tree protection inspection reports.

**1.16.640 Penalties and Fees—Amounts to be Assessed**

The civil penalty or administrative fee to be assessed for a specific infraction shall be as follows:

- A. For Class 1 infractions,
1. An amount not to exceed \$250 per day under either the judicial or the administrative enforcement process; or
  2. Under the administrative enforcement process, an amount:
    - a. Computed in a manner established by administrative rule pursuant to 1.16.105.
    - b. For the entire period the violation exists and not for each day of the violation; or
    3. For the specific urban forestry violations listed in Section 8.02.030.F, an amount remitted into the Urban Forestry Fund for tree planting and early establishment:
      - a. Not less than \$250 per unlawfully removed tree and not more than the city's cost to plant and maintain for three years an equivalent number of 1 ½ inch caliper trees with a combined caliper equal to the DBH of each unlawfully removed tree;
      - b. Not less than \$250 and not more than \$500 for damaging, moving or removing a tree protection fence;
      - c. Not less than \$250 and not more than \$500 for each failure to provide inspection reports by the project arborist or landscape architect.
- B. For Class 2 infractions, an amount not to exceed \$150 per day;
- C. For Class 3 infractions, an amount not to exceed \$50 per day. (Ord. 86-20 §1(Exhibit A(8)(D)), 1986).

**1.16.650 through 1.16.710**

[No change.]

## Commentary

### 6.01 General Provisions and Penalties

The purpose of Title 6 is to consolidate all nuisance violations into one place for ease of use. This is also consistent with the Regulatory Improvement Initiative. A nuisance is broadly defined as any non-criminal violation of the code that affects public health, safety and peace.

Sections 6.01.020 (Definition of Noxious Vegetation), 6.02.030 (Trees and Bushes) and 6.02.040 (Greenway Maintenance) contain provisions that address hazard trees. These provisions are slightly revised for consistency with hazard tree provisions in Title 8.

**Chapter 6.01**

**GENERAL PROVISIONS AND PENALTIES**

<b>6.01.010</b>	<b>Short Title</b>
<b>6.01.020</b>	<b>Definitions</b>
<b>6.01.030</b>	<b>Nuisances Designated–Class I Civil Infraction</b>
<b>6.01.040</b>	<b>Penalty for Violation of This Title</b>
<b>6.01.050</b>	<b>Administrative Rules</b>
<b>6.01.060</b>	<b>Enforcement–Minimum Requirements</b>

**6.01.010 Short Title**

[No change]

**6.01.020 Definitions**

As used in this title:

A. through K.

[No change.]

## Commentary

6.01.020

## Definitions

This amendment is designed to replace a list of items with an inclusive term (vegetation) to avoid identification of trees and stumps that might otherwise be beneficial for wildlife habitat and/or erosion control, and are not “likely to cause fire”.

- L. “Noxious vegetation” means:
1. Weeds more than 10 inches high;
  2. Grass more than 10 inches high and not within the exception stated in paragraph 9 of this subsection;
  3. Poison oak, poison ivy or similar vegetation;
  4. ~~Dead trees, dead bushes, stumps and any other thing~~ Vegetation that is likely to cause fire;
  5. Blackberry bushes that extend into a right-of-way or across a property line;
  6. Vegetation that is a health hazard;
  7. Vegetation that is a health hazard because it impairs the view of the right-of-way or otherwise makes use of the right-of-way hazardous.
  8. Any of the following invasive and noxious plants: *Hedera helix* L. (English ivy), *Heracleum mantegazzianum* (giant hogweed), *Lythrum salicaria* L. (purple loosestrife), *Polygonum cuspidatum* (Japanese knotweed), *Rubus discolor* (Himalayan blackberry);
  9. "Noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the meaning of this subsection.

M. through Z.

[No change.]

**6.01.030 through 6.01.060**

[No change.]

## Commentary

### 6.02 Nuisances Affecting Public Health, Safety and Peace

The purpose of Title 6 is to consolidate all nuisance violations into one place for ease of use. This is also consistent with the Regulatory Improvement Initiative. A nuisance is broadly defined as any non-criminal violation of the code.

Sections 6.02.030 (Trees and Bushes) and 6.02.040 (Greenway Maintenance) contain provisions that address hazard trees. These provisions are slightly revised for consistency with hazard tree provisions in Title 8.

The table of contents for Articles I, II, III, IV, V and VI of Chapter 6.02 are unchanged. See Sections 6.02.030 and 6.02.040 for code amendments.

**Chapter 6.02**  
**NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE**

**Sections:**

**Article I. General Nuisances**

[No change to table of contents.]

**Article II. Property Development and Maintenance Requirements**

[No change to table of contents.]

**Article III. Junk, Garbage and Putrescible Waste**

[No change to table of contents.]

**Article IV. Streets and Sidewalks**

[No change to table of contents.]

**Article V. Noise Nuisances**

[No change to table of contents.]

**Article VI. Water Service and Meters**

[No change to table of contents.]

## Commentary

### 6.02.030 Trees and Bushes

According to the City of Tigard Streets Division, the minimum height for branch clearance over streets should be 13 feet.

Hazard trees are clearly defined using industry standard terminology in Chapter 8.02, so a cross reference is included in Chapter 6.02 to ensure consistency in the use of terms and to continue to treat hazard trees as nuisances.

**Article I. General Nuisances**

**6.02.010 through 6.02.020**

[No change.]

**6.02.030 Trees and Bushes**

A. No responsible party shall permit branches or roots of trees or bushes on the property to extend into a right of way in a manner which interferes with its use.

B. It shall be the duty of a responsible party to keep the branches of all trees or bushes on the premises that adjoin the right of way, including an adjoining parking strip, trimmed to a height of not less than eight feet above a sidewalk and not less than ~~40~~ 13 feet above a street.

C. No responsible party shall allow to stand any hazard tree as defined in Chapter 8.02~~dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to persons or property on or near the property.~~

## Commentary

6.02.040

### Greenway Maintenance

The provisions of Chapter 8.10 (Trees in Sensitive Lands) address the removal of trees in sensitive lands in a more comprehensive way than the existing provisions in Chapter 6.02.040. The term “greenway” is not defined in the code, and “sensitive lands” could be considered equivalent or somewhat more expansive. Removing the provisions of 6.02.040.B.2 is an interim solution until a more comprehensive review of Section 6.02.040 occurs.

**6.02.040 Greenway Maintenance**

A. A responsible party shall maintain the property, subject to an easement to the city or to the public for greenway purposes.

B. Except as otherwise provided by this section and Sections 6.02.020 through 6.02.050, 6.02.210 through 6.02.230, and 6.02.310, the standards for maintenance shall be as follows:

1. Land shall remain in its natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the easement area unless authorized by the city engineer based on a finding of need in order to protect the property or the public health, safety or welfare.

~~2. No tree over five feet in height shall be removed unless authorized by the community development director based on a finding that the tree constitutes a nuisance or a hazard.~~

3. Grass shall be kept cut to a height not exceeding 10 inches, except when some natural condition prevents cutting.

C. In situations where the approval authority establishes different standards or additional standards, the standards shall be in writing and shall be recorded.

D. No person shall be found in violation of this section of the code unless the person has been given actual or constructive notice of the standards prior to the time the violation occurred.

**6.02.050 through 6.02.070**

[No change.]

Commentary

6.02 Nuisances Affecting Public Health, Safety and Peace

Unchanged sections of Chapter 6.02 continued.

**Article II. Property Development and Maintenance Requirements**

[No change.]

**Article III. Junk, Garbage and Putrescible Waste**

[No change.]

**Article IV. Streets and Sidewalks**

[No change.]

**Article V. Noise Nuisances**

[No change.]

**Article VI. Water Service and Meters**

[No change.]

Commentary

Chapter 8.02 DEFINITIONS , PENALTIES AND ADMINISTRATIVE RULES

Chapter 8.02 is a foundational chapter for Title 8. It creates the authority for adopting and amending administrative rules in the Urban Forestry Manual. It establishes penalties for urban forestry violations. It also establishes the definitions sections for Title 8 and the Urban Forestry Manual.

8.02.010 Purpose

The purpose statement explains that the chapter creates the authority to adopt and amend administrative rules in the Urban Forestry Manual. The purpose statement also explains the intent is to provide definition and consistency of terms between the various urban forestry related chapters in Title 8 and the Urban Forestry Manual. Finally, the purpose statement explains the chapter establishes penalties for urban forestry violations.

TIGARD MUNICIPAL CODE

Title 8

URBAN FORESTRY

Chapters:

8.02 DEFINITIONS, PENALTIES AND RULES

8.04 TREE PERMIT PROCEDURES

8.06 HAZARD TREES

8.08 STREET AND MEDIAN TREES

8.10 TREES IN SENSITIVE LANDS

8.12 TREES THAT WERE REQUIRED WITH DEVELOPMENT

8.14 TREES THAT WERE PLANTED USING THE URBAN FORESTRY FUND

8.16 HERITAGE TREES

Chapter 8.02 DEFINITIONS PENALTIES AND ADMINISTRATIVE RULES

Sections:

8.02.010 Purpose

8.02.020 General Provisions

8.02.030 Penalties for Urban Forestry Violations

8.02.040 Administrative Rules – Urban Forestry Manual

8.02.050 Definition of Specific Words

**8.02.010 Purpose**

The purpose of this chapter is to:

A. Enable administrative rulemaking pursuant to Chapter 2.04 to adopt and amend urban forestry related administrative rules called the Urban Forestry Manual;

B. Provide standard definitions of words for Title 8 of the Tigard Municipal Code and corresponding administrative rules in the Urban Forestry Manual;

C. Provide general rules for reading and applying the language in this title and the Urban Forestry Manual; and

D. Establish penalties for urban forestry violations.

## Commentary

### 8.02.020 General Provisions

Many trees are subject to the provisions of multiple chapters in Title 8. For example, a heritage tree may also be required to be preserved with development. When permitting the removal of this type of tree, the more restrictive provisions of Chapter 8.16 (Heritage Trees) would apply.

Trees that are permitted to be planted, removed or replaced by a Title 18 land use permit do not also require a Title 8 tree permit. For example, street trees required to be planted by Chapter 18.745 do not also require a Chapter 8.08 street tree planting permit.

