



AGENDA

Lincoln City Planning Commission
Tuesday, October 6, 2020, 6:00 PM
Meeting will be hosted on Zoom,

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**
2. **AGENDA CHANGES OR REVISIONS**
3. **MINUTES**
4. **FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
5. **PUBLIC HEARINGS/DELIBERATIONS**
6. **OLD BUSINESS**
 - 6.1. Tree Ordinance Outline and Discussion Items
7. **NEW BUSINESS**
8. **PLANNING COMMISSION TRAINING**
9. **REPORTS & COMMENTS**
10. **FUTURE AGENDA ITEMS & NEXT MEETINGS**
11. **ADJOURN**

All information for this meeting is available on the City of Lincoln City website at www.lincolncity.org, and this meeting will be televised live on Charter Channel 4 Lincoln City and rebroadcast at various times. Planning Commission meetings are streamed live on the Internet through a link on the City of Lincoln City website, and can also be viewed following the meeting. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Cathy Steere, City Recorder, at 541-996-1203.

Council Communication

Tree Ordinance Outline

Meeting Date: October 6, 2020 Primary Staff Contact: David Mattison
Department: Planning Commission E-Mail: DMattison@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Ronald F Chandler, Lindsey Sehmel Estimated Time: 1 hour

Presentation of Tree Ordinance Outline

Attachments:

Microsoft PowerPoint - Lincoln City Tree Ord Outline (PDF)

Urban_Tree_Ord_Development.pdf (PDF)

Portland Tree Preservation.pdf (PDF)



Lincoln City

TREE ORDINANCE REVIEW

Lincoln City
Tree Ordinance Review

I. Existing Information

(What the City has.....)

What does the City have in regard to Trees?

u City Comprehensive Plan

- Aesthetic Goal/Policy
- Overall Environmental Goal

u City Vision

- Draft City Vision
- Final City Vision

u City Tree Ordinance

City Comprehensive Plan Goals and Policies relating to 'Trees'

Aesthetic Goal – To develop a livable and pleasing city which enhances mans activities while protecting the exceptional aesthetic quality of the area.

Aesthetic Policies

1. The City shall encourage property owners to landscape areas between buildings for beautification and access to off-street parking and facilities.
2. The City shall consider development of a citywide landscape plan and explore various alternatives for implementation such as volunteer or student aid.

City Comprehensive Plan Goals and Policies relating to 'Trees'

(continued)

- a. All proposed development within 100 feet of a scenic viewpoint or area shall, prior to development, provide a detailed diagram and written statement as to the nature of the proposed activity will have on the visual and aesthetic quality of the scenic point or area. The work must consider:
 - a. How the activity will maintain natural vegetation;
 - b. If vegetation is removed, how the activity will restore and protect the site from erosion and other negative results;
 - c. If necessary, how the activity should be screened to protect the scenic view

City Comprehensive Plan Goals and Policies relating to 'Trees'

Overall Environmental Goal – To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the City.

****Staff Observation:** connotation to 'trees' is through:

- 'landscape',
- 'natural vegetation' and
- 'natural environment'

Draft City Vision

SENSE OF PLACE + COMMUNITY IDENTITY

GOAL STATEMENT: Lincoln City is a welcoming and attractive place to visit and call home. Residents take pride in their community and its unique sense of place. We have established and recognized city centers where people from all walks of life come to gather and connect. We preserve our small-town feel and are connected physically through our improved neighborhood gathering spaces, connected and improved pathways, and displays of public art. We are socially connected through our expanded community events, active neighborhoods, and commitment to engaging the whole community.

Initiative 1: Improve the look and feel of downtown.

Action

1.6) Create a downtown/city-center feel by enhancing sidewalk connections, improving pedestrian safety, cleaning up the downtown area, and **adding more trees**.

Final 'Adopted' City Vision

SENSE OF PLACE + COMMUNITY IDENTITY

GOAL STATEMENT: Lincoln City is a welcoming and attractive place to visit and call home. Residents take pride in their community and its unique sense of place. We have “pearl” districts, distinct neighborhoods, where people from all walks of life come to gather and connect. We preserve our neighborly beach vibe and are connected physically through our improved neighborhood gathering spaces, connected and improved pathways, and displays of public art. We are socially connected through our expanded community events, through knowing our neighbors, and through our commitment to engaging the whole community.

Final 'Adopted' City Vision

Initiative 1: Improve the look and feel of our commercial areas.

****Staff Observation: Actions were removed for each Initiatives.**

- Action 1.6 was not included in the Final Vision.
- Does this remove the specific point, 'adding more trees'?

City Tree Ordinance (Municipal Code 17.52.220)

Scope. This section applies to all trees within the city wherever located.

Purpose. This purpose statement provides a general philosophy to guide the specific enforcement and implementation of provisions and criteria in this section. This includes Value of Trees, Intent, and Need for Exceptions.

Value of Trees. The city benefits from trees. Trees of varied types add to the aesthetic beauty of the community and provide important environmental benefits including: help clean the air, help control erosion, maintain water quality and provide noise barriers.

City Tree Ordinance (Municipal Code 17.52.220)

Intent. To protect trees where appropriate, including taking reasonable measures in development to avoid tree removal, and to prohibit damage, mutilation, and destruction of valuable trees. Protection of trees is preferred over replacement. This section aims to:

- u a. Establish regulations to protect trees;
- u b. Encourage the preservation of trees in the city;
- u c. Require the preservation of trees on property subject to development approval;
- u d. Set standards for removal of trees;

City Tree Ordinance (Municipal Code 17.52.220)

(continued)

- u e. Control problems of soil erosion, destruction of scenic values and wildlife habitats;
- u f. Improve air quality;
- u g. Protect water quality; and
- u h. Protect land from erosion.

Need for Exceptions. At the time of development, removing certain trees may be necessary to accommodate structures, streets, utilities, and other needed or required improvements within the development. The burden of proof is on the applicant to show removal is necessary, and that other alternatives are not feasible.

City Tree Ordinance (Municipal Code 17.52.220)

Existing City Tree Ordinance

- A. Scope
- B. Purpose
- C. Definitions
- D. Tree Removal Prohibitions
- E. When Tree Removal is Allowed Without a Tree Removal Permit
- F. When a Tree Removal Permit is Required
- G. Replacement of Trees Lawfully Removed
- H. Design Modifications for Tree Retention
- I. Tree Protection and Replacement Plan Required
- J. Protection Standards Related to Construction
- K. Violation – Enforcement
- L. Tree Board

Lincoln City
Tree Ordinance Review

II. New Tree Themes

(From discussion at August 18th Meeting.....)

City Tree Ordinance (Municipal Code 17.52.220)

Tree Ordinance Sections:

Ø Preservation and Protection

Ø Violation and Enforcement

Ø Management and Exceptions

City Tree Ordinance

- Preservation and Protection -

I. Tree Protection and Replacement Plan Required.

(1 and 2) Required if a land use application is filed and the proposed project will involve tree removal, including the following elements:

- a. Identification of large trees and protected trees onsite.
- b. A topographical survey, subdivision or plat map showing: structures/improvements; large trees and protected trees; and existing and proposed easements/setbacks required.
- c. An application and map of the proposal to remove trees.
- d. Arborist Report, including: health, condition, species, common name, diameter, height and age of large and protected trees; and Indication of those subject to removal or transplanting.

