

ORDINANCE NO. 775

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending the Lakewood Critical Areas Regulations located in Lakewood Municipal Code Title 14, LMC Chapter 2.48, and LMC Sections 18A.60.030-.070, 18A.60.110, 18A.70.140, 18A.70.300-350, 18A.80.060, 18B.200.230, 18B.600, 18B.700.720, 18C.200.230, 18C.600, and 18C.700.720 related to the Tree Preservation Code.

WHEREAS, the City of Lakewood recognizes that urban trees provide beneficial canopy cover and a multitude of ecosystem services to the community such as filtration of air pollution, stormwater management, wildlife habitat, carbon sequestration and storage, increased quality of life, shade, cooling, and decreased energy consumption; and

WHEREAS, the City of Lakewood recommends that trees are planted, preserved, and protected while also achieving goals for planned smart growth and increased density throughout the city and the region; and

WHEREAS, the City of Lakewood completed an urban tree canopy assessment which revealed that in 2019, 26% of Lakewood was covered by tree canopy, an increase of 0.5% since 2011, and the City has a goal to grow the canopy to 40% by 2050 that will be incorporated into the Comprehensive Plan in 2023; and

WHEREAS, the City of Lakewood recognizes that urban tree canopy and the associated benefits should be distributed in an equitable manner throughout Lakewood so that all residents, visitors, and businesses can benefit from a healthy and vibrant urban forest; and

WHEREAS, the City of Lakewood strives to be a resilient and sustainable community environmentally, economically, and socially, and that trees help to achieve these goals; and

WHEREAS, the City of Lakewood is a code city planning under the Growth Management Act, codified in RCW 36.70A; and

WHEREAS, the City Council adopted its Tree Preservation Code, LMC 18A.70.300- 330 via Ordinance No. 726 on December 16, 2019; and

WHEREAS, the Lakewood City Council adopted Title 14, Title 18A, Land Use and Development Code, of the Lakewood Municipal Code (LMC) via Ordinance No. 630 on December 7, 2015; and

WHEREAS, on July 6, 2021 The Lakewood City Council adopted Ordinance No. 756 replacing Chapter 10 of the Comprehensive Plan with the Energy and Climate Change Chapter; and

WHEREAS, Chapter 10 of the Comprehensive Plan includes goals related to tree preservation and the urban forest; and

WHEREAS, it is appropriate for the Lakewood City Council to consider and adopt amendments needed to ensure that the Plan and implementing regulations provide appropriate policy and regulatory guidance for growth and development; and

WHEREAS, the Lakewood City Council passed Resolution 2021-15 to form a Tree Advisory ad hoc Committee to review the tree preservation code and associated municipal code chapters and forward its recommendations onto the Planning Commission; and

WHEREAS, the Tree Advisory Ad hoc Committee met on seven (7) occasions between March-April, 2022; and

WHEREAS, at the conclusion of its meetings, the Ad hoc Committee created a framework report to provide advice to the Lakewood Planning Commission; and

WHEREAS, the Planning Commission reviewed the existing City tree preservation code and the Tree Advisory Ad hoc Committee recommendations on May 4th, May 18th, June 1st, June 8th and June 15th; and

WHEREAS, on June 15, 2022 the Planning Commission set a public hearing date of July 6, 2022; and,

WHEREAS, public notice of the Planning Commission Public Hearing was provided pursuant to Lakewood Municipal Code 18A.20.310 on June 15th and through post cards that were mailed to every Lakewood resident on June 1st; and

WHEREAS, the Lakewood Planning Commission held an open record public hearing on July 6, 2022; and

WHEREAS, on July 20, 2022 the Planning Commission forwarded recommendations to the City Council via Planning Commission Resolution 2022-07; and

WHEREAS, on July 21, 2022 the City issued a Determination of Non-Significance (DNS) for the draft code; and

WHEREAS, on July 25, 2022 the City provided notice of the intent to adopt code revisions to the Department of Commerce for review consistent with Growth Management Act requirements, requesting a review period of 55 days; and

WHEREAS, the City Council reviewed the Ad hoc Committee and Planning Commission recommendations on August 6, 2022 and August 22, 2022; and

WHEREAS, the City Council held a duly noticed public hearing per Lakewood Municipal Code 18A.20.310 on September 6, 2022; and

WHEREAS, an updated DNS was issued on October 14, 2022; and

WHEREAS, the City Council desires to encourage future development in the City of Lakewood consistent with the City's vision and Comprehensive Plan; and

WHEREAS, the Lakewood City Council finds that the proposed amendments further the goals and policies of the Comprehensive Plan and promote the community's overall health, safety, and welfare.

NOW, THEREFORE, THE LAKEWOOD CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of Amendments to the Lakewood Municipal Code.

Amendments to the City’s land use and development regulations are adopted as summarized below and included in full in Exhibit A, attached hereto:

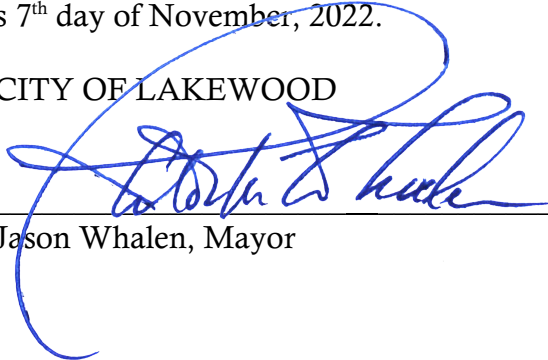
- Chapter 2.48 related to the Protection and Preservation of Landmarks to establish a Heritage Tree Program
- Title 14 to establish Provisions for the Protection of Priority Oregon White Oak Trees and Woodlands and create a new definition for “feasible”.
- Title 18A.10.180 to add relevant term definitions
- Title 18A.70.300-.350 to update the City’s Tree Preservation Code
- Sections 18A.60.030-.070, 18A.60.110, 18A.70.140, 18A.80.060, 18B.200.230, 18B.600, 18B.700.720, 18C.200.230, 18C.600, and 18C.700.720 to establish incentives to encourage tree preservation in all zones.

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. This Ordinance shall be in full force and effect on March 1, 2023.

ADOPTED by the City Council this 7th day of November, 2022.