Unless defined in the code, words have their common dictionary definition.

Standards for tenses and uses are included to add clarity for interpretation of the code.

8.02.020 General Provisions.

A. Reading and Applying the Code. When a conflict arises as a result of a particular tree situation spanning multiple chapters and administrative rules, the more restrictive provisions shall apply. When it cannot be determined which provisions are more restrictive, the more specific provisions shall apply.

B. When tree planting, removal and/or replacement is approved through a Title 18 land use permit, no Title 8 tree permit is required.

C. Defining Words. Words used in this title and the Urban Forestry Manual have their normal dictionary meaning unless they are listed in Section 8.02.050. Words listed in Section 8.02.040 have the specific meaning stated, unless the context clearly indicates another meaning.

D. Standards for Tenses and Usage:

1. Words in the singular include the plural. The reverse is also true.
2. Words in the present tense include the future tense. The reverse is also true.
3. The words “shall,” “will” and “may not” are mandatory.
4. “May” is permissive.
5. “Prohibited” means that a particular activity is in violation of this title.
6. When used with numbers, “At least x,” “Up to x,” “Not more than x” and “a maximum of x” all include x.
7. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:
  - a. “And” indicates that all connected items or provisions apply;
  - b. “Either...or” indicates that the connected items or provisions apply singularly, but not in combination.
8. Lists of items that state “including the following,” “such as” or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

## Commentary

### 8.02.030 Penalties for Urban Forestry Violations.

Section 8.02.030 establishes penalties for urban forestry violations which are defined as violations of Title 8, Chapter 18.790 and the Urban Forestry Manual. Urban forestry violations are Class 1 civil infractions processed according to the procedures in Chapter 1.16.

Based on community discussions, certain specific urban forestry violations should have additional penalties associated with them so there is a deterrent effect. The specific urban forestry violations associated with these additional penalties include unlawful tree removal, unlawful moving, removal or damaging tree protection fencing and late or omitted tree protection inspection reports. All three of these violations contribute to the removal or damage of trees and therefore more stringent preventative measures are appropriate to deter these violations.

8.02.030 Penalties for Urban Forestry Violations.

- A. The following shall constitute urban forestry violations of this code:
1. Noncompliance with the requirements of Title 8.
  2. Noncompliance with administrative rules in the Urban Forestry Manual that implement the requirements of Title 8.
  3. Noncompliance with the requirements of Chapter 18.790.
  4. Noncompliance with administrative rules in the Urban Forestry Manual that implement the requirements of Chapter 18.790.
- B. An urban forestry violation shall constitute a Class 1 civil infraction, which shall be processed according to procedures established in Chapter 1.16.
- C. Each urban forestry violation shall constitute a separate infraction, and each day that an urban forestry violation is committed or permitted to continue shall constitute a separate infraction.
- D. A finding of an urban forestry violation shall not relieve the responsible party of the duty to abate the violation. Penalties imposed by this chapter are in addition to and not in lieu of any remedies available to the city.
- E. Each urban forestry violation is subject to the penalty or administrative fee established in Chapter 1.16 of this code.
- F. The following specific urban forestry violations are associated with specific penalties in section 1.16.640.A.3:
1. Unlawful tree removal in violation of Title 8, Chapter 18.790 or the Urban Forestry Manual.
  2. Damaging, moving or removing a tree protection fence in violation of Chapter 18.790 or administrative rules in the Urban Forestry Manual that implement the requirements of Chapter 18.790.
  3. Failure to provide inspection reports by the project arborist or landscape architect in noncompliance with Section 18.790.060.B or administrative rules in the Urban Forestry Manual that implement the requirements of Chapter 18.790.

## Commentary

### 8.02.030 Penalties for Urban Forestry Violations.

The requirement to receive retroactive approval for tree removal violations allows the city to clearly document the removal of protected trees, and allows the city to require replacement trees when applicable.

The stop work order provision allows the city to prevent continued violation of Title 8. For example, if a protected stand of trees in sensitive lands is being cleared without a permit, the city may issue a stop work order to prevent continued clearing of the stand. Chapter 1.16 does not currently include specific language that allows for stop work orders, so a provision has been added to Section 8.02.030 to grant the city authority to do so for violations of Title 8.

G. In addition to the procedures of Chapter 1.16, any party found to be in violation of Section 8.08.050 (Street Tree Removal), 8.08.080 (Median Tree Removal), 8.10.040 (Sensitive Lands Tree Removal), 8.12.040 (Removal of Trees that were Required with Development), 8.14.040 (Removal of Trees that were Planted Using the Urban Forestry Fund) or 8.16.070 (Removal of Heritage Tree Designation) shall complete the process for a retroactive city manager tree permit through the City Manager Decision Making Procedures detailed in Section 8.04.020.

H. When any work is being done contrary to the provisions of this title or administrative rule that implements the provisions of this title, the city manager or designee may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith make the necessary corrections or stop work until authorized by the city manager or designee to proceed with the work.

Commentary

8.02.040 Administrative Rules–Urban Forestry Manual.

Section 8.02.040 enables administrative rulemaking for the Urban Forestry Manual which contains the detailed administrative rules referenced by Title 8 and Title 18.

The city manager is authorized to adopt and amend the Urban Forestry Manual according to the procedures in Chapter 2.04 after council adoption of Section 8.02.040.

Section 8.02.040 outlines the specific elements to be included in the Urban Forestry Manual. The subsections correspond to the elements contained in the proposed Urban Forestry Manual:

<b>Subsections of 8.02.040</b>	<b>Urban Forestry Manual Sections</b>	<b>Urban Forestry Manual Appendices</b>
A	1	1
B	2, 3, 4, 5, 6, 7, 8 and 9	2, 3, 4, 5 and 6
C	10	2, 3, 4, 5, 6, 7, 8 and 9
D	11	10
E	12	2, 11, 12, 13 and 14
F	13	3, 15, 16, 17and 18

8.02.040 Administrative Rules–Urban Forestry Manual.

The city manager is authorized to adopt and amend administrative rules to implement the technical details of the urban forestry related code provisions in Title 8, Title 18 and other applicable titles in the Tigard Municipal Code. These administrative rules shall be adopted pursuant to the provisions of Chapter 2.04, be consistent with Title 8, Title 18 and other applicable titles in the Tigard Municipal Code and be known collectively as the Urban Forestry Manual.

The Urban Forestry Manual shall include the following:

A. Hazard tree evaluation and abatement procedures to ensure an objective and efficient process for identifying and resolving hazard tree issues.

B. Tree planting, maintenance and removal standards for trees that require a permit to plant or remove by Title 8 or Title 18 so that approval criteria are clear, consistent and based on sound scientific principles.

C. Urban forestry plan standards for development so that submittal requirements, measurements, calculations and other requirements are clearly outlined for:

1. Tree Preservation and Removal Site Plans;
2. Tree Canopy Site Plans;
3. Supplemental Arborist or Landscape Architect Reports;
4. Tree Canopy Fee Calculations; and
5. Significant Tree Grove Preservation Considerations.

D. Urban forestry plan implementation standards for development to ensure urban forestry plans are successfully implemented and trees are appropriately preserved, planted and inventoried as part of the development process.

E. Street tree soil volume standards for development to ensure street trees are provided adequate soil volumes, and to ensure soil volume calculation, plan submittal and implementation requirements are clearly outlined.

F. Parking lot tree canopy standards for development to ensure parking lot trees are appropriately planted and provided adequate soil volumes, and to ensure soil volume calculation, plan submittal and implementation requirements are clearly outlined.

## Commentary

### 8.02.050 Definition of Specific Words.

All tree related definitions in Title 18 have been incorporated into Title 8 to ensure consistency of terms between the two titles.

The following additional definitions have been developed to address provisions that are specific to Title 8.

**Certified Forester:** This term is defined because certified foresters (in addition to certified arborists) are permitted by Title 8 and the Urban Forestry Manual to approve the thinning of protected stands of trees.

**Significant Tree:** This term is added because Chapter 8.16 authorizes designation of trees as significant tree, rather than heritage trees when permanent protection is not desirable.

**Thinning:** This term is added because thinning of protected stands of trees under the supervision of a certified arborist or certified forester to improve stand health is permitted by Title 8 and the Urban Forestry Manual.

### 8.02.050 Definition of Specific Words.

The definition of words with specific meaning in Title 8 and the Urban Forestry Manual are as follows:

A. “Caliper” - The tree care industry standard for measuring the trunk diameter of nursery stock. Caliper is the average diameter of the trunk of a nursery tree measured six (6) inches above the ground for trunks less than or equal to an average of four (4) inches in diameter (when measured six (6) inches above ground). When the trunk of a nursery tree is greater than an average of four (4) inches in diameter (when measured six (6) inches above ground), caliper is the average diameter at 12 inches above ground (see figure 8.02.1).

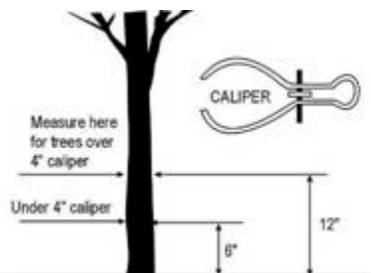


Figure 8.02.1

#### Caliper

B. “Certified arborist” - An individual certified by the International Society of Arboriculture as a certified arborist.

C. “Certified forester” - An individual certified by the Society of American Foresters as a certified forester.

D. “Certified tree risk assessor” - An individual certified by the International Society of Arboriculture to conduct tree risk assessments.

E. “Covered soil volume” - A volume of soil that is under pavement and specially designed to support the growth of a tree. Covered soil volumes contain existing, new or amended soil with the physical, chemical and biological properties necessary to support the growth of a tree, while at the same time supporting the load-bearing requirements and engineering standards of the overlying pavement. Covered soil volumes would not be considered tree growth limiting by a project arborist or landscape architect in an urban forestry plan developed per the standards in Chapter 18.790 and corresponding administrative procedures.

Commentary

8.02.050 Definition of Specific Words.

Definitions continued.