City Tree Ordinance

- Preservation and Protection -

(continued)

- e. Tree Identification for removed trees.
- f. Replacement Plan.
- g. Covenants, Conditions and Restrictions (CC&Rs).
- h. Tree Protection Program, committing the property owner to a maintenance plan that promotes the vitality of all protected trees.

3. Recording of Tree Protection Plan is required.

City Tree Ordinance

- Preservation and Protection -

J. Protection Standards Related to Construction. The following apply to development requiring tree removal permit:

2. Standards.

- a. Trees required to be protected must be clearly labeled.
- b. 48-hour notice of any grading or clearing of the site.
- c. City onsite compliance review with the tree protection plan and tree removal permit.
- d. No person may conduct any construction activity that is injurious to a tree designated to remain, unless a plan for such construction activity has been approved.
- e. No person shall attach any device or wire to any tree unless for labeling or protection.

City Tree Ordinance

- Preservation and Protection -

f. Protective Barrier.

- i. Delineation of the property lines of the project for land clearing, excavation, filling, or any land alteration for which a tree removal permit is required.
- ii. The developer shall erect/maintain barriers adequate to prevent incursion of machinery within drip lines of trees identified to be preserved on the tree protection plan.
- iii. Barriers must be substantial and appropriate to withstand construction activities.
- iv. Selection and installation of demarcations and barriers must be approved by the director of planning and community development or the city engineer.

City Tree Ordinance

- Violation and Enforcement-

(K)1. Responsibility/Liability. The owner and the owner's agents and contractors, are responsible for meeting the city requirements and shall have joint and separate liability for any violation.

2. Violations Defined. A violation includes cutting, damaging, or removing a tree:

- a. Without a valid tree removal permit; or
- b. In noncompliance with, or breach of, any condition of approval of a tree removal permit, tree protection plan, or tree maintenance plan; or
- c. In noncompliance with any condition of any city permit imposed by a condition of approval and required to be reviewed and approved by the city that results in damage to a tree or its root system; or
- d. In noncompliance with any recorded covenant; or
- e. In noncompliance with any other section of title or code.

City Tree Ordinance

- Violation and Enforcement-

3. Remedies. If the city has reason to believe a violation has occurred, they may do any/all of the following:

- a. Require the owner in noncompliance to submit sufficient documentation, demonstrating removal of the tree was authorized;
- b. Issue a stop work order;
- c. Issue a citation with an expedited hearing;
- d. File an action to temporarily restrain and/or permanently enjoin the owner from continuing to violate this section;
- e. Take any other action allowed by law.

City Tree Ordinance

- Violation and Enforcement-

4. Authorization to Enforce Compliance. The director of planning and community development, the building official, and the public works director are each authorized to issue a stop work order, withhold approval of a final plat or public works permit, or withhold issuance of a certificate of occupancy, permits or conduct of required inspections or acceptance of work until the provisions of this section, including any conditions attached to a public works permit, tree protection plan or tree removal permit, have been fully met.

a. Use of Stop Work Order. In the event any grading, clearing, excavation, filling, construction or land-disturbing activity on the property is about to occur, is occurring or has occurred in such a manner that preserved trees or trees required to be protected on the site are in imminent danger of damage or removal from such activities, any person authorized to enforce this chapter may order all work on the site to cease until adequate safeguards are in place as follows:

City Tree Ordinance

- Violation and Enforcement-

- i. Notification. City staff shall immediately notify any responsible person on the project that a stop work order is imminent and that all work on the site shall cease;
- ii. Written Form. The order shall be in written form;
- iii. Posted Sign. A sign declaring the stop work order shall be posted on the site;
- iv. Duration. The stop work order shall not be lifted until adequate safeguards are reviewed and approved by the city;
- v. Removal of Stop Work Order. The stop work order shall be removed after the city staff responsible for the matter has determined there is no longer a need for the order;
- vi. Settlement. Any such settlement agreement shall be approved by the city council.

City Tree Ordinance

- Violation and Enforcement-

5. Violation – Penalties. A violation shall be enforced as a Class B violation. Any person convicted of a violation of this section shall be subject to civil penalties including a fine up to the maximum amount provided by this code. In addition to the monetary fine, a person convicted of a violation under this section shall be required to remedy any damage caused by the violation.

6. Alternative Sentence for Multiple Violations. In the event a person is convicted of more than one violation, the following alternative sentence may be imposed: the municipal court judge may sentence the person to pay an amount, fixed by the court, not to exceed double the amount of the gain from the commission of the offense.

City Tree Ordinance

- Violation and Enforcement-

7. Specifications for Replacement of Unlawfully Removed Trees.

Replacement of a tree removed in violation shall be according to the following:

- a. Species. A replacement tree shall be a substantially similar species; and
- b. Size and Number. If a replacement tree of the size cut is not reasonably available on the local market or would not be viable, the director of planning and community development shall require replacement with more than one tree of the maximum size reasonably available and viable, so that the sum of the calipers is equal to or greater than the estimated caliper of the tree removed/damaged.
- c. Manner of Planting. The planting of a replacement tree shall take place in a manner reasonably calculated to allow growth to maturity.

City Tree Ordinance

- Violation and Enforcement-

8. Exclusivity. The remedies set out shall not be exclusive, and the city may take any action authorized by law to enforce.

9. Any person designated to enforce violations of city ordinances may enforce.

D. Tree Removal Prohibitions.

1. Enforceable as Class B violations.
2. **Topping is prohibited**, except where necessary for utility work or public safety, in which case it requires a tree removal permit.
3. **Removal of protected trees is prohibited.**
4. **Removal of trees in wetlands is prohibited.**
5. **Removal of trees as part of commercial forestry operations is prohibited**, and commercial forestry is not permitted.

City Tree Ordinance

- Management and Exceptions -

E. When Tree Removal Is Allowed Without a Tree Removal Permit.

1 a. Removal of trees must be conducted consistent with city requirements regulating land-disturbing activities.

1 b. Removal of trees less than six inches in diameter is permitted without a tree removal permit.

2. With Single-Family Dwellings and Duplexes or Two-Family Dwellings, and Attached Single-Family Dwellings, removal of trees is allowed without a permit provided:

a. The lot is not capable of further land division or configuration, or if the lot is capable of further division, trees to be removed are within 100 feet of the dwelling; and

City Tree Ordinance

- Management and Exceptions -

(continued)

b. No protected tree may be removed without a permit, except that any tree planted to fulfill the landscaping requirements may be removed, if replaced by a plant or plants with equal plant unit value.

3. Public Utilities and Public Works.

a. Removal of trees is allowed without a permit if performed by utility or city public works personnel to remove vegetation and trees that present a danger to life or property, to restore utility services, or to reopen a public thoroughfare to traffic.

b. Removal of trees is allowed without a permit if performed by city public works personnel to remove trees that are deemed nuisances, or to remove trees necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly owned and dedicated rights-of-way or public utility easements.