CITY OF LAKEWOOD




Jason Whalen, Mayor

Attest:



Briana Schumacher, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney

EXHIBIT A

Amendments to Lakewood Comprehensive Plan and Municipal Code

Sections and portions of sections of the Lakewood Municipal Code not included below remain unchanged and in effect.

Lakewood Municipal Code

Chapter 2.48

PROTECTION AND PRESERVATION OF LANDMARKS

Sections:

- 2.48.010 Purpose.
 - 2.48.020 Definitions.
 - 2.48.030 Landmarks and Heritage Advisory Board created.
 - 2.48.035 Powers of Lakewood Landmarks and Heritage Advisory Board.
 - 2.48.040 Designation criteria.
 - 2.48.050 Nomination procedure.
 - 2.48.060 Designation procedure.
 - 2.48.070 Certificate of appropriateness procedure.
 - 2.48.080 Evaluation of economic impact.
 - 2.48.090 Appeal procedure.
 - 2.48.110 Penalties for violating this chapter.
 - 2.48.120 Special valuation for historic properties.
 - 2.48.130 Severability.
 - 2.48.140 Retroactive approval of acts.
- 2.48.040 Designation criteria.

D. A tree may be designated as a heritage tree due to its historical, cultural, or environmental significance to the community. The purpose of the heritage tree designation is to ensure additional measures of protection and maintenance for trees with unique characteristics, historical importance, or cultural significance. The nomination and designation process shall follow LMC 2.48.050 and LMC 2.48.060. Heritage trees are not subject to LMC 2.48.070. All heritage trees shall be retained unless allowed to be removed per LMC Chapter 18A.70 Article III Tree Preservation.

A complete application for heritage tree nomination and designation shall include the following information:

1. A short description of the tree(s), including the address or location, species, and size (height, crown spread, and DBH);
2. Reason for designation as a heritage tree(s) including special characteristics of the tree and/or site; and
3. A report completed by an ISA Certified Arborist to identify the tree's characteristics, current condition, and maintenance needs.

Title 14
ENVIRONMENTAL PROTECTION

Chapters:

14.02	Environmental Rules and Procedures
14.142	Critical Areas and Natural Resource Lands Authority, Intent, and General Provisions
14.146	Geologically Hazardous Areas
14.150	Aquifer Recharge Areas
14.154	Fish and Wildlife Habitat Areas
14.158	Flood Hazard Areas
14.162	Wetlands Areas
14.165	Definitions

14.154.030 Habitat protection standards.

A. *Education and Information.* A voluntary education program to explain the need for and methods of habitat management will help provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in Pierce County, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

1. The Department will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.
2. The Department will accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this chapter and indicated by County maps to be in the vicinity of identified critical fish and wildlife habitats pursuant to LMC 14.154.020. Information shall include the number of single-family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations may be developed.

B. *Use of Existing Procedures and Laws, Biological Assessments.* The primary procedures used to implement this chapter shall include this chapter itself, the City's Land Use and Development Code, the State Environmental Policy Act (Chapter 43.21C RCW), the City's environmental regulations, the State Shoreline Management Act (Chapter 90.58 RCW), and the City's shoreline management regulations.

Regulated activities subject to environmental review shall be reviewed with consideration for impacts on critical fish and wildlife habitat as identified in this title. The Community Development Director may require a biological assessment prepared by a qualified wildlife biologist whenever the Director finds that a project site may contain, affect, or be affected by, species or habitats designated in this chapter. Biological assessments shall be prepared in accordance with LMC 14.154.050(B), and are subject to the review and approval of the Director.

Projects undergoing review for fish and wildlife considerations shall be routed to the Washington Department of Fish and Wildlife, the Washington Department of Ecology, the

U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers and any other appropriate state and federal agencies. These agencies will have an opportunity to provide specific habitat information on proposed development sites, advise the City of their jurisdiction and applicable permit requirements, and suggest appropriate project modifications and/or other mitigation.

The City shall give substantial weight to the management recommendations contained in the Washington Department of Fish and Wildlife Priority Habitats and Species Program, particularly the management recommendations for Oregon white oak woodlands.

14.154.080 Provisions for Priority Oregon white oak trees and woodlands

A. No person shall willfully remove, top, damage, destroy, break, injure, mutilate or kill any Priority Oregon white oak trees and woodlands except as allowed by this chapter.

B. During building or construction operations, suitable protective measures in LMC 18A.70.320(1) shall be erected around Oregon white oak trees, stands, or woodlands which may be subject to injury.

C. The following activities may be allowed regarding Priority Oregon white oak trees and woodlands:

1. Removal of diseased trees and trees that present an imminent threat to properties with an approved tree removal permit. The Director may require a written report by a certified arborist assessing the condition of any tree that is purported to be diseased or hazardous. Tree replacement is required at a 2:1 ratio per LMC 18A.70.330.

2. Trimming. Trimming shall be granted when it is determined:

(a) That trimming is needed for safety or public welfare or to remove diseased or dead branches; or

(b) That branches hang over an existing building or interfere with utility lines or right-of-way access.

(c) Utility pruning shall be conducted in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 *How to Prune Trees* available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev7_016046.pdf, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture's Best Management Practices – Utility Pruning of Trees, available at <https://www.seattle.gov/light/vegetation-management/docs/Acrobat%20Document.pdf>.

3. Single Family Property. If the presence of the Priority Oregon white woodland renders the development of a house or permitted accessory structure infeasible, and the application of incentives in LMC 18A.70.320.J is insufficient to result in a feasible development, the City may allow removal or trimming of a Priority Oregon white oak trees and woodlands in order to allow a maximum building footprint of one thousand five hundred (1,500) square feet for a single family residence, 1,000 square feet for an accessory dwelling unit, and 1,000 square feet for a detached

garage. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area. The proposal shall demonstrate prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time, the proposal results in the least possible impact to the critical area to achieve a feasible development, and includes mitigation to offset any impacts to critical areas consistent with the provisions of this chapter and in accordance with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

4. Commercial, Industrial, Multifamily, Institutional or Other Development. On non-single-family properties where Priority Oregon white oak trees and woodlands does not exceed 1 acre in size contiguous and the application of incentives in LMC 18A.70.320.J is insufficient to result in a feasible development, the City may allow for removal or trimming of a Priority Oregon white oak trees and woodlands to accommodate a legal use of the property with the least possible impact to the critical area, provided no clearing of trees occurred prior to the application for a land use permit in violation of Article III of Chapter 18A.70 LMC in effect at the time, and provided mitigation is instituted consistent with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

5. Required findings. To approve a proposal for a single family home in paragraph 3 or other non-single family development in paragraph 4, the Director shall find:

(a) The application of incentives in LMC 18A.70.320.J is insufficient to result in a feasible development.