F. “Development impact area” - The area on a site or right of way associated with a site affected by any and all site or right of way improvements, including but not limited to buildings, structures, walls, parking and loading areas, street improvements, paved and graveled areas, utilities, irrigation, equipment storage, construction parking and landscaping. The impact area also refers to areas of grading, filling, stockpiling, demolition, tree removal, trenching, boring and any other activities that require excavation or soil disturbance.

G. “Dripline” - The outer limit of a tree canopy projected to the ground.

H. “Diameter at breast height (DBH)” - The average diameter of the trunk of a tree measured 4 ½ feet above mean ground level at the base of the trunk (see figure 8.02.2). If the tree splits into multiple trunks above ground, but below 4 ½ feet, the DBH is the average diameter of the most narrow point beneath the split (see figure 8.02.3). If the tree has excessive swelling at 4 ½ feet, the DBH is the average diameter of the most narrow point beneath the swelling. If the tree splits into multiple trunks at or directly below ground, it shall be considered one tree and the DBH shall be the square root of the sum of the cross-sectional area of each trunk at 4 ½ feet above mean ground level multiplied by 1.1284 (see figure 8.02.4).

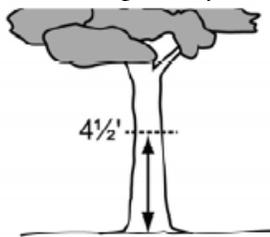


Figure 8.02.2  
Standard DBH

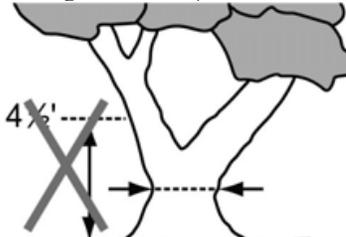


Figure 8.02.3  
DBH for Split Trunk

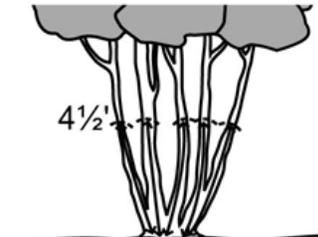


Figure 8.02.4  
DBH for Multiple Trunks

I. “Hazard tree related definitions”

1. “Claimant” - Any person that believes in good faith there is a hazard tree on a property, can demonstrate that their life, limb or property has the potential to be impacted by said tree and seeks resolution through the Hazard Tree Evaluation and Abatement Procedure specified in Section 1 of the Urban Forestry Manual.

2. “Hazard tree - Any tree or tree part that has been or could be determined by an independent certified tree risk assessor to constitute a high level hazard requiring hazard tree abatement with an overall minimum risk rating of 8 for trees or tree parts up to 4 inch DBH, 9 for trees or tree parts greater than 4 inch and up to 20 inch DBH, or 10 for trees or tree parts greater than 20 inch DBH using the most current version of the tree risk assessment methodology developed by the International Society of Arboriculture.

Commentary

8.02.050 Definition of Specific Words.

Definitions continued.

3. “Hazard tree abatement” - The process of reducing or eliminating a hazard to an overall risk rating of less than 8 for trees or tree parts up to 4 inch DBH, 9 for trees or tree parts greater than 4 inch and up to 20 inch DBH, or 10 for trees or tree parts greater than 20 inch DBH using the most current version of the tree risk assessment methodology developed by the International Society of Arboriculture through pruning, tree removal or other means in a manner that complies with all applicable rules and regulations.

4. “Hazard tree owner or responsible party” - The property owner or responsible party with the largest percentage of a hazard tree trunk immediately above the trunk flare or root buttresses. In cases where the hazard tree consists of a branch instead of an entire tree, the hazard tree owner or responsible party is the person who owns or is responsible for the property from where the branch originates. The hazard tree owner or responsible party:

a. Owns the hazard tree;

b. Is the entity or person acting as an agent for the owner of the hazard tree by agreement that has authority over the hazard tree, is responsible for the hazard tree’s maintenance or management, or is responsible for hazard tree abatement;

c. Is any person occupying the property with the hazard tree, including bailee, lessee, tenant or other having possession; or

d. Is the person who is alleged to have committed the acts or omissions resulting in the hazard tree or allowed the hazard tree to exist on the property.

5. “Respondent” - Any person that receives notice from a claimant seeking resolution through the Hazard Tree Evaluation and Abatement Procedure specified in Section 1 of the Urban Forestry Manual.

J. “Heritage tree” - Any tree or stand of trees of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a heritage tree by Tigard City Council.

K. “Median tree” - Any tree within the public right of way under City of Tigard jurisdiction between opposing lanes of vehicular traffic. Trees in the centers of cul-de-sacs and roundabouts within the public right of way under City of Tigard jurisdiction shall also be considered median trees.

L. “Nuisance tree” - Any tree included on the Nuisance Tree List in the Urban Forestry Manual.

Commentary

8.02.050 Definition of Specific Words.

Definitions continued.

M. “Open grown tree” - Any tree that has grown and established in an isolated manner without significant competition for light, space and nutrients from other trees. Open grown trees generally retain more foliage, develop greater trunk tapers, have more extensive root systems and are more resistant to windthrow than stand grown trees.

N. “Open soil volume” - An unpaved volume of soil, which contains existing, new or amended soil with the physical, chemical and biological properties necessary to support the growth of a tree.

O. “Parking lot tree” - Any tree used to meet the requirements in Section 18.745.050.E.

P. “Person” - An individual, corporation, governmental agency, official advisory committee of the City of Tigard, business trust, estate, trust, partnership, association or two or more people having a joint or common interest or any other legal entity.

Q. “Significant tree” - Any tree or stand of trees of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a significant tree by Tigard City Council or the designated city board or committee and which status has been accepted by the tree owner or responsible party.

R. “Significant tree grove” - A stand of trees that has been identified as significant through the Statewide Land Use Planning Goal 5 process. A Significant Tree Grove Map is maintained by the director of community development for the City of Tigard, or designee.

S. “Stand (of trees)” - A distinct area of stand grown trees, often predominantly native and with contiguous canopies, which form a visual and/or biological unit.

T. “Stand grown tree” - Any tree that has grown and established in close association with other trees and, as a result, has experienced significant competition for light, space and nutrients from other trees. Stand grown trees generally retain less foliage, develop less trunk taper, have less extensive root systems and are less resistant to windthrow than open grown trees.

U. “Street tree” - Any tree equal to or greater than 1 ½ inch caliper or DBH within a public right of way under City of Tigard jurisdiction or easement for public access under City of Tigard jurisdiction, or any tree equal to or greater than 1 ½ inch caliper or DBH outside of a public right of way or easement for public access that the city can demonstrate was planted or preserved as a street tree to meet the requirements for a city permit or project. Median trees shall not be considered street trees.

Commentary

8.02.050 Definition of Specific Words.

Definitions continued.

V. “Thinning” - A tree removal practice that reduces tree density and competition between trees in a stand. Thinning concentrates growth on fewer, high-quality trees and generally enhances tree health.

W. “Tree” - A woody perennial plant, often with one dominant trunk, the capacity to achieve a mature height greater than 16 feet and primarily referred to as a tree in scientific literature.

X. “Tree canopy” - The area above ground which is covered by the trunk, branches and foliage of a tree or group of trees’ crowns.

Y. “Tree canopy cover, effective” - A formula detailed in Chapter 18.790 and corresponding administrative procedures used to calculate the amount of tree canopy that will be provided for a given lot or tract through any combination of preserving existing trees and planting new trees. In general, the formula grants bonus tree canopy credit based on the existing tree canopy of trees that are preserved, and grants additional tree canopy credit based on the projected mature tree canopy of newly planted trees.

Z. “Tree Care Industry Standards” - Generally accepted industry standards for tree care practices detailed in the most current version of the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations. In addition, tree care industry standards shall include adherence to all applicable rules and regulations for the completion of any tree care operation.

AA. “Tree removal” - The cutting or removing of 50 percent or more of a crown, trunk or root system of a tree, or any action which results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling.

BB. “Understory tree” - Any tree that is adapted to grow and complete its lifecycle within the shade and beneath the canopy of another tree.

Commentary

Chapter 8.04 TREE PERMIT PROCEDURES

Chapter 8.04 establishes a consistent framework for tree permit decisions that is referenced by all of the chapters in Title 8 that require tree permits.

The guiding principles for Tree Permit Requirements are in Volume I of the legislative adoption package for the Urban Forestry Code Revisions. These guiding principles represent the consensus view of the citizen advisory committee that advised staff on the Urban Forestry Code Revisions.

8.04.010 Purpose

The purpose statement explains that the chapter is intended to provide two tracks for decision making. The City Manager Decision Making Procedures are for simple decisions to be decided by staff and the City Board or Committee Decision Making Procedures are for complex decisions to be decided by a discretionary review body.

8.04.020 City Manager Decision Making Procedures

The City Manager Decision Making Procedures are implemented administratively by city staff without public review for simple situations such as permitting the planting of street and median trees, and permitting the removal of protected trees that are in poor or hazardous condition, nuisance trees, causing damage fire dangers or preventing allowed development to occur.

The detailed approval criteria in the Urban Forestry Manual are referenced in each chapter of Title 8 that requires a tree permit.

Replacement is required through planting or a fee in lieu when protected trees (except heritage trees) are removed. If there is not room on site for a replacement tree, then no fee in lieu is required. Heritage trees are not required to be replaced because heritage trees are unique and can not necessarily be replaced by planting a new tree.

TIGARD MUNICIPAL CODEChapter 8.04 TREE PERMIT PROCEDURESSections:

- 8.04.010 Purpose.
- 8.04.020 City Manager Decision Making Procedures.
- 8.04.030 City Board or Committee Decision Making Procedures.
- 8.04.040 Emergency Tree Permit Procedures

8.04.010 Purpose.

The purpose of this chapter is to create a flexible framework for tree permit decisions to address both simple and complex situations. The City Manager Decision Making Procedures are implemented administratively by city staff without public review for approving tree permits in situations where the reasons and criteria for tree planting, removal and/or replacement are simple. The City Board or Committee Decision Making Procedures are implemented through a public review process by a designated board or commission in situations where the reasons and criteria for tree removal and/or replacement are complex.