4. Removal of a tree that is a hazard or a nuisance, affecting public safety, as demonstrated to the satisfaction of the director of planning and community development in consultation with the city engineer.

City Tree Ordinance

- Management and Exceptions-

F. When a Tree Removal Permit Is Required.

- 1 a. Removal of trees is allowed with a permit on a lot adjacent to a lot developed with a single-family dwelling, duplex or two-family dwelling, or attached single-family dwelling, provided:
 - i. The adjacent lot is owned by the owner of the developed lot or the owner of the developed lot has written permission from the owner of the adjacent lot, and the trees to be removed are within 100 feet of the
 - ii. No protected tree may be removed, except that any tree planted to fulfill the landscaping requirements for lots with single- and two-family dwellings may be removed, if replaced by a plant or plants with equal plant unit value.

City Tree Ordinance

- Management and Exceptions -

1 b. Multifamily Dwellings, Commercial or Industrial Sites, Undeveloped Sites, Trees More Than 100 Feet from Single-Family Dwellings and Duplexes or Two-Family Dwellings, and Attached Single-Family Dwellings on the same lot. Removal of trees is allowed with a permit for the following reasons only:

i. Removal of dead trees or diseased tree(s) weakened by age, storm, fire or other injury;

ii. Removal of tree(s) to allow solar access to the south face of buildings during solar heating hours;

iii. Selective removal of tree(s) and vegetation to allow reconnaissance surveys, topographical determinations of a project site, coring to permit geotechnical evaluation and soil surveys, and similar efforts;

iv. Spread of Disease, Insects and Threat of Natural Hazard;

v. Selective Thinning on Open Space and Park Zoned Land;

vi. Development, provided:

(A) The city has approved a site plan, subdivision, planned unit development or building permit; and (B) The city has approved a tree protection plan.

City Tree Ordinance

- Management and Exceptions -

(continued)

2. The city may place conditions on any tree removal permit as appropriate.
3. If part of a project that requires subdivision review, site plan review, or a conditional use permit, the permit for tree removal shall be processed as part of development or conditional use permit review. Where a tree protection plan is required for development review, the city shall not issue a tree removal permit until the applicant has demonstrated compliance with all conditions of the development approval that are required to be met prior to the start of any land clearing, grading, or construction.
4. The city council may adopt by resolution a fee to cover the actual or average costs of reviewing or issuing a tree removal permit.
5. The city manager or the city manager's designee, is authorized to issue, extend, enforce, and revoke a tree removal permit.

City Tree Ordinance

- Management and Exceptions -

(continued)

6. Permit Notice and Appeal.

a. The city shall provide notice of decision or hearing in conjunction with the required notice for subdivision, partition, site development review, planned development or conditional use. Notice shall not be required for other tree removal permits.

b. Appeals of a tree removal permit shall be allowed.

c. The city shall not issue a tree removal permit approved in conjunction with a development review until the time allowed for appeals has passed.

7. The tree removal permit shall be kept on site during permitted activities.

8. A tree removal permit shall be effective for 18 months from the date of approval.

City Tree Ordinance

- Management and Exceptions -

9. Tree Removal for Development. Removal of tree(s) for the placement of structures and other improvements shall comply with the following:

a. Timing of Permit Issuance.

- i. In conjunction with, and not prior to, issuance of the building permit.
- ii. A tree removal permit may not be issued for removal for installation of street, gutter, curb, sidewalk, sanitary sewer, storm sewer, and water system improvements until the city engineer has given final approval to the design of the improvements and to the grading and erosion control plans.
- iii. For phased developments, a separate tree removal permit is required for each phase of infrastructure development.

City Tree Ordinance

- Management and Exceptions -

- b. Tree removal shall conform to the approved tree protection and replacement plan.
- c. Immediately following completion of the improvements, areas disturbed by tree removal shall be revegetated.
- d. Whenever trees are removed that according to this chapter require replacement.

G. Replacement of Trees Lawfully Removed.

1. The standards of this section apply to trees removed with a permit that are more than 100 feet from a building subject to site plan review, or conditional use approval, or that are removed to allow development of parking in excess of the amount of required parking, or that are removed for purposes other than compliance with a governmental requirement.
2. Removed trees six inches or more in diameter must be replaced on a one-for-one basis.
3. Any trees that were removed within one year prior to application for a tree permit shall be included among those required to be replaced.

City Tree Ordinance

- Management and Exceptions -

4. When replacement of a tree or trees legally removed is required, the number, species and size shall be governed by all of the following:

- a. The city prefers native trees, including conifers.
- b. The minimum diameter of a replacement tree shall be one and one-half inches.
- c. Trees shall be replaced according to a planting plan provided by the applicant and approved by the director of planning and community development.

5. The preferred replacement site shall be on the property from which a tree is being removed.

City Tree Ordinance

- Management and Exceptions -

6. The in-lieu payment amount shall be equivalent to the cost of the replacement trees, plus the cost of delivery, installation, and maintenance for a period of one year.

7. The planting of replacement trees shall take place in such a manner as to reasonably ensure that the trees grow to maturity. Any mitigation tree planted on private property dying within one year of the date of planting shall be replaced by the owner of the property.

8. Replacement trees, including trees meant to replace a previously planted mitigation tree that has died within one year, shall be planted within six months of the date of issuance of a tree removal permit or death of a mitigation tree.

H. The planning commission, with input from the city engineer, may adjust design specifications of public improvements to accommodate tree retention where possible and where it would not interfere with safety.

City Tree Ordinance (Summary)

Activities Permitted & Not Permitted

	Permitted w/o Permit	Permitted w/Permit	Not Permitted	Exception
Topping			X	X
Removal of Protected Tree			X	
Removal of Trees in Wetlands			X	
Removal of Trees as Commercial Forestry			X	X
Removal of Trees with less than 6 inches caliper	X			
Removal of Trees on SFD or TFD Lot	X	X		X
Public Utilities and Public Works Tree Removal	X			X
Removal of Dangerous and Nuisance Trees	X			X
Removal of Trees on MFD, Com., Ind., Undev. Lots		X		X
Removal of Dead or Diseased Trees		X		X
Removal of Trees for Solar and Surveyor Access		X		
Removal of Trees for Selective Thinning		X		

What do we need in regard to Trees? (Final Thoughts)

- ∅ More or Less Preservation and Protection
- ∅ More or Less Violation and Enforcement
- ∅ More or Less Management and Exceptions
- ∅ Further Integration into the Comprehensive Plan
- ∅ Reorganization/Clarification of Tree Ordinance

The Urban Tree Ordinance Development Workbook

A preliminary guide book designed for communities developing new, or revising older, existing ordinances governing urban tree resources.

The Urban Tree Ordinance Development Workbook

This workbook is designed for communities who are confronted with the task of developing effective urban tree ordinance for the first time. This information can also be very helpful for communities revising or expanding existing tree ordinances or looking for ways to more effectively impact the management of the community's forest canopy.