(b) The development results in the least possible impact to the critical area to achieve a feasible development that accommodates a legal use of the property.

(c) The report and mitigation prepared by a qualified biologist or certified arborist demonstrates to the satisfaction of the Director that mitigation addresses impacts to Priority Oregon white oak trees and woodlands consistent with the provisions of this chapter. The report and mitigation consider the Washington Department of Fish and Wildlife Priority Habitats and Species Program management recommendations for Oregon white oak woodlands. The report has been reviewed by either the Washington Department of Fish and Wildlife through SEPA review and/or a qualified biologist or certified arborist at the applicant's expense as required by the Director.

(d) Prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time.

D. If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to LMC 14.142.080.

Chapter 14.165
DEFINITIONS

Sections:

14.165.010 **Definitions.**

"Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where the chapter requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Director may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

"Reasonable use" means a legal concept articulated by federal and state courts in regulatory taking cases. In a takings case, the decision-maker must balance the public's interests against the owner's interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public interest factors include the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions.

"Reasonable use exception" means a process by which the City will consider an applicant's request for relief from critical area regulations if the applicant demonstrates that strict application of critical area regulations would deny all reasonable use of a property.

Title 18A LAND USE & DEVELOPMENT CODE
Chapter 18A.10 BASIC PROVISIONS

Sections:

- 18A.10.010 Title.
- 18A.10.020 Purpose.
- 18A.10.030 Scope.
- 18A.10.040 Rules of code interpretation.
- 18A.10.050 Computation of time.
- 18A.10.060 Measurements.
- 18A.10.070 Interpretations.
- 18A.10.080 Authority and comprehensive plan consistency.
- 18A.10.090 Comprehensive plan amendments.
- 18A.10.100 General requirements.
- 18A.10.110 Severability.

18A.10.120 Establishment of zoning districts.
18A.10.125 JBLM AICUZ in relation to land use zones.
18A.10.130 Establishment of overlay districts.
18A.10.135 Establishment of military influence area.
18A.10.135.1 Purpose.
18A.10.135.2 Applicability.
18A.10.135.3 Definitions.
18A.10.135.4 Administration.
18A.10.135.5 Coordinating officials.
18A.10.135.6 Lakewood Military Coordination and Notice Area (MCNA).
18A.10.135.7 Coordination between the City of Lakewood and JBLM.
18A.10.135.8 Light emissions.
18A.10.135.9 Notice to property owners.
18A.10.135.10 Compatible use standards.
18A.10.135.11 Property records and GIS.
18A.10.135.12 No delegation of local authority.
18A.10.140 Establishment of subareas.
18A.10.150 Adoption of City-wide and subarea zoning maps.
18A.10.160 Boundaries – Administrative determination.
18A.10.170 Boundaries – Planning Commission recommendation – City Council determination.
18A.10.175 Reasonable accommodation.
18A.10.180 Definitions.

18A.10.180 Definitions

“ANSI A300” means the industry standards for tree care in the United States.

“Certified Arborist” means a specialist in the care and maintenance of trees who is certified by and in good standing with the International Society of Arboriculture (ISA).

“Critical Root Zone” (CRZ) means the area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. CRZ can be determined using the dripline of the tree.

“DBH” is an acronym meaning tree diameter at breast height measured at 4.5 feet above ground. For multi-trunked trees, DBH is the total of all individual trunks added together.

“Dripline” means the outermost edge of a tree’s canopy. When viewed from above, the drip line will appear as a line that follows the contour of the tree’s branches. At a minimum, the drip line is a circle whose diameter is 15 times a tree’s DBH.

“Malicious cutting” occurs when a person willfully and without permit removes a significant or heritage tree, or otherwise injures, cuts, or tops a significant or heritage tree to the extent that the tree’s survival is compromised, according to Best Management Practices as determined by a Certified Arborist. Removing more than 1/3 of the tree's canopy during a single growing season will always constitute malicious cutting.

“Pruning” means removing branches from a tree to achieve a specified objective using

approved practices according to ANSI A300 industry standards.

“Root Pruning” means removing roots from a tree to achieve a specified objective using approved practices according to ANSI A300 industry standards.

A “stand” of trees means two or more trees whose canopies, driplines, and/or critical root zones are adjacent, touching, or overlapping.

“Topping” means using inappropriate pruning techniques to reduce tree size that may result in unnecessary risk, tree stress, or decay.

“Tree protection plan” means an annotated and scaled drawing demonstrating compliance with tree protection specifications for construction operations as identified in this section.

“Trimming” means detaching a limb, branch, or root from a tree. Trimming shall include pruning and cutting.

Chapter 18A.60 SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS

18A.60.030 Residential area and dimensions.

B. Tree Preservation Incentives.

1. The Director may reduce a rear yard and/or side yard building setback to compensate for significant or heritage tree preservation provided that the setback is not reduced more than five (5) feet, is no closer to the property line than three (3) feet, is the minimum reduction required for tree preservation, and complies with LMC 18A.60.100 Building transition area.
2. The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.

18A.60.040 Commercial area and dimensions.

B. Tree Preservation Incentives.

1. The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.

18A.60.070 Open space area and dimensions.

B. Tree Preservation Incentives.

1. The Director may reduce a rear yard and/or side yard building setback to compensate for significant or heritage tree preservation provided that the setback

is not reduced more than five (5) feet, is no closer to the property line than three (3) feet, is the minimum reduction required for tree preservation, and complies with LMC 18A.60.100 Building transition area

2. The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.

18A.60.110 Density standards.

The permitted number of dwelling units or lots shall be determined as follows:

- A. The maximum density of each zoning district shall be the maximum number of dwelling units allowed per gross area of an acre, excluding accessory dwelling units. Maximum density shall be expressed as a ratio (e.g., three (3) dwelling units per acre).
- B. The minimum lot size shall not determine maximum density. Maximum density shall not be exceeded, except as allowed by the provisions of LMC 18A.10.060.
- C. Gross area is the total sum area of the lot, including easements, and wetlands, streams, shorelines, and other critical areas. The required critical area buffers and all legally recorded private access easements shall not be subtracted from the gross acre for the purpose of dwelling unit calculations. See Figure 8 below for reference.