8.04.020 City Manager Decision Making Procedures.

A. City manager tree permit applications shall be made on forms provided by the city manager or designee.

- B. City manager tree permit applications shall:
1. Include the information requested on the application form;
  2. Address all of the relevant approval criteria in the Urban Forestry Manual in sufficient detail for review and action; and
  3. Be accompanied by the required fee.

Commentary

8.04.020 City Manager Decision Making Procedures

City Manager Decision Making Procedures continued.

8.04.030 City Board or Committee Decision Making Procedures

The City Board or Committee Decision Making Procedures are implemented through a public review process by a designated board or committee for more complex situations where the reasons for removal are unclear (solar access, views, aesthetics, etc.). The designated board or committee is authorized to use their discretion to weigh the tree benefits and reasons for removal when making their decision.

The City Board or Committee Decision Making Procedures follow the procedures in Section 18.390.050 except no pre-application conference (18.390.050.A) and no impact study (18.390.050.B.2.e) is required.

C. The city manager’s or designee’s decision shall address all of the relevant approval criteria in the Urban Forestry Manual. The city manager or designee shall approve, approve with conditions or deny the requested tree permit in writing based on the relevant approval criteria in the Urban Forestry Manual.

D. The city manager’s or designee’s decision shall be final and valid for a period of up to one year after issuance unless a longer timeframe is conditioned as part of the tree permit decision. However, nothing shall prevent a person from submitting another application for a city manager tree permit if the conditions and circumstances of an unexpired city manager tree permit have changed.

8.04.030 City Board or Committee Decision Making Procedures

A. The city manager or designee shall authorize a city board or committee to issue discretionary decisions pertaining to tree permits.

B. The designated city board or committee shall be authorized to use their discretion when issuing their decision on tree permits and include but not be limited to the following considerations:

1. Solar access;
2. Views;
3. Quality of tree species, condition and location;
4. Contribution to the environment;
5. Contribution to the community; and
6. Aesthetics.

C. The City Board or Committee Decision Making Procedures shall be consistent with the procedures in Section 18.390.050 of the Tigard Municipal Code except 18.390.050.A and 18.390.050.B.2.e do not apply. The review body shall be the city board or committee so designated by the city manager or designee.

D. Decisions made according to the City Board or Committee Decisions Making Procedures shall be final and valid for a period of up to one year unless:

1. A longer timeframe is conditioned as part of the tree permit decision; or
2. A subsequent decision is issued through the City Manager Decision Making Procedures in 8.04.020 that conflicts with an unexpired city board or committee tree permit.

## Commentary

### 8.04.040 Emergency Tree Permit Procedures

In cases of emergency, removal of a protected tree is authorized without a permit as long as retroactive approval through the City Manager Decision Making Procedures is received.

8.04.040 Emergency Tree Permit Procedures

If an emergency exists because a tree presents such a clear and present danger to people, structures, infrastructure or utilities that there is insufficient time to obtain a permit, any person may remove the subject tree without first having obtained a permit. The person shall, within 14 calendar days after having removed such tree, submit a retroactive application for a city manager tree permit through the City Manager Decision Making Procedures detailed in Section 8.04.020. Applicants are encouraged to take photographs of the subject tree and obtain written documentation from a certified arborist prior to the removal. If the city manager or designee determines that there was no emergency, he/she shall pursue enforcement action through Chapter 1.16.

Commentary

Chapter 8.06 HAZARD TREES

The hazard trees chapter creates a framework for addressing hazard trees.

The guiding principles for Hazard Trees are in Volume I of the legislative adoption package for the Urban Forestry Code Revisions. These guiding principles represent the consensus view of the citizen advisory committee that advised staff on the Urban Forestry Code Revisions.

8.06.010 Purpose

The purpose statement explains that the chapter is to establish authority for protecting the public from hazard trees through standards and procedures for hazard tree identification, evaluation and abatement.

8.06.020 General Provisions

Hazard trees (defined in Chapter 8.02) are prohibited in Tigard. The definition of hazard tree incorporates by reference the probability of failure, size of defective part and target area.

TIGARD MUNICIPAL CODE

Chapter 8.06 HAZARD TREES

Sections:

- 8.06.010 Purpose
- 8.06.020 General Provisions
- 8.06.030 Hazard Tree Evaluation and Abatement Procedure
- 8.06.040 Emergency Abatement Procedure

8.06.010 Purpose

The purpose of this chapter is to protect the health, safety and welfare of people within the City of Tigard by establishing standards and procedures for the identification, evaluation and abatement of hazard trees.

8.06.020 Hazard Trees Prohibited

- A. Hazard trees are prohibited within the City of Tigard.
- B. Any hazard tree owner or responsible party shall be required to complete hazard tree abatement.
- C. Failure of a hazard tree owner or responsible party to complete hazard tree abatement is a nuisance under Chapter 6.02 and subject to penalties under Chapter 1.16.

## Commentary

### 8.06.030 Hazard Tree Evaluation and Abatement Procedure

The Hazard Tree Evaluation and Abatement Procedure is detailed in Section 1 of the Urban Forestry Manual and includes a tiered approach that begins with 1) informal reconciliation between parties without city involvement; yet may progress to 2) formal reconciliation where the claimant submits an application, provides information, pays fees, documents informal reconciliation and the city ensures abatement and apportionment of costs by private property owners or through city action.

In addition to the procedures being detailed in the Urban Forestry Manual, the city will create more user friendly forms that explain the process and timelines.

A person has standing to participate in the Hazard Tree Evaluation and Abatement Procedure only if they can demonstrate that they have the potential to be impacted by a tree they believe is a hazard. Once initiated, both the claimant and respondent are obligated to complete the Hazard Tree Evaluation and Abatement Procedure.

### 8.06.040 Emergency Abatement Procedure

If there is an immediate threat to public safety, the city has the authority through Chapter 1.16 to immediately abate the hazard instead of following the procedures in Section 1 of the Urban Forestry Manual.

8.06.030 Hazard Tree Evaluation and Abatement Procedure

A. Any claimant may seek resolution through the Hazard Tree Evaluation and Abatement Procedure specified in Section 1 of the Urban Forestry Manual.

B. Once initiated by the claimant, both the claimant and respondent have an obligation to complete the Hazard Tree Evaluation and Abatement Procedure specified in Section 1 of the Urban Forestry Manual. Failure of the claimant or respondent to perform their obligations specified in the Hazard Tree Evaluation and Abatement Procedure constitutes a violation of this code by the negligent party.

8.06.040 Emergency Abatement Procedure

If the city has reason to believe a hazard tree poses an immediate danger and there is not enough time to complete the Hazard Tree Evaluation and Abatement Procedure in Section 1 of the Urban Forestry Manual, the city may choose to take immediate remedial action as defined in Section 1.16.150 of the Tigard Municipal Code.

Commentary

Chapter 8.08 STREET AND MEDIAN TREES

Chapter 8.08 establishes the framework for permitting decisions for street and median trees. They replace the provisions previously in Chapter 9.06.

8.08.010 Purpose

The purpose statement explains the chapter establishes standards and procedures for street and median trees to maximize their benefits.

8.08.020 General Provisions

Adjacent property owners are responsible for street trees and the city is responsible for median trees.

The city is authorized to exercise its authority over the right of way (and street trees) when necessary.

TIGARD MUNICIPAL CODE

Chapter 8.08 STREET AND MEDIAN TREES

Sections:

- 8.08.010 Purpose
- 8.08.020 General Provisions
- 8.08.030 Street Tree Planting
- 8.08.040 Street Tree Maintenance
- 8.08.050 Street Tree Removal
- 8.08.060 Median Tree Planting
- 8.08.070 Median Tree Maintenance
- 8.08.080 Median Tree Removal

8.08.010 Purpose

The purpose of this chapter is to provide standards and procedures for the planting, maintenance and removal of street and median trees in order to maximize their environmental, aesthetic, social and economic benefits.

## Commentary

### 8.08.020 General Provisions

General provisions continued (see commentary on previous page).

### 8.08.030 Street Tree Planting

A permit through the City Manager Decision Making Procedures is required for the planting of street trees. The detailed planting specifications are in Section 2, part 1 of the Urban Forestry Manual.

### 8.08.040 Street Tree Maintenance

Street trees are required to be maintained per tree care industry standards and the clearance requirements in Section 2, part 2 of the Urban Forestry Manual.

Street trees that die within three years after planting are allowed to be removed and replaced without a new permit. It is relatively common for trees to not survive the establishment period, and not requiring a permit to remove and replant a newly planted tree that fails to establish improves efficiency for both the applicant and city for a relatively insignificant action.

### 8.08.050 Street Tree Removal

Permits obtained through the City Manager Decision Making Procedures or the City Board or Committee Decision Making Procedures are required to remove a street tree.

The approval criteria for street tree removal through the City Manager Decision Making Procedures are detailed in Section 3 of the Urban Forestry Manual.

According to Section 3 of the Urban Forestry Manual, street tree removal is permitted when:

1. The tree is a hazard and the hazard cannot be abated without removing the tree.
2. The tree is dead or declining.
3. The tree is a nuisance tree.
4. The tree's location is non-conforming (e.g. closer to an intersection than currently allowed).
5. The tree roots are causing damage to paved surfaces, buildings or utilities.
6. Tree removal is required for a street improvement.
7. Tree removal is required for approved development activities or utility installation/repair.
8. The tree presents a fire or emergency access hazard that cannot be abated without removing the tree as determined by the fire marshal.
9. Tree removal is required for thinning of a stand of trees under the supervision of a certified arborist or forester.

Section 3 also requires replacement of street trees when there is room on site unless trees are removed for thinning purposes. A fee in lieu of replacement is allowed at the city's discretion.

### 8.08.060 Median Tree Planting

A permit through the City Manager Decision Making Procedures is required for the planting of median trees. The detailed planting specifications are in Section 4, part 1 of the Urban Forestry Manual.

8.08.020 General Provisions

A. It shall be the duty of owners of lots or portions of lots immediately abutting on, fronting on, adjacent to or owning the largest percentage of any street tree trunk immediately above the trunk flare or root buttresses to maintain and remove street trees in accordance with the provisions of this chapter. No person, except as specified in Section 8.08.020.C of this chapter, shall plant a street tree on any lot, or within the public right of way immediately abutting on, fronting on or adjacent to any lot, without the responsible property owner's permission.