While this workbook contains some guidelines and tools that can enable communities to assess their particular situation and help identify areas of opportunity, it is not intended to be an all inclusive approach. Each community has their own character and conservation needs. Unfortunately many communities begin to develop ordinances when the perception of their need becomes immediate. The natural tendency is to quickly adopt another communities ordinance as a model with the idea of "fixing" it later. A note of caution: attempting to "jump start" tree ordinance development by "cloning" an existing ordinance might be an attractive route to success but, such efforts are seldom reflective of the communities true needs, and indeed in some situations, have even lengthened the process. Given most situations encountered, there is no substitute for a patient, thorough approach, through community interaction, to ordinance development.

The Georgia Forestry Commission's sponsorship of this document is intended to give local communities a "starting point" from which to go forward and begin assessing and conserving natural resources in a way local citizens feel appropriate.

The Urban Tree Ordinance Development Workbook

Preliminary Outline

1. How to Start
2. Developing a Working Group
3. Issues and Focus
4. Needs Assessment & Issue Identification
5. The Vision
6. Ordinance Structure
7. Using Sample Ordinances
8. Developing a Draft
9. The Final Product

The Urban Tree Ordinance Development Workbook

How to start

Many groups reviewing this workbook may be beyond the point of assembling a body of individuals from the community to begin ordinance formulation. However, because there are a number of communities trying to determine the best way to start, we shall begin at that point with some main ideas to keep in **mind**.

The catalyst to formulate a tree protection or conservation ordinance can come from many different quarters, but usually some event within the community has forced a cause for concern. Increased development activity, the loss of specimen trees, or a natural disaster, can generate “green activity” or a interest in conserving canopy cover as a natural resource. Once the need to “do something” has been realized the question becomes “Who do we talk to?”

The following is a partial list of groups you may find helpful:

- Community Government Leaders - City Council representatives and County Commissioners are usually the initial contact. These bodies, if they feel the need or interest is sufficient, will often appoint a group to study the problem. Regardless of your expertise, try to be a part of that group or at the very least attend the public meetings and participate.
- Local Government Administration - Parks & Recreation, Planning & Zoning, Development & Transportation Departments, Code Enforcement, and City and County Administration all need to know of your interests and intention, preferably in writing. Please remember that these folks may not be able to do much to help you because of political situations within the community but it is helpful to let everyone know your wishes and intentions.
- Non-government Community Leaders - Volunteer and Community Service organizations, Local Clean & Beautiful/Clean City groups, Garden Clubs, Civic Organizations, and Homeowner Association groups. These are the citizens who have the “connections” and perhaps a shared interest pursuing ordinance development..
- Environmental Organizations - These pro resource conservation groups can be a valuable resource of information and may have a vested interest in tree ordinance development.

Sometimes simply contacting the above groups and indicating your wish for a tree ordinance may not avail you of much in the way of results. This may be because the perceived need is not as great as you thought. Should this be the case, you, or a group of like minded folks you assemble, may have to conduct an education campaign to target decision makers within the community. Remember you educational effort needs to be

The Urban Tree Ordinance Development Workbook

How to start (cont.)

factual with visual and graphic information detailing the issues and the “bottom line”. Impassioned pleas with little factual backup usually have limited impact upon government officials. You may find the need to call in outside speakers and experts to plead your case relating their experience dealing with tree ordinances. Be positive, persistent, comprehensive, and business like in your approach and the likelihood of success will increase greatly.

Should all of your efforts fail you may have to form your own group and, at least preliminarily, begin the ordinance generation process without the benefit of as much organizational support as you had anticipated. Be persistent and open in your efforts.

The Urban Tree Ordinance Development Workbook

Developing a working group

Selection of the group that will guide the development of the ordinance is probably the most crucial factor leading to success or failure. Group dynamics notwithstanding, the idea is to gather no fewer than the number of individuals it takes to represent the needs of the community - and - no more than the maximum number individuals that can work together without being dysfunctional. Some groups may include only four or five individuals while other groups have exceeded well over thirty citizens. Perhaps a more efficient way to fill the group, other than simply trying to pick a workable number, is to identify “slots” or community perspectives to fill. A sample list of slots or professional perspectives might include:

- Realtor
- developer
- garden club officer
- local arborist
- planner
- environmental group representative
- landscape architect
- Commission or Council appointees (1 per member)
- Homeowners Association officers
- private individuals
- public forester

This is only a partial list but it may be inclusive of all the perspectives your group might need to cover. Be prepared to have left someone, or some organization with a particular perspective, out of your group - it is inevitable.

One way to limit the size of your group and still be effective and inclusive of many different interest is to compose your group of a minimum number of private individuals, perhaps appointed by the City Council or County Commission, and identify a list of professional individuals who would act as technical experts/consultants. These experts, could come from the list above, and while not being members of the “board” could provide answers to technical questions that will arise from time to time. This will limit the possibility of a group becoming overloaded with a particular interest group of individuals i.e. environmentalist, developers, etc.

Finally, it is important to select individuals that will work hard, expend the time available, stick with the process in a very public environment, and, if possible, be willing to subjugate their personalities to the process. High profile, well known, individuals can sometimes upset the groups dynamics simply because of their personality or need to be heard. It is wise to try to estimate the impact this type of individual may have on the group.

Remember, this group needs to be born out of cooperative effort and partnership toward a focused goal.

The Urban Tree Ordinance Development Workbook

Issues and Focus

The attempt to generate an urban tree ordinance is a difficult, sometimes contentious process that may take many months or even years to accomplish. Existing ordinances also need to go through a process of periodic revision and renewal so that they might better address the issues of the day.

One key practice that will long serve those generating their first ordinance or revising existing documents is to focus on the issues *most* relevant to the task at hand. You will find that while there a large number of issues brought to the table by those “helping” or “assigned” to develop a workable ordinance there are many topics that may not be central to the task at hand. By way of example, the need for community park land or ball fields, greenspace planning and zoning, restrictions on speculative grading, or landscaping for parking lots may all be issues related to trees and community canopy cover. While it may be politically correct to address these issues, they may or may not be issues which should be part of a tree ordinance. Tree ordinances need to be about trees. Side issues, while attracting a lot of attention within the community, can be very distracting to the ordinance construction process. Further, issues easily become politicized, particularly when discussions relate to restrictions or burdens to be placed upon future development.

The problems associated with maintaining an issue focus are obviously many. Because the identified topics are particular to the community itself there is no “one size fits all” magic key to help you toward your task. The most productive efforts seem to whittle away at long lists in an attempt to arrive at a consensus of focus from those involved. Sometimes this consensus forms early, sometimes not, but the effort is always beneficial to the long term process. Should it occur that consensus is not achievable you may find your list of issues need to expand.

Developing a tree ordinance is a long process and, even with exhaustive efforts to identify all the issues, players, and constituents, it is inevitable that something, or someone, will be overlooked and some earlier work will need to be revisited. For these, and many other reason you will discover, it is important to remain focused - and persistent.

The Urban Tree Ordinance Development Workbook

Needs Assessment & Issue Identification

Now that you have your group together, let's refer to them as an Ordinance Board.