D. For multi-family uses, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Downtown District (not to exceed more than 20% of the total allowable units).

E. Bonus density, where applicable, shall be computed by adding the bonus units authorized by LMC 18A.90.050 to the base units computed under this section.

F. For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in a census tract with a tree equity score of under

the City's 2018 average score of 69 (not to exceed of more than 20% of the total allowable units).

E.G. When calculations result in a fraction, the fraction shall be rounded down to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and
2. Fractions below 0.50 shall be rounded down.

18A.70.150 Landscaping types.

A. The landscaping types are intended to provide a basic list of landscaping standards that may be applied within a proposed project as necessary to provide for the intent of the comprehensive plan.

1. *Type I, Vegetative Buffer.* A combination of landscaping, evergreen and deciduous trees, and fencing that provides a substantial visual barrier between uses and creates an impression of separation of spaces along an interior property line. The following standards shall be applied:
 - a. Landscaping strip shall be a minimum of eight (8) feet in width, and shall be increased to ten (10) feet in width and fifteen (15) feet in width as required by LMC 18A.70.160, Landscaping regulations by zoning district.
 - b. Depending on the use, a sight-obscuring barrier may be required to be placed within the landscaping strip to consist of:
 - i. Fence/wall five (5) feet in height, or
 - ii. A medium shrub barrier (hedge) which is of such a density as to provide a solid visual barrier.
 - c. One (1) evergreen or deciduous tree is required per twenty (20) linear feet of landscaping strip. Trees shall be spaced at intervals not greater than twenty (20) feet on center along the full extent of the landscaping strip. No more than sixty (60) percent of the trees may be deciduous.
 - d. The percentage of evergreen trees allowed may be further reduced at the discretion of the Director to address public safety concerns.
 - e. *Shrubs.*
 - i. Two (2) medium shrubs are required per six (6) linear feet of landscaping strip and placed no greater than four (4) feet on center.
 - ii. Three (3) low shrubs are required per six (6) linear feet of landscaping strip and placed no greater than three (3) feet on center.
 - iii. Shrubs shall be placed along the entire length of the landscaping strip as to provide vegetative cover.
 - f. Vegetative groundcover.

g. Landscaping shall be placed along the entire length of the landscaping strip so as to provide a vegetative buffer. These are minimum standards; additional landscaping may be required if, in the determination of the Director, the proposed landscaping plan does not provide effective separation and screening.

h. A credit of one and one-half square feet of vegetative buffer shall be given for every square foot of area devoted to new, or the preservation of, Oregon white oak tree use.

CHAPTER 18A.70 COMMUNITY DESIGN, LANDSCAPING AND TREE PRESERVATION

Article III. TREE PRESERVATION

18A.70.300 Purpose.

This article promotes tree preservation by protecting the treed environment of the City of Lakewood by regulating the removal of significant trees and providing incentives to preserve trees that, because of their size, species, or location, provide special benefits. Tree preservation is an essential strategy for meeting Lakewood's citywide goal of 40% tree canopy cover by the year 2050. Tree preservation protects and enhances critical areas, facilitates aquifer recharge, reduces erosion and storm water runoff, and helps to define public and private open spaces. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.310 Tree removal applicability/exemptions.

The requirements for tree preservation shall be provided in accordance with the development standards of each individual zoning district and the provisions of this section, and are applicable to all zoning districts. Subsections (A) through (C) do not apply to Oregon white oaks or trees located within the shoreline buffers subject to the shoreline master program (SMP). Refer to LMC 18A.70.330 for Oregon white oak protection standards. Refer to Chapter 3, Section B.8 Shoreline Vegetation Conservation of the SMP for tree protection standards within shoreline buffers.

A. Lots of less than ten thousand (10,000) square feet in single-family residential zones are exempt from this chapter, except:

1. In the case of a short subdivision or subdivision per LMC 18A.70.320.C.3.b.i., or
2. For those lots that contain Oregon white oak trees where specific tree preservation is required in LMC 18A.70.330, or
3. Where specific tree preservation is required as a mitigation measure under SEPA, or
4. in the event a permit is not required for the establishment of a use, the standards of this section shall still apply.

~~B. Industrially zoned properties are exempt from this chapter, except where specific tree preservation is required as a mitigation measure under SEPA.~~

~~B.~~ Removal of nonsignificant trees that are not protected by any other means is exempt from this chapter.

D.C. *Removal of Trees in Association with Right-of-Way and Easements.* Tree removal by a public agency or a franchised utility within a public right-of-way or upon an easement, for the purpose of installing and maintaining water, storm, sewer, power, gas or communication lines, or motorized or nonmotorized streets or paths when pruning is not sufficient to alleviate the interference condition is exempt from this chapter.

Notification to the City by the public agency or franchised utility is required prior to tree maintenance or removal within City rights-of-way.

Topping is prohibited. Utility pruning shall be conducted in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 *How to Prune Trees* available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev7_016046.pdf, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture's Best Management Practices – Utility Pruning of Trees available at <https://www.seattle.gov/light/vegetation-management/docs/Acrobat%20Document.pdf>.

E.D. *Emergency Removal.* Any number of hazardous protected and nonprotected trees may be removed under emergency conditions. Emergency conditions include immediate danger to life or dwellings or similar stationary and valuable property, including the presence of a target. Emergency removal may occur and all the following conditions shall be met:

1. The City is notified the following business day of the unpermitted action;
2. Visual documentation (i.e., photographs, video, etc.) is made available; and
3. The felled tree remains on site for City inspection.
4. Replacement required.
 - a. Nonsingle-family use: The property owner will be required to provide replacement trees as established in LMC 18A.70.320(~~G~~), Replacement.
 - b. Single-family use: The property owner will not be required to provide replacement trees.
5. Should the City determine that the tree(s) did not pose an emergency condition, the owner shall be cited for a violation of the terms of this chapter. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.320 Significant tree preservation.

A. *Standards.* Significant tree preservation shall be required for any project permit.

1. A significant tree is an existing tree which:
 - a. When measured at four and one-half (4.5) feet above ground, has a minimum diameter of nine (9) inches for evergreen trees and deciduous trees;
 - b. When measured at four and one-half (4.5) feet above ground, has a minimum diameter of four (4) inches for Oregon white oaks (also known as Garry oaks); and

c. Regardless of the tree diameter, is determined to be significant by the Director due to the uniqueness of the species or provision of important wildlife habitat.