B. It shall be the duty of the city to plant, maintain and remove median trees in accordance with the provisions of this chapter.

C. The city may, at any time, exercise its authority over the public right of way by planting, maintaining or removing any street tree or tree part within a public right of way in accordance with the provisions of this chapter. Any action taken by the city in accordance with this subsection shall not absolve property owners from their ongoing responsibility for street trees pursuant to Section 8.08.020.A of this chapter.

8.08.030 Street Tree Planting

No person shall plant a street tree without prior written approval obtained through the City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 2, part 1 of the Urban Forestry Manual.

8.08.040 Street Tree Maintenance

A. All street trees shall be maintained in a manner consistent with the street tree maintenance standards specified in Section 2, part 2 of the Urban Forestry Manual.

B. If any street tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The street tree removal provisions (Section 8.08.050 below) shall not apply to tree removal and replacement in accordance with this subsection.

## Commentary

### 8.08.070 Median Tree Maintenance

Street trees are required to be maintained per tree care industry standards and the clearance requirements in Section 4, part 2 of the Urban Forestry Manual.

Median trees that die within three years after planting are allowed to be removed and replaced without requiring a new permit. It is relatively common for trees to not survive the establishment period, and not requiring a permit to remove and replant a newly planted tree that fails to establish improves efficiency for both the applicant and city for a relatively insignificant action.

### 8.08.080 Median Tree Removal

Permits obtained through the City Manager Decision Making Procedures or the City Board or Committee Decision Making Procedures are required to remove a median tree.

The approval criteria for median tree removal through the City Manager Decision Making Procedures are detailed in Section 5 of the Urban Forestry Manual and are essentially the same standards for street tree removal.

According to Section 5 of the Urban Forestry Manual, median tree removal is permitted when:

1. The tree is a hazard and the hazard cannot be abated without removing the tree.
2. The tree is dead or declining.
3. The tree is a nuisance tree.
4. The tree's location is non-conforming (e.g. closer to an intersection than currently allowed).
5. The tree roots are causing damage to paved surfaces, buildings or utilities.
6. Tree removal is required for a street improvement.
7. Tree removal is required for approved development activities or utility installation/repair.
8. The tree presents a fire or emergency access hazard that cannot be abated without removing the tree as determined by the fire marshal.
9. Tree removal is required for thinning of a stand of trees under the supervision of a certified arborist or forester.

Section 5 also requires replacement of median trees, when there is room on site, unless trees are removed for thinning purposes. A fee in lieu of replacement is allowed at the city's discretion.

8.08.050 Street Tree Removal

Except as exempted by Section 8.08.040.B, no person shall remove a street tree without prior written approval obtained either through:

A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 3, part 1 of the Urban Forestry Manual; or

B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

8.08.060 Median Tree Planting

No person shall plant a median tree without prior written approval obtained through the City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 4, part 1 of the Urban Forestry Manual.

8.08.070 Median Tree Maintenance

A. All median trees shall be maintained in a manner consistent with the median tree maintenance standards specified in Section 4, part 2 of the Urban Forestry Manual.

B. If any median tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The median tree removal provisions (Section 8.08.080 below) shall not apply to tree removal and replacement in accordance with this subsection.

8.08.080 Median Tree Removal

Except as exempted by Section 8.08.070.B, no person shall remove a median tree without prior written approval obtained either through:

A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 5, part 1 of the Urban Forestry Manual; or

B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

Commentary

Chapter 8.10 TREES IN SENSITIVE LANDS

Permit requirements for trees in sensitive lands were previously included in Chapter 18.790 (Tree Removal) of the Tigard Development Code. The provisions have been struck from Chapter 18.790 and incorporated into Title 8 for consolidation with the rest of the tree permit provision, for ease of use.

8.10.010 Purpose

The purpose statement explains the chapter and establishes standards and procedures for native trees for their contribution to sensitive lands.

8.10.020 General Provisions

Sensitive lands are defined in Chapter 18.775 and include land potentially unsuitable for development due to their location in:

- A. Floodplains;
- B. Stream corridors;
- C. Wetlands;
- D. Steep slopes; and/or
- E. Significant habitat areas.

A map of sensitive lands is maintained by the city and is used to determine whether a tree is within sensitive lands. This negates the requirement for a detailed delineation if the city and applicant agree whether a tree is within sensitive lands or not. A detailed delineation could be provided to the city to prove the exact location of a tree in relation to sensitive lands if the map boundaries are not acceptable.

TIGARD MUNICIPAL CODE

Chapter 8.10 TREES IN SENSITIVE LANDS

Sections:

- 8.10.010 Purpose
- 8.10.020 General Provisions
- 8.10.030 Sensitive Lands Tree Maintenance
- 8.10.040 Sensitive Lands Tree Removal

8.10.010 Purpose

The purpose of this chapter is to establish standards and procedures for the maintenance, removal and replacement of native trees in sensitive lands for their contribution to the functions and values of sensitive lands.

8.10.020 General Provisions

A. The provisions of this chapter are applicable within sensitive lands under City of Tigard jurisdiction described in Section 18.775.010.G of the Tigard Municipal Code. A map of sensitive lands is maintained by the city and is accessible to the public.

B. The city manager or designee shall utilize the map of sensitive lands to determine whether a particular tree is within sensitive lands. In order for the city manager or designee to reconsider his or her determination, a person shall provide a delineation by a professional land surveyor conducted in accordance with all applicable agency accepted methods for the sensitive lands type in question.

C. Only those native trees listed on the native tree list in the Urban Forestry Manual are subject to the provisions of this chapter.

## Commentary

### 8.10.020 General Provisions (continued)

Only trees on the native tree list in the Urban Forestry Manual are subject to the provisions of the chapter.

### 8.10.030 Sensitive Lands Tree Maintenance

Native trees over 6 inch DBH and required replacement trees (which can be less than 6 inch DBH) in sensitive lands are required to be maintained per tree care industry standards.

The removal and replacement of trees in sensitive lands is allowed for required trees that die within three years after planting. It is relatively common for trees to not survive the establishment period, and not requiring a permit to remove and replant a newly planted tree that fails to establish improves efficiency for both the applicant and city for a relatively insignificant action.

### 8.10.040 Sensitive Lands Tree Removal

Permits obtained through the City Manager Decision Making Procedures or the City Board or Committee Decision Making Procedures are required to remove protected trees in sensitive lands.

The approval criteria for sensitive lands tree removal through the City Manager Decision Making Procedures are detailed in Section 6 of the Urban Forestry Manual.

According to Section 6 of the Urban Forestry Manual, sensitive lands tree removal is permitted when:

1. The tree is a hazard and the hazard cannot be abated without removing the tree.
2. The tree is dead or declining.
3. The tree is a nuisance tree.
4. The tree roots are causing damage to paved surfaces, buildings or utilities.
5. Tree removal is required for a street improvement.
6. Tree removal is required for approved development activities or utility installation/repair.
7. The tree presents a fire or emergency access hazard that cannot be abated without removing the tree as determined by the fire marshal.
8. Tree removal is required for thinning of a stand of trees under the supervision of a certified arborist or forester.

Section 6 also requires replacement of trees in sensitive lands, when there is room on site, unless trees are removed for thinning purposes. In addition to newly planted trees, existing trees less than 6 inch DBH can be used as replacement trees provided they meet all of the replacement tree species, size, condition and location standards detailed in Section 6. A fee in lieu of replacement is allowed at the city's discretion.

8.10.030 Sensitive Lands Tree Maintenance

A. Native trees greater than or equal to 6 inch DBH and native trees that were required to be planted as replacement trees by the provisions of this chapter shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.

B. If any native tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The sensitive lands tree removal provisions (Section 8.10.040 below) shall not apply to tree removal and replacement in accordance with this subsection.

8.10.040 Sensitive Lands Tree Removal

Except as exempted by Section 8.10.030.B, no person shall remove any native tree greater than or equal to 6 inch DBH, or any native tree less than 6 inch DBH that was required to be planted as a replacement tree by the provisions of this chapter, without prior written approval obtained either through:

A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 6, part 1 of the Urban Forestry Manual; or

B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

## Commentary

### Chapter 8.12 TREES THAT WERE REQUIRED WITH DEVELOPMENT

Chapter 8.12 establishes the framework for permitting decisions for trees that were required to be planted or preserved by a land use permit when the removal is not associated with an active land use permit. The intent of the legislative amendments in Chapter 8.12 is to supersede the planting and preservation requirements for trees that were required by prior land use decisions. This includes trees that are recorded as preserved on property deeds as a result of past land use decisions. However, for these deed restricted trees, applicants (and not the city) will be solely responsible for identifying and removing any applicable deed restrictions. The city will provide any signatures necessary to facilitate the removal of deed restrictions for trees permitted for removal by decisions pursuant to Chapter 8.12.

#### 8.12.010 Purpose

The purpose statement explains that the chapter establishes standards and procedures for trees that were required with development to maintain their benefits after the development process is complete.

#### 8.12.020 General Provisions

The provisions of Chapter 8.12 apply to trees required to be planted or preserved by a land use permit and trees that are required as replacements for said trees.

The city retains records of all land use permits. These records will be used to determine whether a tree was required to be planted or preserved by a land use permit. If there is not a clear record, the tree will be exempt from Chapter 8.12.

TIGARD MUNICIPAL CODE

Chapter 8.12 TREES THAT WERE REQUIRED WITH DEVELOPMENT

Sections:

- 8.12.010 Purpose
- 8.12.020 General Provisions
- 8.12.030 Maintenance of Trees That Were Required With Development
- 8.12.040 Removal of Trees That Were Required With Development

8.12.010 Purpose

The purpose of this chapter is to establish standards and procedures for the maintenance, removal and replacement of trees that were required with development to maintain their environmental, aesthetic, social and economic benefits after the development process is complete.

8.12.020 General Provisions

A. The provisions of this chapter do not apply unless there is substantial evidence that one of the following situations exists:

1. Trees were planted or preserved under a requirement found in Title 18 or found in a land use permit; and
2. Trees required as replacements for trees originally required under 8.12.020.A.1 above.