Current accomplishments should be:

- a reasonable perspective as to parameters of your task,
- a general consensus about the requirement to identify needs and issues,
- and an agreement to strive for focus.

You should be ready to begin the Community Assessment and Issue Identification process.

The effectiveness of a tree ordinance hinges upon how well it satisfies the short and long term needs of the community. For that reason, it is important to be clear about the parameters of that need and the breadth of community constituents that it impacts. Therefore the needs assessment must consider:

- current state of the community forest canopy cover on public and private property,
- impacts that have brought the canopy cover to its current state,
- how those growth, development, land use and demographic changes altered the community from the past to the present,
- and how those effects are going to change the quality of life of the community in the future.

Even though your group be well advised of the pulse of changes within the community, it is still advisable to do some research concerning the various perspectives of local players/partners with regard to the future canopy cover. This step is critical in helping insure that the community plays a role in the development of this ordinance. There are a number of tools available to the Board for collecting this information:

- public forums, perhaps a number of them, where citizens speak briefly about their perspectives, about the needs list you have developed, and offer needs of their own,
- a simple public opinion survey which could be distributed to as many constituents as possible querying them about their perspectives on the needs of the community with respect to trees,
- survey the Board individually concerning their perspectives of the needs list, related issues, and what options they feel are open to them to effect change.

These tools, and others you may find other communities employing, will help the group better key on the issues they should be addressing.

The Urban Tree Ordinance Development Workbook

Needs Assessment & Issue Identification (cont.)

Once the accepted list of needs have been consolidated they should reflect, if not specifically point to, central issues upon which the group can focus. While the needs list may be long, it can usually be consolidated along the lines of two or three main topics which the tree ordinance can address and probably a list of topics the tree ordinance cannot or should not address.

Remember, it is up to the Board to keep the public apprised of its progress whether by newsprint, radio or public meetings. This is a great opportunity to develop public interest and to educate folks as to the value of community trees.

The Urban Tree Ordinance Development Workbook

Vision, Objectives, & Mechanisms

With the community's needs and issues well in hand it is time to develop the *Vision*. There are probably as many ideas about vision statements from your Board as there are members of your Board and many of those individuals may have had the opportunity to participate in the process of generating a vision statement for work or some civic organization they belong.

The vision statement associated with a tree ordinance should reflect a view of how citizens believe their community trees to affect their quality of life, the citizens perspectives about what that forest canopy will be in the future, and how the forest canopy will be conserved, preserved, or otherwise impacted. This is, without a doubt, the most important part of any ordinance dealing with a natural resource such as trees, water, soil or air because:

- it states in no uncertain terms what that resource means (value) to the **community**,
- why that resource is valued by the citizens,
- the intention to protect or conserve the resource,
- and how (i.e. limiting impacts, tree planting, etc.)

The vision sets the tone for the remainder of the ordinance. It should be firm, clear, succinct, and emphatic in its description of how things “ought to be”. The reason for this requirement is that the descriptions and mechanisms to follow within the body of the ordinance all have their foundation in the vision. By way of example - it would be implausible to draft an ordinance requiring tree planting within the public right-of-way with out discussing the value of public roadside trees, or, perhaps not so similarly, to restrict the removal of trees from private property without discussing the larger value of “community trees”. Obviously it is very difficult to “backup”* and/or enforce a prescription for reducing impacts to forest canopy cover *without* a public statement of the value of forest canopy to the quality of life of the community. Indeed many challenges to the specifications of tree ordinances are grounded in the fact that the vision and it's intent are unclear.

Another point to remember is that the vision is the communities vision, which may or may not be the Boards, Commission, or Councils. The theory is through the Board the citizens can voice their perspectives about trees and community and the Board manifests those perspectives in an ordinance.

Ordinance objectives are, simply stated, how the vision is quantified and standards for accomplishment defined. Should the vision be “increased forest canopy cover” then “tree lined streets” might be an objective. The establishment of a public tree planting program would be a mechanism to accomplish that objective and achieve the vision. Here again with out a strong vision the basis for the objective could be lost.

The Urban Tree Ordinance Development Workbook

Sample and Model Ordinances

The general tendency for a board developing a tree ordinance is to look toward other communities for ordinances already in place to see what can be learned regarding structure, procedure, and effectiveness. This is an excellent way to get a general feel for the way things can work. Unfortunately, there are also some pitfalls associated with relying too heavily upon these documents:

- substituting someone else’s community vision for your own,
- assuming the sample ordinance is compatible with other organizational structures within your community government or that it can be made to be compatible,
- perpetuating the perspective that the way someone else does “it” is the way we ought to do it (i.e. “if its good enough for them, then.. ..”),
- assuming that the ordinances selected as samples are effective and efficient in their application,
- utilizing a selection of ordinances that do not reflect communities the size or rate of growth of your own or that represent cultural or regional perspectives that are significantly different from your community’s perspectives,
- model ordinances may restrict the addition of new ideas about how to impact or conserve community forest canopy cover,
- model ordinances may reinforce the false impression that generation of an effective ordinance can be a short term/short cut process.
- _____

The use of sample or model ordinances can be a valuable tool in arriving at a document that supports your vision. Many of the documents you receive will have components that speak to the issues you are confronting and may seem like solutions to your problems - on paper. Caution is advised here. When attempting to collect relevant ordinances try to contact the administrator of existing ordinances to see how they actually function in practice, what problems they have identified, and what suggestions they might have regarding your efforts. Ideally, finding someone who played a role in development of the ordinance, perhaps a tree board member, could be one of the most valuable source of information you will **find**. Should you indeed locate some of these individuals, be sure to ask them the following questions about the ordinance development process:

- how long did the ordinance development process take,
- was the document adopted the document sought,
- how large a role did compromise play in the development process,
- are they happy with the document,
- and are any revisions planned.

These questions will help model or sample ordinances find their proper place within your communities ordinance development process.

The Urban Tree Ordinance Development Workbook

Structure

There are a variety of different ordinance structures which seem to serve communities needs. The key is to be as simple as possible and yet still accomplish the vision. Many ordinances are thick documents with multiple sections and sub-sections dealing with many different aspects of tree preservation. Whatever the format, there is a general list of points to consider which many ordinances include. It is important to remember that the “parts” listed below are no more than just that - “parts”. Continuity within the ordinance, compatibility with other ordinances, consistency with the community vision, and political will for enforcement are the earmarks of a successful ordinance.

1. **Community Vision** - community’s perspective of itself with respect to the natural resource of trees and those resources associated with canopy cover. Contains a view of the future and verbiage related to the community’s willingness to develop a structure to preserve, conserve, and/or move toward that view.
2. **Value of trees** and canopy cover to the community. This section also notes the value of other resources in association with trees and their role in providing the communities quality of life.
3. **Purpose and intent** of the ordinance - next to the vision this is the most important section as it details reasons for existence of the ordinance. Should the purpose and intent of the ordinance be weak it will likely be unenforceable.
4. **Definitions** - a list and description of terms used in this ordinance and of those terms referenced in other ordinances such as Planning and Zoning ordinances.
5. **Administrator identification** - who will be responsible for enforcing the ordinance, reviewing tree protection plans, etc. This individual is usually the city or community arborist. This section also details the qualifications of the arborist and assigns the arborist the duty of developing arboricultural standards relative to tree care, protection, construction impacts, and administrative guidelines for ordinance compliance.
6. **Tree Board establishment** - this group of private citizens, usually appointed by the Council or Commission, to review and propose revisions to the Tree Ordinance, provide community education related to tree conservation, plan the Arbor Day activities, and provide public forums for citizens concerned about community trees.
7. **Requirements for community departments** to follow the ordinance requirements for actions taken on public property including plan review.