2. *Tree Measurement.* For the purposes of this section, existing trees are measured by diameter at four and one-half (4.5) feet above ground level, which is the usual and customary forest standard. Replacement trees are measured by diameter at six (6) inches above ground level, which is the usual and customary nursery standard.

3. *Damaged or Diseased Trees.* Trees will not be considered “significant” if, following inspection and a written report by a registered landscape architect, certified nursery professional or certified arborist, and upon review of the report and concurrence by the City, they are determined to be:

- a. Safety hazards due to root, trunk or primary limb failure;
- b. Damaged or diseased, and do not constitute an important wildlife habitat. At the discretion of the City, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement, if demonstrated that such trees will provide important wildlife habitat and are not classified as a safety hazard.

Damaged or diseased ~~Oregon white trees-oaks~~ shall comply with LMC 18A.70.310.D.4 and LMC 18A.70.330.B.1.a.1.iii replacement requirements.

4. *Preventive Measure Evaluation.* An evaluation of preventive measures by an arborist in lieu of removing the tree and potential impacts of tree removal may be required. If required, this evaluation shall include the following measures:

- a. Avoid disturbing tree: Avoid disturbing the tree at all unless it represents a hazard as determined by an arborist;
- b. Stabilize tree: Stabilize the tree, if possible, using approved arboricultural methods such as cable and bracing in conjunction with other practices to rejuvenate the tree such as repairing damaged bark and trunk wounds, mulching, application of fertilizer, and improving aeration of the tree root zones;
- c. Pruning: Remove limbs from the tree, such as removing dead or broken branches, or by reducing branch end weights. If needed, remove up to one-quarter (1/4) of the branches from the canopy and main trunk only in small amounts, unless greater pruning is needed by approval of the arborist;
- d. Wildlife tree: Create a wildlife tree or snag, or cut the tree down to a safe condition, without disturbing the roots, where the tree no longer poses a hazard. To create snags, remove all branches from the canopy, girdle deciduous trees, and leave the main trunk standing. Wildlife trees or snags are most appropriate in City parks, greenbelts, vacant property, and environmentally critical areas;
- e. Steep slopes: Removal of tree roots on steep slopes may require a geotechnical evaluation;

f. Creeks and lakes: Trees fallen into creeks and lakes are to remain in place unless they create a hazard; and

g. Provide professional recommendations on:

- i. The necessity of removal, including alternative measures to removal;
- ii. The lowest-impact approach to removal;
- iii. A replacement tree plan, if required.

B. Trimming. Trimming of tree limbs and branches for purposes of vegetation management is allowed, provided the trimming does not cause the tree to be a safety hazard.

Utility pruning shall be conducted in accordance with the latest edition of the United States Department of Agriculture’s Publication NA-FR-01-95 *How to Prune*

Trees available at

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev7_016046.pdf, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture’s Best Management Practices – Utility Pruning of Trees, available at <https://www.seattle.gov/light/vegetation-management/docs/Acrobat%20Document.pdf>.

BC. *Preservation Criteria.* All significant trees shall be preserved according to the following criteria:

~~1. *Perimeter Trees.* All significant trees within twenty (20) feet of the lot perimeter or required buffer, whichever is greater, shall be preserved; except that significant trees may be removed if required for the siting and placement of driveway and road access, buildings, vision clearance areas, utilities, sidewalks or pedestrian walkways, or storm drainage facilities and other similar required improvements, subject to the discretion of the Director.~~

~~This requirement shall not apply to single family residential lots less than seventeen thousand (17,000) square feet in size, where no specific tree preservation is required.~~

F1. *Maximum Tree Removal on Developed Properties.* Significant trees on existing single-family lots may be removed with a tree removal permit and without tree replacement, except Oregon white oaks which are regulated by LMC 18A.70.330, based on the following ~~Existing single family lots: Single family homeowners may remove significant trees without a permit based on the following:~~ Existing single family lots: Except for Oregon white oaks which are regulated by section 18A.70.330, significant trees may be removed with a permit based on the following:

Maximum Tree Removal on Existing Single-Family Lots without a Permit		
Lot Size	Maximum number of significant trees allowed to be removed in 1 year	Maximum number of significant trees allowed to be removed in 5 years
*Lots up to 17,000 10,000 sq. ft.	N/A	N/A
Lots 17,001 10,001 to 30,000 sq. ft.	2	4
Lots 30,001 sq. ft. or greater	4	8
*LMC 18A.70.310(A) states that single-family lots up to 10,000 sq. ft. are exempted from tree preservation requirements.		

12. Perimeter Trees. All significant trees within twenty (20) feet of the lot perimeter or required buffer, whichever is greater, shall be preserved; except that significant trees may be removed if required for the siting and placement of driveway and road access, buildings, vision clearance areas, utilities, sidewalks or pedestrian walkways, or storm drainage facilities and other similar required improvements, subject to the discretion of the Director.

23. Interior Trees. A percentage of all significant trees within the interior of a lot, excluding the perimeter area, shall be preserved within the applicable zoning district.

a. For new single-family residential development including a single-family dwelling on an individual lot, multifamily residential development, and public/quasi-public institutional development, fifty (50) percent of the significant trees located within the interior area of the lot shall be retained.

b. For new residential short subdivision or subdivisions ~~where the proposed lot size is greater than seventeen thousand (17,000) square feet~~, all significant trees shall be retained and preserved except those required to be removed in order to construct streets, utilities, or other on-site improvements. Tree retention shall thereafter be provided on a lot-by-lot basis as the individual lots are developed. A tree survey shall be included as part of the subdivision application and a tree retention plan shall be recorded on the face of the plat to require compliance with this provision. ~~For subdivisions where the proposed lots are less than seventeen thousand (17,000) square feet, no specific tree preservation is required.~~

i. For any site proposed to be developed or cleared, at least 50 percent of significant trees located outside the net buildable area plus any approved development footprint of the lot shall be retained if they are rated in good condition or better by an ISA Certified Arborist.

c. For commercial and industrial development, ten (10) percent of the significant trees located within the interior area of the lot, or individual lots in the case of subdivisions, shall be retained.

d. In Open Space and Recreation zones, ninety-five (95) percent of the significant trees located within the interior area of the lot shall be retained unless otherwise determined by the Director.