## Commentary

### 8.12.030 Maintenance of Trees That Were Required With Development

Trees that were required to be planted or preserved by a land use permit are required to be maintained per tree care industry standards.

The removal and replacement of trees subject to the provisions of this chapter is allowed for trees that die within three years after planting. It is relatively common for trees to not survive the establishment period, and not requiring a permit to remove and replant a newly planted tree that fails to establish improves efficiency for both the applicant and city for a relatively insignificant action. Tree establishment associated with an active land use permit is administered through the corresponding regulations for that permit (e.g. Chapter 18.790).

### 8.12.040 Removal of Trees That Were Required With Development

Permits obtained through the City Manager Decision Making Procedures or the City Board or Committee Decision Making Procedures are required to remove trees required to be planted or preserved by a land use permit.

The approval criteria for “development” tree removal through the City Manager Decision Making Procedures are detailed in Section 7 of the Urban Forestry Manual.

According to Section 7 of the Urban Forestry Manual, development tree removal is permitted when:

1. The tree is a hazard and the hazard cannot be abated without removing the tree.
2. The tree is dead or declining.
3. The tree is a nuisance tree.
4. The tree roots are causing damage to paved surfaces, buildings or utilities.
5. Tree removal is required for a street improvement.
6. Tree removal is required for approved development activities or utility installation/repair.
7. The tree presents a fire or emergency access hazard that cannot be abated without removing the tree as determined by the fire marshal.
8. Tree removal is required for thinning of a stand of trees under the supervision of a certified arborist or forester.

Section 7 also requires replacement of development trees, when there is room on site, unless trees are removed for thinning purposes. Replacement trees are required to be of equivalent stature and location so as to replace the function of the tree that was removed. For example, if a tree was required by Chapter 18.745 to provide a buffer between properties, it is required to be replaced with a similar stature tree (at maturity) and similar location so that it can continue to provide a buffering effect. In addition to newly planted trees, existing trees can be used as replacement trees provided they meet all of the replacement tree species, size, condition and location standards detailed in Section 7 and are not already protected by other code provisions. A fee in lieu of replacement is allowed at the city’s discretion.

B. The city manager or designee shall utilize all available land use permit records and data when determining whether a tree is subject to the provisions of this chapter.

8.12.030 Maintenance of Trees That Were Required With Development

A. Trees subject to the provisions of this chapter and trees that were required to be planted as replacement trees by the provisions of this chapter shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.

B. If any tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The removal of trees that were required with development provisions (Section 8.12.040 below) shall not apply to tree removal and replacement in accordance with this subsection.

8.12.040 Removal of Trees That Were Required With Development

Except as exempted by Section 8.12.030.B above, no person shall remove any tree subject to the provisions of this chapter without prior written approval obtained either through:

A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 7, part 1 of the Urban Forestry Manual; or

B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

Commentary

Chapter 8.14 TREES THAT WERE PLANTED USING THE URBAN FORESTRY FUND

Chapter 8.14 establishes the framework for permitting decisions for trees that were planted using the Urban Forestry Fund.

8.14.010 Purpose

The purpose statement explains that the chapter creates standards and procedures for maintaining, removing and replacing trees that were planted using the city's Urban Forestry Fund. The chapter is intended to ensure maximum benefit when city funds are expended to plant trees.

TIGARD MUNICIPAL CODE

Chapter 8.14 TREES THAT WERE PLANTED USING THE URBAN FORESTRY FUND

Sections:

8.14.010 Purpose

8.14.020 General Provisions

8.14.030 Maintenance of Trees That Were Planted Using the Urban Forestry Fund

8.14.040 Removal of Trees That Were Planted Using the Urban Forestry Fund

8.14.010 Purpose

The purpose of this chapter is to establish standards and procedures for the maintenance, removal and replacement of trees that were planted using the Urban Forestry Fund:

A. To maintain the environmental, aesthetic, social and economic benefits provided by trees;

B. To replace trees that were removed with past development; and

C. To ensure public funds for tree planting are invested wisely by requiring ongoing maintenance and replacement as a condition of expenditure.

## Commentary

### 8.14.020 General Provisions

The provisions are applicable to trees planted using the Urban Forestry Fund. Only those trees planted after the date of adoption of the Urban Forestry Code Revisions will be subject to the provisions of the chapter, since prior plantings were undertaken without knowledge of the code requirements.

The city records of planting projects will be used to determine if a particular tree was planted using the Urban Forestry Fund.

### 8.14.030 Maintenance of Trees that were Planted Using the Urban Forestry Fund

Trees that were planted using the Urban Forestry Fund are required to be maintained per tree care industry standards.

The removal and replacement of trees that were planted using the Urban Forestry Fund is allowed for trees that die within three years after planting. It is relatively common for trees to not survive the establishment period, and not requiring a permit to remove and replant a newly planted tree that fails to establish improves efficiency for both the applicant and city for a relatively insignificant action.

### 8.14.040 Removal of Trees that were Planted Using the Urban Forestry Fund

Permits obtained through the City Manager Decision Making Procedures or the City Board or Committee Decision Making Procedures are required to remove trees that were planted using the Urban Forestry Fund.

The approval criteria for “Urban Forestry Fund” tree removal through the City Manager Decision Making Procedures are detailed in Section 8 of the Urban Forestry Manual.

According to Section 8 of the Urban Forestry Manual, Urban Forestry Fund tree removal is permitted when:

1. The tree is a hazard and the hazard cannot be abated without removing the tree.
2. The tree is dead or declining.
3. The tree is a nuisance tree.
4. The tree roots are causing damage to paved surfaces, buildings or utilities.
5. Tree removal is required for a street improvement.
6. Tree removal is required for approved development activities or utility installation/repair.
7. The tree presents a fire or emergency access hazard that cannot be abated without removing the tree as determined by the fire marshal.
8. Tree removal is required for thinning of a stand of trees under the supervision of a certified arborist or forester.

Section 8 also requires replacement of Urban Forestry Fund trees when there is room on site unless trees are removed for thinning purposes. Replacement trees are required to be of equivalent stature so as to replace the future canopy of the tree that was removed. In addition to newly planted trees, existing trees can be used as replacement trees provided they meet all of the replacement tree species, size, condition and location standards detailed in Section 8 and are not already protected by other code provisions. A fee in lieu of replacement is allowed at the city’s discretion.

8.14.020 General Provisions

A. The provisions of this chapter do not apply unless there is substantial evidence that one of the following situations exists:

1. Trees were planted using the Urban Forestry Fund Number 260 after [insert date of adoption]; and
2. Trees were required as replacements for trees in 8.14.020.A.1 above.

B. Determination of Applicability or Exemption. The city manager or designee shall utilize all available records and data when determining whether a tree is subject to the provisions of this chapter.

8.14.030 Maintenance of Trees that were Planted Using the Urban Forestry Fund

A. Trees subject to the provisions of this chapter and trees that were required to be planted as replacement trees by the provisions of this chapter shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.

B. If any tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The removal of trees that were planted using the Urban Forestry Fund provisions (Section 8.14.040 below) shall not apply to tree removal and replacement in accordance with this subsection.

8.14.040 Removal of Trees that were Planted Using the Urban Forestry Fund

Except as exempted by Section 8.14.030.B above, no person shall remove any tree subject to the provisions of this chapter without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 8, part 1 of the Urban Forestry Manual; or
- B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

## Commentary

### 8.16.010 Purpose

The purpose statement explains that the chapter creates a framework for recognizing, appreciating and providing voluntary protection for trees of landmark importance.

TIGARD MUNICIPAL CODE

Chapter 8.16 HERITAGE TREES

Sections:

- 8.16.010 Purpose
- 8.16.020 General Provisions
- 8.16.030 Nomination and Designation of Heritage Trees
- 8.16.040 Maintenance of Heritage Trees
- 8.16.050 Nomination and Designation of Significant Trees
- 8.16.060 Incentives for Heritage Tree Designation
- 8.16.070 Removal of Heritage Tree Designation
- 8.16.080 Removal of Significant Tree Designation

8.16.010 Purpose

The purpose of this chapter is to recognize, appreciate and provide for voluntary protection of trees that are of landmark importance due to age, size, species, horticultural quality or historic importance.

Commentary

8.16.020 General Provisions

The city will designate a board or commission to administer the chapter provisions.

Trees may be granted one of two special designations (heritage tree or significant tree) by the provisions of this chapter. Heritage trees are of landmark importance, afforded regulatory protection from removal and eligible for city funding for maintenance. Significant trees are also of landmark importance, are not afforded regulatory protection from removal and are not eligible for city funding for maintenance.

The reviewing authority may decide a tree that is nominated as a heritage tree should be designated as a significant tree if it is of lesser landmark importance (than a heritage tree). An applicant may nominate a tree directly for designation as a significant tree if they acknowledge a particular tree is of lesser landmark importance, but they would still like the tree to be recognized by the community. Alternatively, an applicant may nominate a tree for significant tree designation if they do not want the tree to be afforded regulatory protection, even if they think the tree could be designated as a heritage tree.

8.16.020 General Provisions

A. The city manager or designee shall authorize a city board or committee to implement the provisions of this chapter.

B. Heritage trees and significant trees may be of equivalent landmark importance due to age, size, species, horticultural quality or historic importance. The designated review body may approve designation as a significant tree for a tree nominated as a heritage tree if the review body determines the tree is of lesser landmark importance, but still worthy of recognition. Alternatively, a tree owner or responsible party may choose to nominate a tree as a significant tree rather than a heritage tree if they determine the tree is of lesser landmark importance, but still worthy of recognition, or if they desire no regulatory protection of the tree they would like to have recognized.

## Commentary

### 8.16.030 Nomination and Designation of Heritage Trees

The process of nominating and designating a heritage tree begins with someone recognizing that a tree or group of trees is of landmark importance due to age, size, species, horticultural quality or historic importance. The tree owner is required to sign off on the nomination. If the tree owner is the city, the city manager or designee is required to sign off on the nomination.

The designated city board or committee then reviews the nomination materials and can decide to recommend heritage tree designation and forward their decision to City Council, approve designation as a significant tree subject to final approval of the property owner or deny the tree designation as a heritage tree or significant tree.