The Urban Tree Ordinance Development Workbook

Structure (cont.)

- 8. **Requirements for private land owners** with respect to development activities. Included in this section would be language describing any restrictions, permits, or requirement upon the various types of development activities, requirements for protection and limits of construction activity, tree removal, replanting, mitigation, etc. This may include the requirement for those conducting land disturbing activities to file tree location and assessment plans, tree protection plans, landscape plans, replanting plans, or other plans deemed necessary by the ordinance or arborist.
- 9. **Requirements for public land** for private individuals conducting tree impacting activities, tree planting, and maintenance.
- 10. **Provide for specimen tree** protection and specimen stand protection and permits and penalties as required.
- 11. **Develop specifications for species** and quality of tree to be planted within the community on properties governed by the tree ordinance.
- 12. **Define buffer requirements** for protection of root systems and for provisions for sound and visual buffers in association with land use changes.
- 13. **Establish penalties for violations**, variance procedures, administrative and economic penalties and mechanisms for administrative appeals.
- 14. **Repeal conflicting provisions** of previously established tree ordinance. Provide for the inspection and removal of nuisance trees as per the arborist determination,
- 15. _____
- 16. _____

There are many different types of tree ordinances from simple types dealing with impacts to public land to very involved ones impacting private property. Many groups working to develop ordinances particular to their community have sections that may address very specific issues within the community while others choose to use more generalized perspectives. No one approach is typical - no one approach most effective. Again, the perspective that appears to meet with the most success is: Continuity within the ordinance, compatibility with other ordinances, agreement with the community vision, and political will for enforcement. These are the earmarks of a successful ordinance

The Urban Tree Ordinance Development Workbook

Developing a Draft

The initial draft of your community's ordinance may not look like much more than a hodgepodge of notes and folders. The key to developing a draft that can be a workable document is the ordinance outline. This will be a listing of the components the board would like the ordinance to contain (an assembly of the parts we discussed earlier under structure). Attached to these components should be thoughts and perspectives about how that component mission should be accomplished. That in hand, you may now need technical expertise to put the boards thoughts into language that is commensurate with that which appears in other ordinances within your community. This could be someone on the board, someone with ordinance writing experience, the community's attorney, an urban arborist, or perhaps a consultant.

Once the first draft is in some form to be reviewed, the board should do so, preferably individually, first and then as a group. Try not to get caught up in word-smithing the document to early. Proper presentation of general perspectives, consistency across the document, and compatibility with the vision are preliminary points to review. Have the community's attorney review the early document for consistency - don't worry about the finer detail of legal issues yet.

After about the third review the document will begin to look like a tree ordinance. Forward copies of the draft to the planning, zoning, and development departments to make sure the mechanisms the board has developed to accomplish it's vision are compatible with mechanisms within other departments. Again, try to be consistent with other departments verbiage, standards, and procedures. Once these needed changes have been incorporated send it back to the legal department for review.

The board should now have in it's hands a document that is still rough but relatively complete. This is a good time to take an opportunity to solicit public comments and forward copies to the community council or commissioner and administrators. Be prepared for anything. Should you offer the document for review in a public forum try not to answer to many questions immediately. This will bog down the process and may not give you time to hear as many of the public comments as needed. Having recorded the public comments, forward the list to the board members and public officials and begin the review process again.

The continual comment-revise-review process will seem tedious at times and may not always seem rewarding or look like progress. There are cases in which it has taken many years to develop a workable document. There are also other cases in which the development and adoption of an ordinance was very quick but efforts to "fix" the existing ineffective document have taken years.

The Urban Tree Ordinance Development Workbook

The Final Document

There really is no final document as far as tree ordinances go. Once the adoption process begins that much will become obvious. They will be altered, challenged, and revised many times before they are finally adopted. Further, they are constantly being modified to better suit the needs of the community. That is why it is so important that the community become involved and that politicians and administrators understand the wishes of the citizenry. Active promotion of the tree ordinance by groups within the community will not only help adoption of the ordinance and educate the public about the value of their community's forest canopy cover but also help them address the future of their community's character.

Tree Board/Tree Ordinance questionnaire

This questionnaire is designed so that individuals completing the survey might better understand the relevant issues and questions that need to be answered when undertaking the process of tree ordinance generation. Please remember that this questionnaire is not intended to predispose individuals to a particular point of view but rather to help them start thinking about their community's current situation and future needs.

Tree Board/Tree Ordinance questionnaire (cont.)

Question	Yes	No	Unsure	Issue Unclear
<u>Current Tree Ordinance</u> I would like to repeal entirely new tree ordinance.	_____	_____	_____	_____
I would like the current tree ordinance provisions affecting public property to remain intact.	_____	_____	_____	_____
I would like the current tree ordinance provisions affecting public property to remain with modification.	_____	_____	_____	_____
<u>Large Tree Removal (Specimen Trees)</u> I would like to preserve large trees within the city.	_____	_____	_____	_____
I would like to limit the removal of large trees on new commercial development (redevelopment) sites.	_____	_____	_____	_____
I would like to limit the removal of large trees on new single family residential development sites.	_____	_____	_____	_____
I would like to limit the removal of large trees on new multi-family development sites.	_____	_____	_____	_____
<u>Large Tree Replacement (Specimen Trees)</u> I would like to require the replacement of large trees within the city when removed for any reason.	_____	_____	_____	_____
I would like to require the replacement of large trees within the city when removed for new commercial development (redevelopment).	_____	_____	_____	_____
I would like to require the replacement of large trees within the city when removed for single family residential development.	_____	_____	_____	_____
I would like to require the replacement of large trees within the city when removed for multi-family residential development.	_____	_____	_____	_____

Comments:

Tree Board/Tree Ordinance questionnaire (cont.)

Question	Yes	No	Unsure	Issue
<u>Tree Planting</u> I would like trees to be planted on new commercial development sites as a matter of requirement.	_____	_____	_____	_____
I would like trees to be planted on new single family residential development sites as a matter of requirement.	_____	_____	_____	_____
I would like trees to be planted on new multi-family residential development sites as a matter of requirement.	_____	_____	_____	_____
<u>Tree Planting Regimes</u> I would like tree planting regimes to be uniform across all types of developments.	_____	_____	_____	_____
I would like the tree planting regimes to be different for different types of development sites (i.e. commercial different from single family residential different from multi-family residential).	_____	_____	_____	_____
I would like to require a minimum amount of planting space per site or per acre for commercial development sites.	_____	_____	_____	_____
I would like to require a minimum amount of planting space per site or per acre for multi-family residential development sites.	_____	_____	_____	_____
I would like to require a minimum amount of planting space per site or per acre for single family residential development sites.	_____	_____	_____	_____
I would like the number of trees to be planted on new development sites to be based upon the number or size of trees removed.	_____	_____	_____	_____
I would like the number of trees to be planted on new development sites to be based upon a specific minimum number of trees per acre of site area.	_____	_____	_____	_____
I would like the number of trees to be planted on new development sites to be based upon the amount of available planting space after the building and hardscape is installed.	_____	_____	_____	_____

Comments:

Tree Board/Tree Ordinance questionnaire (cont.)