~~3. Buffers and Sensitive/Critical Areas. Tree preservation criteria listed above shall exclude sensitive/critical areas and their buffers, and open space areas and tracts. All trees within such areas shall be retained except as may be specifically approved and indicated in the written findings of a discretionary land use permit or a tree removal permit.~~

4. *SEPA Requirements.* Additional or specific tree retention may be required as SEPA mitigation in addition to the requirements of this section.

D. Tree Removal Permit Required. Approval is required prior to the removal of any significant tree (as described in LMC 18A.70.320.A) in accordance with the following subsections E, F, and G.

E. Tree Permits for Single-Family Residential Land Uses or Any Use When Not Associated with a Project Permit / Plan.

1. Criteria:
 - a. The applicant shall submit a complete application using the form provided and kept by the City.
 - b. The applicant shall confirm that the proposal complies with the requirements of Article III. Tree Preservation.
2. Permit review process:
 - a. Applications and all submitted information will be verified and approved by City staff administratively.
 - b. If an application does not comply with any requirement in this section, the permit is subject to additional review by an ISA Certified Arborist and/or City staff. A Tree retention plan may be required.
 - i. The Director shall review and may approve, approve with modifications, or deny a tree retention plan subject to the provisions of this section.

~~C. Tree Retention Plan Required.~~

~~1. A significant tree retention plan shall be submitted to the Community Economic and Development Department for any project permit, except building permits that do not increase the footprint of a building. The plans shall be submitted according to the requirements of the application form provided by the Community Economic and Development Department.~~

~~2. The Director shall review and may approve, approve with modifications, or deny a tree retention plan subject to the provisions of this section.~~

~~3. A significant tree permit is required for the removal of any significant tree unless specifically exempted within this section.~~

~~D. Permit / Plan Requirements. Any project permit, except building permits that do not increase the footprint of a building shall identify, preserve, and replace significant trees in accordance with the following:~~

F. Tree Permits for Non-Single-Family Residential Land Uses or Any Use When Associated with a Project Permit / Plan.

1. Submit a tree retention plan that consists of a tree survey that identifies the location, size and species of all significant trees on a site and any trees over three (3) inches in diameter at four and one-half (4.5) feet above ground level that will be retained on the site.

- a. The tree survey may be conducted by a method that locates individual significant trees, or
 - b. Where site conditions prohibit physical survey of the property, standard timber cruising methods may be used to reflect general locations, numbers and groupings of significant trees.
 - c. Oregon white oaks that are to be retained on the site shall be indicated on the site plan with critical root zone protection per LMC 18A.70.330.
 - d. All other trees required to be preserved based on the preservation criteria in LMC 18A.70.320.C shall be indicated in the site plan.
2. The tree retention plan shall also show the location, species, and dripline of each significant tree that is intended to qualify for retention credit, and identify the significant trees that are proposed to be retained, and those that are designated to be removed.
 3. The applicant shall demonstrate on the tree retention plan those tree protection techniques intended to be utilized during land alteration and construction in order to provide for the continued healthy life of retained significant trees.
 4. If tree retention and/or landscape plans are required, no clearing, grading or disturbance of vegetation shall be allowed on the site until approval of such plans by the City.

G. Heritage Tree Removal. The following criteria pertains only to those trees designated under LMC 2.48.040 D. Heritage Trees

1. A tree removal permit is required for removal of any heritage tree(s);
2. City Staff and an ISA Certified Arborist shall evaluate any heritage trees prior to a decision on the removal permit. Permit approval will be granted if an arborist report demonstrates that alteration or removal is necessary for health and safety, infrastructure operation, protection of existing buildings, or to accomplish reasonable use of property per state law. Recommendations for care, other than removal, will be considered.

EH. Construction Requirements.

1. An area free of disturbance, corresponding to the dripline of the significant tree's canopy, shall be identified and protected during the construction stage with a temporary three (3) foot high chain-link or plastic net fence. No impervious surfaces, fill, excavation, storage of construction materials, or parking of vehicles shall be allowed within the area defined by such fencing.
2. At Director's sole discretion, a protective tree well may be required to be constructed if the grade level within ten (10) feet of the dripline around the tree is to be raised or lowered. The inside diameter of the well shall be at least equal to the diameter of the tree spread dripline, plus at least five (5) feet of additional diameter.

3. The Director may approve use of alternate tree protection techniques if the trees will be protected to an equal or greater degree than by the techniques listed above. Alternative techniques must be approved by a registered landscape architect, certified nursery professional or certified arborist, with review and concurrence by the City.

4. If any significant tree that has been specifically designated to be retained in the tree preservation plan dies or is removed within five (5) years of the development of the site, then the significant tree shall be replaced pursuant to subsection ~~G~~ I of this section.

~~G~~ I. *Replacement.* When a significant tree subject to this section cannot be retained, the tree shall be replaced as a condition for the removal of the significant tree, in accordance with the following:

1. *On-Site Replacement.*

a. Based on DBH Size. Significant trees shall be replaced at a ratio of two to one (2:1) of the total diameter inches of all replacement trees to the diameter inches of all the significant trees removed.

b. Based on Canopy Coverage. The applicant may choose to plant fewer replacement trees than required by option (a) if an ISA Certified Arborist determines in a written report that they will compensate for the canopy lost when they reach maturity and the resulting ratio is no less than 1:1 of all replacement trees to the diameter inches of all the significant trees removed.

c. Based on Carbon (CO₂) Reductions. The applicant may choose to plant fewer replacement trees than required by option (a) if an ISA Certified Arborist determines in a written report that the trees planted and preserved on the property meet the following criteria:

i. Tree species to be planted on the site are selected for their optimal ability to sequester carbon and store it over the course of their lifetime, according to the latest and best science.

1. Applicants shall provide an arborist report that demonstrates carbon sequestration value and calculations.

2. The City will use i-Tree or a similar source provided by the applicant and validated through a third-party arborist, to confirm the data and calculation.

ii. Trees are planted in the optimal locations on the property, relative to the structures, to reduce energy use and therefore avoid CO₂ emissions.

iii. The resulting replacement ratio is no less than 1:1 of all replacement trees to the diameter inches of all the significant trees removed.