If the designated city board or committee recommends heritage tree designation, the city will prepare the necessary paperwork to record heritage tree designation on the property deed. The property owner will be required to sign the paperwork in advance of City Council's final decision on the heritage tree. This is a change from current procedures in Chapter 9.08 because there have been instances in the past where, after council voted to approve heritage tree designation, the applicant decided they did not want to sign the paperwork. Under the new procedure, the city would destroy the signed paperwork if City Council does not approve heritage tree designation.

After the necessary paperwork is signed, City Council will review the nomination materials and recommendations by staff and the designated board or commission. City Council may vote to approve heritage tree designation (at which point the heritage tree paperwork will be executed for recording on the deed of the property), approve significant tree designation (subject to final approval of the property owner) or deny the tree heritage or significant tree designation.

Trees that are designated as heritage trees or significant trees will be included in a publicly accessible inventory of trees.

### 8.16.030 Nomination and Designation of Heritage Trees

A. Any person may nominate a particular tree or group of trees to be designated as a heritage tree due to age, size, species, horticultural quality or historic importance. The nomination shall be submitted by the tree owner or responsible party or accompanied by the tree owner or responsible party's written consent. If the nominated tree is located on city property, the nomination shall be submitted by the city manager or designee or be accompanied by the city manager's or designee's written consent. Upon completion of the nomination process, the remaining portions of this subsection shall apply in the order listed.

B. After reviewing the nomination materials, and any supplemental information provided by the city manager or designee, the designated city board or committee may decide by majority vote to:

1. Recommend approval of the tree to be designated as a heritage tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance, and forward their recommendation to City Council.

2. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance. Upon receipt of the tree owner's or responsible party's written consent for designation as a significant tree, the tree shall be included in a publicly accessible inventory of trees.

3. Deny the tree as a heritage tree and significant tree.

C. When the designated city board or committee recommends that council designate a tree as a heritage tree, the city manager or designee shall prepare for the tree owner or responsible party the paperwork necessary to record the heritage tree designation on the owner's or responsible party's deed, noting on such deed that the tree is subject to the provisions of this chapter. If the tree owner or responsible party fails to sign the necessary paperwork, the heritage tree designation shall be void, the matter shall not move forward to council, and the provisions of this chapter shall cease to apply to the tree.

D. After reviewing the nomination materials, any supplemental information provided by the city manager or designee, and the designated city board or committee's recommendation, the City Council may decide by majority vote to:

1. Approve the tree to be designated as a heritage tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance, at which point the city shall execute the necessary paperwork to record the heritage tree designation on the tree owner's or responsible party's deed, noting on such deed that the tree is subject to the provisions of this chapter. In addition, the tree shall be included in a publicly accessible inventory of trees.

Commentary

8.16.030 Nomination and Designation of Heritage Trees

Nomination and designation provisions continued.

8.16.040 Maintenance of Heritage Trees

Heritage trees are required to be maintained per tree care industry standards.

8.16.050 Nomination and Designation of Significant Trees

Trees can be nominated for significant tree designation directly with the tree owner's approval.

The designated board or commission will review the nomination and will decide whether to approve or deny designation.

Following approval, significant trees are included on a publicly accessible inventory of trees. Significant trees do not have regulatory protection.

2. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance. Upon receipt of the tree owner's or responsible party's written consent for designation as a significant tree, the tree shall be included in a publicly accessible inventory of trees.

3. Deny the tree as a heritage tree and significant tree.

8.16.040 Maintenance of Heritage Trees

Heritage trees shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.

8.16.050 Nomination and Designation of Significant Trees

A. Any person may nominate a particular tree or group of trees to be designated as a significant tree due to age, size, species, horticultural quality or historic importance. The nomination shall be submitted by the tree owner or responsible party or accompanied by the tree owner or responsible party's written consent. If the nominated tree is located on city property, the nomination shall be submitted by the city manager or designee or be accompanied by the city manager's or designee's written consent. Upon completion of the nomination process, the remaining portions of this subsection shall apply.

B. After reviewing the nomination materials, and any supplemental information provided by the city manager or designee, the designated city board or committee may decide by majority vote to:

1. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance. The tree shall be included in a publicly accessible inventory of trees.

2. Deny the tree as a significant tree.

Commentary

8.16.060 Incentives for Heritage Tree Designation

Designated heritage trees are eligible for incentives such as plaques and maintenance subject to the availability of funds. Significant trees are not eligible for such incentives because regulatory protections for the trees are not in place.

8.16.060 Incentives for Heritage Tree Designation

Designated heritage trees shall be eligible for the following incentives subject to availability of city funding and city approval:

A. Plaques which may be placed on or near heritage trees; and

B. Maintenance of heritage trees including but not limited to:

1. Pruning;
2. Pest control;
3. Unwanted planted removal;
4. Fertilization;
5. Soil amendment; and
6. Cabling and bracing.

## Commentary

### 8.16.070 Removal of Heritage Tree Designation

Permits obtained through the City Manager Decision Making Procedures or the City Board or Committee Decision Making Procedures are required to remove heritage tree designation.

The approval criteria for heritage tree designation removal through the City Manager Decision Making Procedures are detailed in Section 9 of the Urban Forestry Manual.

According to Section 9 of the Urban Forestry Manual, removal of heritage tree designation is permitted when:

1. The tree is a hazard and the hazard cannot be abated without removing the tree.
2. The tree is dead or declining.
3. The tree presents a fire or emergency access hazard that cannot be abated without removing the tree as determined by the fire marshal.
4. Tree removal is required for thinning of a stand of heritage trees under the supervision of a certified arborist or forester.

There is less criteria that would allow the removal of heritage trees through the City Manager Decision Making Procedures than the other protected classes of trees since heritage trees are of special significance. For example, if a street tree has roots damaging a sidewalk it would be approved for removal by the city without public review, whereas the removal of a heritage tree with roots damaging a sidewalk would only be permitted following a public review (City Board or Committee Decision Making Procedures). Through the public review, the public could weigh things like whether the sidewalk could be repaired in a way that preserves the tree, the importance of the tree to the surrounding community and the impact of the tree on the owner.

Section 9 does not require replacement of heritage trees because heritage trees are unique and can not necessarily be replaced by planting a new tree.

Once heritage tree designation is removed, the tree is no longer subject to the chapter provisions.

8.16.070 Removal of Heritage Tree Designation

Heritage trees and heritage tree designations shall not be removed, without prior written approval obtained either through:

A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in Section 9, part 1 of the Urban Forestry Manual; or

B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

8.16.080 Removal of Significant Tree Designation

A. Significant tree designation shall be removed when requested in writing by the tree owner or responsible party.

B. The tree owner or responsible party shall notify the city in writing of the removal of any significant tree.

## Commentary

### Chapter 9.06 TREES ON CITY PROPERTY.

The provisions of Chapter 9.06 have been struck so there are consistent regulations across ownerships. In other words, the same standards will apply regardless of whether trees are on city property or private property.

Definitions in Chapter 9.06 have been revised and relocated to Chapters 8.02 and 18.120.

The Tree Manual has been revised and is now the Urban Forestry Manual which is referenced in Section 8.02.030.

Provisions in Chapter 9.06 that are specific to street trees have been revised and relocated to Chapter 8.08.

Provisions in Chapter 9.06 that are specific to development are located in Chapter 18.790.

Enforcement provisions in Chapter 9.06 specific to trees are now in Sections 8.02.030 and 1.16.640.

~~Chapter 9.06 TREES ON CITY PROPERTY.~~

**Sections:**

~~9.06.010 Purpose.~~

~~9.06.020 Definitions.~~

~~9.06.030 Tree Planting on City property.~~

~~9.06.040 Tree Care and Maintenance on City property.~~

~~9.06.050 Tree Protection.~~

~~9.06.060 Removal of Hazardous Trees from City property.~~

~~9.06.070 Tree Removal and Replanting.~~

~~9.06.080 Enforcement.~~

~~9.06.010 Purpose.~~

~~(1) Value of Trees. The City of Tigard recognizes that trees are vital components of the urban forest environment. Trees reduce air, water, soil and noise pollution, provide energy reducing shade, control erosion, supply oxygen to breathe, provide habitat for wildlife, enhance quality of life and property values in every community, and are sources of pride for the entire city.~~

~~(2) Purposes:~~

~~(A) To provide guidance for the planting, maintenance and protection of trees on City property; and~~

~~(B) To provide a priority system for removal of hazardous trees from City property;~~

~~(C) To ensure the protection of trees during the development of properties on City property.~~

~~(3) Authority to Adopt a Tree Manual. The City Council may adopt by resolution a Tree Manual implementing the provisions of this chapter and providing detailed standards for tree planting, maintenance, protection and removal on City property.~~

Commentary

Chapter 9.06 TREES ON CITY PROPERTY.

Strikethroughs of existing trees on city property provisions continued.

**9.06.020 — Definitions.**

The following definitions apply in this chapter:

~~(1) City Forester. Under the direction of the Public Works Director is responsible for planning, developing and implementing a comprehensive urban forestry program, and providing community education and advice in support of urban forestry activities.~~

~~(2) City Property. “City property” includes all land owned by the City and all lands dedicated to the public and administered by the City, including but not limited to City right of way and City parks.~~

~~(3) City-owned Property. City property other than the right of way.~~

~~(4) Hazardous Tree. A tree which by reason of disease, infestation, age or other condition presents a known and immediate hazard to persons or to public or private property.~~

~~(5) Mitigation. Methods of tree replacement, direct costs, and/or retention used to lessen the environmental impact of development.~~

~~(6) Removal. The cutting or removing of 50 percent (50%) or more of a crown, trunk, or root system of a tree, or any action which results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling.~~

~~(7) Street Tree. Any tree that is growing along a street within the public right of way.~~

~~(8) Street Tree List. A list of approved tree species that may be planted within the public right of way.~~

~~(9) Tree. A standing woody plant having a trunk(s) two inches or more in diameter when measured four and a half feet from the ground. If the tree is on a slope, the measure is taken on the uphill side.~~

~~(10) Tree Manual. The manual governing tree planting, care, maintenance and removal adopted by the City by resolution pursuant to Section 9.06.010.~~

Commentary

Chapter 9.06 TREES ON CITY PROPERTY.