Question	Yes	No	Unsure	Issue unclear
<u>Arboricultural Specifications</u> I would like to require a minimum amount of planting area (space) per tree planted depending upon the mature size of the tree (overslory vs. understory).	-	-	-	-
I would like to require that trees planted in the city to satisfy the tree ordinance specifications conform to some arboricultural standards for size, quality and health.	-	-	-	-
I would like to require that trees planted in the city to satisfy the tree ordinance specifications be selected from a predetermined species list.	-	-	-	-
I would like to require that tree companies performing tree work within the city have a specific license, bonding or certification.	-	-	-	-
I would like the tree ordinance to reference technical specifications and standards for development near trees.	-	-	-	-
I would like the tree ordinance technical specifications and standards to be regularly updated by a qualified party responsible for maintaining, altering and updating them.	-	-	-	-

Comments:

Tree Board/Tree Ordinance questionnaire (cont.)

Question	Yes	No	Unsure	Issue Unclear
Enforcement				
I would like the tree ordinance to be enforced in house with existing personnel.	_____	_____	_____	_____
I would like the tree ordinance to be enforced by a "qualified" person.	_____	_____	_____	_____
I would like the tree ordinance to be enforced by the department that reviews development plans.	_____	_____	_____	_____
I would like the tree ordinance to be enforced by the department that conducts on site inspections.	_____	_____	_____	_____
I would like the tree ordinance to require a existing tree assessment plan be submitted to the city prior to clearing and grading permits being issued.	_____	_____	_____	_____
I would like the tree ordinance to require all development sites to provide a tree save and replanting plan according to the ordinance standards of practice.	_____	_____	_____	_____
I would like the tree ordinance to provide for a tree bank so that trees can not be planted as the tree ordinance requires could be planted on public property.	_____	_____	_____	_____
I would like the tree ordinance to provide for the issuance of stop work orders to be issued for tree ordinance violations.	_____	_____	_____	_____
I would like the tree ordinance to provide for variance procedures.	_____	_____	_____	_____
I would like the departments within the city to be responsible for complying with the tree ordinance.	_____	_____	_____	_____
I would like the tree ordinance to give the Tree Board responsibility for reviewing and providing suggestions for amending the tree ordinance.	_____	_____	_____	_____
Penalties				
I would like the tree ordinance to specify administrative penalties for non-compliance with the tree ordinance.	_____	_____	_____	_____
I would like penalties associated with the non-compliance with tree ordinance to be monetary.	_____	_____	_____	_____
I would like penalties associated with the non-compliance with tree ordinance to be criminal.	_____	_____	_____	_____

Comments:

Tree Board/Tree Ordinance questionnaire (cont.)

Question	Yes	No	Unsure	Issue Unclear
<u>Tree Protection</u> I would like the tree ordinance to provide for protection for existing trees during construction on commercial sites.	-	-	-	-
I would like the tree ordinance to set construction activity limits around trees on development and construction sites.	-	-	-	-
I would like the tree ordinance to provide for protection for existing trees during construction on single family residential sites.	-	-	-	-
I would like the tree ordinance to provide for protection for existing trees during construction on multi-family residential sites.	-	-	-	-
I would like the tree ordinance to require private owners to be responsible for public right-of-way maintenance of their trees.	-	-	-	-
I would like the tree ordinance to provide a mechanism for identification of public nuisance and hazard trees.	-	-	-	-
I would like the tree ordinance to provide specifications for buffer zones and screening requirements.	-	-	-	-
<u>Specimen Trees</u> I believe that the tree ordinance should provide protection for specimen trees based on size.	-	-	-	-
I believe that the tree ordinance should provide protection for specimen trees based on character or historic significance.	-	-	-	-
I would like the tree ordinance to require that a written permit be issued by the city to allow for the removal of a specimen tree.	-	-	-	-

Comments:

Tree Board/Tree Ordinance questionnaire (cont.)

Question

	Yes	NO	Unsure	Issue Unclear
Purpose and Intent				
I would like the tree ordinance Purpose and Intent to discuss:				
- environmental values of trees,				
- economic values of trees,				
- quality of life provided by trees,				
- character of community provided by trees,				
- health welfare public good,				
- the need for balance in our community,				
- the need to conserve our tree canopy as a matter of practice,				
- other _____				

Zoning & Planning Issues:

My community has a formalized zoning program in place.

My community has a formal zoning and/or planning department that reviews plans and conducts site inspections.

My community has the following zoning categories:

- commercial
- heavy industrial
- light industrial
- office
- multi-family residential (apartments)
- single family residential
- agricultural
- recreation
- other _____

Comments:

33.630 Tree Preservation**630**

Sections:

- 33.630.010 Purpose
- 33.630.020 Where These Regulations Apply
- 33.630.030 Exempt From These Regulations
- 33.630.100 Minimum Tree Preservation Standards
- 33.630.200 Tree Preservation Approval Criteria
- 33.630.400 Modifications That Will Better Meet Tree Preservation Requirements
- 33.630.500 Tree Preservation Credit
- 33.630.600 Recording Tree Preservation Plans and Related Conditions
- 33.630.700 Relationship To Other Tree Regulations

33.630.010 Purpose

The land division process provides the flexibility and opportunity to promote creative site design that considers multiple objectives, including integration of trees. The regulations of this chapter require that trees be considered early in the design process with the goal of preserving high value trees and mitigating for the loss of trees. Desired benefits of trees include:

- Protecting public health through the absorption of air pollutants, contamination, and capturing carbon dioxide;
- Buffering from noise, wind, and storms;
- Providing visual screening and summer cooling;
- Reducing energy demand and urban heat island impacts;
- Filtering stormwater and reducing stormwater runoff;
- Reducing erosion, siltation, and flooding;
- Stabilizing slopes;
- Enhancing property values;
- Providing fish and wildlife habitat, including support for native species biodiversity through the preservation and planting of native trees;
- Providing food for people and wildlife; and
- Contributing to the beauty of the City, its natural heritage, and the character of its neighborhoods.

33.630.020 Where These Regulations Apply

- A. Generally. The regulations of this chapter apply to all proposals for land divisions on sites outside the Central City plan district that have at least one tree that is at least 6 inches in diameter, except where all trees on the site are exempt under 33.630.030. Where a tree trunk is partially on the land division site, it is considered part of the site.
- B. Sites in C, E, I, and CI zones where all of the proposed lots are currently developed with commercial, employment, industrial, or institutional development may defer tree preservation review to the time of any future development or redevelopment of the site. Sites that use this option are subject to the standards of Title 11, Trees at the time of development. Sites in the IH, IG1, EX, and CX zones are not eligible to use this provision.