~~b~~ d. Replacement trees shall be no smaller than three (3) inches in diameter at six (6) inches above ground;

~~e~~ e. Existing healthy trees anywhere on the site which are retained to support the remaining significant trees can be counted against the on-site replacement requirements on a one to one (1:1) basis of the total diameter inches of all

replacement trees removed, provided it meets the following criteria:

- i. The tree does not present a safety hazard; and
- ii. The tree is between three (3) and nine (9) inches in diameter at four and one-half (4.5) feet above ground.

f. For a minimum of five (5) years following completion of tree planting, all replacement trees shall be given the following care at a minimum:

- i. Regular irrigation with deep watering during dry months to ensure proper establishment of the tree's root system.
- ii. Installation and maintenance of natural mulch material in a three (3)-foot circle around the tree, with three (3) inches of depth, and not within three (3) inches of the trunk of the tree. Volcano mulching is an improper tree care method and should not be used.

iii. Maintenance and pruning using ANSI A300 tree care standards.

2. Each significant tree that is located interior to the twenty (20) foot perimeter area, and which is in excess of ~~fifty (50) percent~~ percentage of the significant trees ~~percentage~~ that are is required to be retained, may be credited towards replacement on a one and one-half to one (1.5:1) basis of the total diameter inches for any perimeter trees required to be removed for development, provided the interior tree is between nine (9) inches and twenty-four (24) inches in diameter for evergreen trees, or between nine (9) inches and thirty (30) inches in diameter for deciduous trees.

3. Each significant tree that is located interior to the twenty (20) foot perimeter area, and which is in excess of the ~~fifty (50) percent of~~ percentage of significant trees ~~percentage~~ that is required to be retained, may be credited towards replacement on a two to one (2:1) basis of the total diameter inches for any perimeter trees required to be removed for development, provided it meets one of the following criteria:

- a. The tree exceeds sixty (60) feet in height, or twenty-four (24) inches in diameter for evergreen trees, or thirty (30) inches in diameter for deciduous trees.
- b. The tree is located in a grouping of at least five (5) other significant trees with canopies that touch or overlap.
- c. The tree provides energy savings, through wind protection or summer shading, as a result of its location relative to buildings.
- d. The tree belongs to a unique or unusual species.
- e. The tree is located within twenty-five (25) feet of any critical area or required critical area buffers.
- f. The tree is eighteen (18) inches in diameter or greater and is identified as providing valuable wildlife habitat.

4. *Off-Site Replacement.* When the required number of significant trees cannot be physically retained or replaced on site, the applicant may have the option of:

a. The planting of the required replacement trees at locations approved by the Director throughout the City. Plantings shall be completed prior to completion of the project permit requiring tree replacement.

b. Payment in lieu of replacement may be made to the City Tree Fund for planting of trees in other areas of the City. The payment of an amount equivalent to the estimated cost of buying and planting the trees that would otherwise have been required to be planted on site, as determined by the City’s Tree Replacement Cost Schedule. Payment in lieu of planting trees on site shall be made at the time of the issuance of any building permit for the property or completion of the project permit requiring the tree replacement, whichever occurs first.

[Ord. 726 § 2 (Exh. B), 2019.]

J. Incentives for Preservation. Significant tree preservation is incentivized as outlined in the following chart. All projects utilizing the following preservation incentives shall demonstrate compliance with LMC 18A.70.320(F) and LMC 18A.70.320(H) to ensure protection of the tree during site construction.

Tree Preservation Incentives			
<u>Incentive</u>	<u>Code Sections</u>	<u>Description</u>	<u>Code Language</u>
<u>Parking Reduction</u>	<u>18A.80.060 Parking Incentives</u> <u>18B.600 Parking</u> <u>18C.600 Parking</u>	<u>Allow for alternative standards to protect significant trees, e.g., alter parking dimensional standards or rates.</u>	<u>Credit for Preservation of Significant or Heritage Trees. For every significant tree and/or heritage tree preserved within the property, the required number of parking spaces may be reduced by 0.5 spaces, provided the total reduction does not exceed five (5) percent of the total required parking spaces, when combined with all parking incentive credits.</u>

Tree Preservation Incentives

<u>Incentive</u>	<u>Code Sections</u>	<u>Description</u>	<u>Code Language</u>
<u>Density Increase</u>	<p><u>18A.60.110 Density standards</u></p> <p><u>18B.200.230 District-Wide Development Standards</u></p> <p><u>18C.200.230 District-wide development standards</u></p>	<p><u>Increase density if retaining significant trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u></p>	<p><u>For multi-family uses, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Downtown District (not to exceed more than 20% of the total allowable units).</u></p> <p><u>Bonus density, where applicable, shall be computed by adding the bonus units authorized by LMC 18A.90.050 to the base units computed under this section.</u></p> <p><u>For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in a census tract with a tree equity score of under the City's 2018 average score of 69 (not to exceed of more than 20% of the total allowable units).</u></p>
<u>Master Plan Flexibility</u>	<p><u>18B.700.720 Master Planned Development – Town Center Incentive Overlay</u></p>	<p><u>Allow flexibility in a master plan if retaining significant and/or heritage trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u></p>	<p><u>Master Planned Development allows flexibility and variation design as long as there is a net benefit to the City. Significant and heritage tree preservation shall be included as a benefit under the Master Planned Development required net benefit findings in LMC 18B.700.720(G)(3).</u></p>
<u>Landscaping Reduction for Oregon White Oak Preservation</u>	<p><u>18A.70.150 Landscaping types</u></p>	<p><u>Allow for a reduction in the Type I, Vegetative buffer landscaping requirements for the preservation of Oregon white oaks.</u></p>	<p><u>A credit of one and one-half square feet of vegetative buffer shall be given for every square foot of area devoted to new or the preservation of Oregon white oak tree use.</u></p>
<u>Building Setback Reduction</u>	<p><u>18A.60.030 Residential area and dimensions</u></p> <p><u>18A.60.070 Open space area and dimensions.</u></p>	<p><u>Allow for a reduction in the rear yard and/or side yard building setback requirements for the preservation of significant trees.</u></p>	<p><u>The Director may reduce a rear yard and/or side yard building setback to compensate for significant or heritage tree preservation provided that the setback is not reduced more than five (5) feet, is no closer to the property line than three (3) feet, is the minimum reduction required for tree preservation, and complies with LMC 18A.60.100 Building transition area.</u></p>