Strikethroughs of existing trees on city property provisions continued.

**9.06.030 — Tree Planting**

~~(1) Tree Planting:~~

~~(A) No person other than the City shall plant a tree on City property without the written approval of the Public Works Director or designee. In approving tree plantings, the Public Works Director or designee may impose conditions of approval;~~

~~(B) Any City department responsible for City property shall consult with the Public Works Director or designee before planting trees on City property;~~

~~(C) The Public Works Director or designee may grant approval of tree planting on City property under subsection a of this section only if the applicant has submitted a tree plan showing compliance with the standards set forth in the Tree Manual, and has signed a maintenance agreement consistent with the standards set forth in the Tree Manual. The requirement for a maintenance agreement may be waived if the tree planting is voluntary and not required by any City code provision or condition of approval;~~

~~(D) All tree plantings on City property shall be undertaken in a manner consistent with the approval of the Public Works Director or designee and the standards set forth in the Tree Manual;~~

~~(E) Only trees listed in the Street Tree List or those specifically approved by the Public Works Director or designee may be planted as street trees.~~

**9.06.040 — Tree Care and Maintenance**

~~(1) General Provisions~~

~~(A) All trees planted pursuant to the written approval of the Public Works Director or designee under Section 9.06.040 shall be cared for and maintained according to the standards set forth in the City Tree Care Manual.~~

**9.06.050 — Tree Protection**

~~(1) Care of Trees on City Property. The City shall follow the Tree Manual in caring for and protecting trees on City property.~~

~~(2) These requirements shall provide for the proper protection of tree roots, trunk(s) (or stem(s)), branches, and foliage within a tree's critical root zone for any tree on City property during any type of construction activity or project (excavation, demolition or any other type of disturbance);~~

Commentary

Chapter 9.06 TREES ON CITY PROPERTY.

Strikethroughs of existing trees on city property provisions continued.

**~~9.06.060 — Removal of Hazardous Trees from City Property~~**~~(1) Removal Priority~~

~~(A) When any person reports to the Public Works Director or designee that a tree on City property is hazardous, the Public Works Director, or appointed designee, shall evaluate the condition of the tree. The Public Works Director or designee shall establish a removal priority among trees determined to be hazardous and the City shall proceed with removal of hazardous trees from City property according to the priority established by the Public Works Director or designee, subject to the availability of financial and other resources.~~

~~(2) Removal of Hazardous Trees~~

~~(A) The removal of hazardous trees from City property shall be performed by City of Tigard employees or contracted commercial tree care companies with experience in tree removal. The Public Works Director or designee shall provide guidance as to the disposition of any wood or debris from any tree removal on City property.~~

**~~9.06.070 — Removal of Trees from City Property~~**

~~(1) Removal of Trees from City Property other than Right of Way Prohibited. No person other than the City or a person acting under contract with the City shall remove a tree from any City park or any City owned property without written approval of the Public Works Director or designee. Any person removing a tree from City property other than right of way shall provide mitigation as specified in the Tree Manual.~~

~~(2) Removal of Trees from Right of Way. No person other than the City or a person acting under contract with the City shall remove a tree from any City right of way without written approval of the Public Works Director or designee. As part of the written approval for tree removal from right of way, the Public Works Director or designee shall require mitigation as specified in the Tree Manual.~~

~~(3) Removal of Wood or Tree Debris from City Property. No person shall remove wood or tree debris from City property without written approval of the Public Works Director or designee, provided however that the Public Works Director or designee may retroactively approve removal of wood or tree debris from City property if the removal was under emergency circumstances. This section does not prohibit clearing of paths or other clean-up that leaves wood or tree debris on City property.~~

Commentary

Chapter 9.06 TREES ON CITY PROPERTY.

Strikethroughs of existing trees on city property provisions continued.

**9.06.080** ————— **Enforcement**

~~(1) The Public Works Director or designee may do any or all of the following if there is reason to believe a violation of this chapter has occurred:~~

~~(A) Issue a stop work order pursuant to Tigard Development Code Section 18.230;~~

~~(B) Issue a civil infraction citation pursuant to Tigard Municipal Code Chapter 1.16;~~

~~(C) Take any other action allowed by law to abate or obtain compensation for the violation. ■ (Ord. 02-34)~~

## Commentary

### Chapter 9.08 HERITAGE TREES

Chapter 9.08 contains the existing provisions for heritage tree designation, maintenance, removal and enforcement. The heritage tree provisions have been revised and moved to Chapter 8.16 (Heritage Trees) in the new consolidated Urban Forestry Title 8.

The revised heritage tree provisions allow for designation of two types of landmark trees (heritage trees and significant trees). The significant tree designation is new and allows for recognition of trees that are either of lesser landmark importance and/or the tree owner does not want regulatory protections for the tree.

~~Chapter 9.08 HERITAGE TREES.~~

~~Sections:~~

~~9.08.010 Purpose and Definitions.~~

~~9.08.020 Nomination.~~

~~9.08.030 Review Process.~~

~~9.08.040 Protection of Heritage Trees.~~

~~9.08.050 Recognition of Heritage Trees.~~

~~9.08.060 Removal of Heritage Tree Designation.~~

~~9.08.070 Incentives.~~

~~9.08.010 Purpose and Definitions.~~

~~(1) The purpose of this chapter is to foster appreciation and provide for voluntary protection of designated important trees within the Tigard City limits.~~

~~(2) A “Heritage Tree” is a tree or stand of trees that is designated to be of landmark importance due to age, size, species, horticultural quality or historical importance.~~

~~(3) “City Property” shall mean property owned by the City of Tigard or public right of way under City jurisdiction.~~

~~9.08.020 Nomination.~~

~~(1) Any person may nominate a particular tree or group of trees for “Heritage” status. If the proposed Heritage Tree is located on property other than City property, the nomination shall be submitted by the property owner or accompanied by the property owner’s written consent. If the proposed Heritage Tree is located on City property, the nomination shall be submitted to the City Forester for evaluation. The City Forester and other City designees shall append his or her recommendation to the nomination.~~

~~(2) All nominations shall include a photograph of the tree(s) and a narrative explaining why the tree qualifies for Heritage status.~~

Commentary

Chapter 9.08 HERITAGE TREES

Strikethroughs of existing heritage tree provisions continued.

**9.08.030** ~~Review Process~~

~~(1) The Tigard Tree Board shall review all Heritage Tree nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (if different than the applicant), the City Forester and the Chair of any recognized neighborhood association in which the tree is located.~~

~~(2) The City Forester shall prepare a report for the Tree Board analyzing whether the tree complies with the requirements for designation.~~

~~(3) After considering the City Forester's report and any testimony by interested persons, the Tigard Tree Board shall vote on the nomination. The Board may designate the tree as a Heritage Tree if the Board determines that the following criteria are met:~~

Commentary

Chapter 9.08 HERITAGE TREES

Strikethroughs of existing heritage tree provisions continued.

~~(A) The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance; and~~

~~(B) The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard.~~

~~(4) If the nomination is approved by the Tree Board, it shall be forwarded, with all elements of the Board's evaluation attached, to the City Council for final evaluation and approval.~~

~~(5) Following approval of the nomination by the City Council:~~

~~(A) If the tree is located on private property, the designation shall be complete upon the property owner's execution of a covenant running with the land and duly recorded by the City. The covenant shall include a legal description of the subject property, generally describe the location of the Heritage Tree, and covenant that the tree is protected as a Heritage Tree by the City of Tigard and is therefore subject to special protection. The Heritage Tree shall be listed on the City Heritage Tree Registry.~~

~~(B) If the tree is located on City Property, the designation shall be complete upon the listing of the tree on the City Heritage Tree Registry.~~

~~**9.08.040 Protection of Heritage Trees**~~

~~(1) A permit shall be required to remove a designated Heritage Tree.~~

~~(2) If an application for a permit to remove a Heritage Tree is presented, the applicant shall demonstrate that the tree is hazardous or that the burden imposed on the owner outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner or City:~~

~~(A) View obstruction;~~

~~(B) Routine pruning, leaf raking and other maintenance activities; and~~

~~(C) Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.~~

Commentary

Chapter 9.08 HERITAGE TREES

Strikethroughs of existing heritage tree provisions continued.

~~(3) Unless there is a permit to remove a dead or hazardous Heritage Tree, the applicant shall be required to follow the mitigation procedures for the loss of the tree as outlined in the Tigard Municipal Code, Chapter 18.790.~~

~~(4) Any person who removes a Heritage Tree without first obtaining a permit to do so shall be subject to a civil penalty equal to twice the value of the tree as determined by the City Forester with reference to the current edition of the Guide to Plan Appraisal, and the person shall be required to mitigate for the loss of the tree.~~

~~**9.08.050 — Recognition of Heritage Trees**~~

~~(1) A Heritage Tree plaque may be designed and may be furnished by the City to the property owner of a designated Heritage Tree, or if the tree is on City property, to the City Forester. The plaque shall be posted at or near the tree and, if feasible, visible from a public right of way.~~

~~(2) The City shall maintain a Heritage Tree Registry and map of designated Heritage Trees.~~

~~**9.08.060 — Removal of Heritage Trees Designation**~~

~~(1) A Heritage Tree shall be removed from designation if it dies.~~

~~(2) To request permission to remove a tree from Heritage designation, the interested party or parties shall submit to the City Forester a narrative clearly stating justification for removal. The City Forester shall review the request, and append his or her recommendations to the request and submit the request and recommendation to the City Council for a final decision.~~

~~(3) If the Heritage Tree is on private property, and removal from Heritage designation is approved, the City shall provide a document extinguishing the covenant running with the property, which may be recorded by the property owner.~~

~~— (4) — Once Heritage Tree status is removed, the tree shall be treated as any other tree within the City limits for purposes of planning, development, removal or care.~~

~~**9.08.070 — Incentives.**~~

~~(1) Incentives for property owners might include:~~

~~— (A) — The City paying for pruning, necessary soil amendments and maintenance of the Heritage Trees; and~~

~~— (B) — The City providing a plaque for each tree identifying the species of tree.~~

~~(Ord. 05-16) ■~~