- C. Proposals to divide sites that are partially within an environmental overlay zone or the Pleasant Valley Natural Resources overlay zone and include a concurrent environmental review or Pleasant Valley Resource review are not subject to the tree preservation standards of Section 33.630.100. However, the tree preservation approval criteria in 33.630.200 apply to these proposals.

33.630.030 Exempt From These Regulations

The following trees are exempt from the regulations of this chapter:

- A. Trees that are on the Nuisance Plants List;
- B. Trees that are less than 6 inches in diameter;
- C. Trees that are dead, dying, or dangerous as determined by an arborist. The review body may require additional analysis or documentation to confirm the condition of the tree;
- D. Trees where the trunk is within 10 feet of an existing building that will remain on the site;
- E. Trees where the trunk is located completely or partially within an existing right-of-way that is not part of the land division site;
- F. Trees where the trunk is located completely or partially within Environmental or Pleasant Valley Natural Resources Overlay zones. Those trees are instead subject to the regulations of Chapter 33.430, Environmental Zones, or 33.465, Pleasant Valley Natural Resources Overlay Zones.

33.630.100 Minimum Tree Preservation Standards

- A. **The applicant must show how existing trees will be preserved.** The options listed below represent minimum tree preservation standards. Additional tree preservation may be required to meet the approval criteria of Section 33.630.200. The total tree diameter on the site is the total diameter of all trees completely or partially on the site, minus the diameter of trees that are listed in Section 33.630.030, Trees exempt from these regulations. The applicant must choose one of the following options:
 1. Option 1: Preserve all of the trees that are 20 or more inches in diameter and at least 20 percent of the total tree diameter on the site;
 2. Option 2: Preserve at least 75 percent of the trees that are 20 or more inches in diameter and at least 25 percent of the total tree diameter on the site;
 3. Option 3: Preserve at least 50 percent of the trees that are 20 or more inches in diameter and at least 30 percent of the total tree diameter on the site;
 4. Option 4: Where all trees are less than 20 inches in diameter, preserve at least 35 percent of the total tree diameter on the site;
 5. Option 5: If one or more tree groves are located completely or partially on the site, preserve all of the grove trees located on the site and at least 20 percent of the total tree diameter or canopy area on the site; or
 6. Option 6: If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.

- B. Heritage Trees.** Heritage Trees located on the land division site may be counted toward meeting preservation standards. Heritage Trees must be preserved unless removal has been approved by the Urban Forestry Commission.
- C. Calculations.**
1. Tree diameter and number of trees. When calculating the amount of tree diameter and the number of 20 inch diameter and larger trees on the site, the applicant may choose one of the following methods of measurement:
 - a. Tree inventory. A tree inventory identifies all trees on the site, specifying location, species, and diameter of each tree; or
 - b. Statistical sampling. Statistical sampling may be used to estimate the total tree diameter and total number of trees at least 20 inches in diameter present. Sampling must be carried out by a professional forester based on standard methodologies.
 2. Tree canopy. When calculating the amount of tree canopy on the site, the total canopy area must be based on the most recent aerial photograph available. The aerial photograph used must be no more than 5 years old. Other data such as LiDAR may be used to help in calculating tree canopy as appropriate.
- D. Location of preserved trees.** Trees may be preserved on lots, within tree preservation tracts, or within other privately managed tracts, such as flood hazard, recreation area or stream, spring, seep, and wetlands tracts. Proposed tree preservation within tracts that are to be managed by the City of Portland or a service district, must be approved by the City or service district.

33.630.200 Tree Preservation Approval Criteria

Applicants must demonstrate how the proposed tree plan will meet the following tree preservation criteria. In meeting these criteria, applicants may use options available in this and other chapters of this Title to modify development standards and minimum density in order to preserve trees.

- A.** To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;
- B.** Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;
- C.** Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:

1. The specific development proposed;
 2. The uses and intensity of development expected in the zone and the area in which the site is located;
 3. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;
 4. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources, or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and
 5. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.
- D. Mitigation.** Where the minimum tree preservation standards of 33.630.100 can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

33.630.400 Modifications That Will Better Meet Tree Preservation Requirements

- A. Site-related development standards.** The review body may consider modifications to site-related development standards as part of the land division review. These modifications are done as part of the land division process and do not require an adjustment. Adjustments to use-related development standards are subject to the adjustment process of Chapter 33.805, Adjustments. Modification to a regulation that contains the word "prohibited," or a regulation that is a qualifying situation or threshold is prohibited. In order to approve the modification, the review body must find that the modification will result in improved tree preservation, considering the tree preservation priorities for the site, and will, on balance, be consistent with the purpose of the regulation being modified.
- B. Minimum Density.**
1. In multi-dwelling zones, minimum density may be reduced to preserve trees as stated in Paragraph 33.120.205.C.3. This provision may be used to reduce minimum density during the land division process. Sites that reduce minimum density at the time of the land division are not eligible to further reduce minimum density at the time of development on the lots.
 2. A reduction in minimum density in single-dwelling zones may be approved as part of the land division review. The reduction is done as part of the land division review and does not require an adjustment.

- a. Minimum density may be reduced by 20 percent or one lot, whichever is more, up to a maximum reduction of 4 lots. Reductions greater than those listed in this paragraph are prohibited.
- b. The review body will approve the reduction in minimum density if the following are met:
 - (1) The reduction in minimum density will result in improved tree preservation, considering the tree preservation priorities for the site; and
 - (2) The lot or lots where trees are proposed to be preserved are not large enough to be further divided under the current zoning. Trees proposed for preservation may be placed in a tree preservation tract to reduce lot sizes and provide better protection for the trees to be preserved.

33.630.500 Tree Preservation Credit

Trees that are preserved in a tree preservation tract that is outside of an Environmental or Pleasant Valley Natural Resources overlay zone may count toward meeting the tree density standards for individual lots in Chapter 11.50, Trees in Development Situations. If this option is chosen, at least one tree must be planted or preserved on each lot created for single-dwelling or duplex development. The preliminary plan must indicate the lots where the credit from the preserved trees will be used.

33.630.600 Recording Tree Preservation Plans and Related Conditions

Tree preservation plans approved as part of the preliminary plan and related conditions of approval must be recorded with the County Recorder. The documents must be approved by BDS prior to recording.

33.630.700 Relationship To Other Tree Regulations

Other tree regulations of this Title and other Titles may apply at the time of a land division and at the time of development.

(Added by: Ord. Nos. 175965 and 176333, effective 7/1/02. Amended by: Ord. No. 178657, effective 9/3/04; Ord. No. 179980, effective 4/22/06; Ord. No. 181357, effective 11/9/07; Ord. No. 182429, effective 1/16/09, effective 5/13/11; Ord. No. 184524, effective 7/1/11; Ord. No. 186053, effective 1/1/15; Ord. No. 187216, effective 7/24/15; Ord. No. 188259, effective 3/31/17; Ord. No. 188177, effective 5/24/18; Ord. No. 188958, effective 5/24/18).