Tree Preservation Incentives			
Incentive	Code Sections	Description	Code Language
<u>Impervious Surface Bonus</u>	<u>18A.60.030 Residential area and dimensions</u> <u>18A.60.040 Commercial area and dimensions</u> <u>18A.60.070 Open space area and dimensions.</u>	<u>Allow an increase in allowable impervious surface on a site where a significant tree is being preserved.</u> <u>Impervious surface cannot be located within the critical root zone of the preserved tree(s)</u>	<u>The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.</u>

K. Enforcement

a. Failure to comply with any lawful order issued under the authority of this title, constitutes a Class 2 civil infraction, as defined in Chapter 1.48 LMC. Any violation of this title which is deemed to be a public nuisance or a danger to the public health and/or safety shall be addressed as specified in Chapter 1.44 LMC.

b. Malicious Cutting. Malicious cutting may result in tripling of the amount of replacement value as provided in LMC 18A.70.320(G)(d).

~~H. Trimming. Trimming of tree limbs and branches for purposes of vegetation management is permitted, provided the trimming does not cause the tree to be a safety hazard. [Ord. 726 § 2 (Exh. B), 2019.]~~

18A.70.330 Oregon white oak preservation.

The Oregon white oak, *quercus garryana*, also known as Garry oak, is a native tree designated by Washington Department of Fish and Wildlife as a priority habitat. In Lakewood, individual trees and stands of trees are protected as critical fish and wildlife habitat area under Chapter 14.154 Fish and Wildlife Habitat Areas.

The requirements for Oregon white oak tree preservation shall be provided in accordance with the development standards of each individual zoning district and the provisions of this section and are applicable to all zoning districts.

- A. Priority White Oak Woodlands (as defined in LMC 14.165.010) or trees located within a critical area or buffer, including shoreline buffers subject to the shoreline master program, are subject to the critical areas ordinance LMC Chapter 14.154 and/or Shoreline Master Program.
- B. Permits for Oregon white oaks
 - 1. Permits for maintenance, removal, topping
 - a. Maintenance, removal or topping. Regardless of diameter, a permit for removal or topping may be granted when it is determined by the Director that the Oregon white oak tree is so diseased or damaged that it presents a danger to the public or adjacent property and trimming is inadequate to ameliorate the danger.

Notification to the City by a public agency or franchised utility is required prior to tree maintenance or removal for the purpose of

installing and maintaining water, storm, sewer, power, gas or communication lines, or motorized or nonmotorized streets or paths within City rights-of-way or upon a utility easement. Wherever feasible, dead Oregon white oak trees shall be left as snags for their habitat value.

1. Stands of white oak trees or trees located within a critical area are subject to the critical areas ordinance LMC Chapter 14.154.
2. Individual Oregon white oak trees or stands with average DBH of > 4" may be removed subject to the following conditions:
 - i. The trees are not located in a critical area, in such case subject to the critical areas ordinance LMC Chapter 14.154.
 - ii. The applicant has demonstrated no alternative siting in order to construct streets, utilities, or other on-site improvements.
 - iii. Tree replacement is required at a 2:1 ratio.

C. Construction Operations. During building or construction operations, suitable protective measures listed below shall be implemented around significant Oregon white oak trees to prevent injury:

1. Establish a critical root zone (CRZ) for the tree which at a minimum is a circular area around the tree trunk with a radius of one foot for every one inch in diameter measured at four and one-half feet above grade, subject to the discretion of the director when supported by a certified arborist
2. Install an access deterring fence with a minimum height of three feet around the CRZ that will remain in place till final inspections have been completed.
3. Post highly visible and legible signs of caution, warning, or do not disturb, which are not less than 12 inches by 12 inches of the restrictions around the tree on the fence or restricted area to help convey the importance of CRZ to workers on site.
4. No roots greater than four inches in diameter shall be cut, even if such roots are outside the CRZ, subject to discretion of the director when supported by a certified arborist.
5. Make all necessary cuts to tree roots cleanly with sharp tools and under the supervision of a certified arborist or landscape architect.
6. Construction debris or stockpile construction material shall be done outside the CRZ and away from the tree as practically possible.
7. The soil composition in and around the CRZ shall not be disturbed or altered during project construction.

8. Change in soil grades around the CRZ and tree shall be gradual.
 - a. Washing equipment, vehicle maintenance and other potential soil contamination activities shall be done away from the CRZ and the tree as practically possible.
 - b. All measures to avoid damage to tree trunks and branches should be taken during construction activities.
- D. If the protective measures listed above cannot be met due to site specific conditions, or if it is determined that the measures may not meet the intent of protecting the Oregon white oak tree, the applicant will be required to provide a tree protection plan prepared by a certified arborist.
- E. No hard surface area shall be allowed within the drip line of an Oregon white oak tree to the maximum extent possible. An administrative decision may allow hard surface on up to 25 percent of the area within the drip line when there is no practical alternative and with a tree protection plan prepared by a certified arborist.

18A.70.340 ~~18A.70.330~~ City Tree Fund.

A. *Funding Sources.* All civil penalties received under this chapter and all money received pursuant to Chapter 14.02 LMC, Environmental Rules and Procedures, shall be used for the purposes set forth in this section. In addition, the following sources may be used for the purposes set forth in this section:

1. Agreed-upon restoration payments or settlements in lieu of penalties;
2. Tree permit fees and penalties;
- ~~2~~ 3. Donations and grants for tree purposes;
- ~~3~~ 4. Other moneys allocated by the City Council.

B. *Funding Purposes.* The City shall use money received pursuant to this section for the following purposes:

1. Acquiring, maintaining, and preserving wooded areas within the City;
2. Planting and maintaining trees within the City;
3. Restoration or enhancement of native trees like Oregon white oaks, such as on public lands, private tree tracts, critical area buffers, or lands with conservation easements
- ~~3~~ 4. Establishment of a holding public tree nursery;
- ~~4~~ 5. Urban forestry education;
- ~~5~~ 6. Implementation of a tree canopy monitoring program;
- ~~6~~ 7. Scientific research; or

8. Resources to support the administration of Ch. 18A.70 Art. III Tree Preservation

~~8-9.~~ Other purposes relating to trees as determined by the City Council. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.350 Definitions.

Definitions related to this Chapter are included in LMC 18A.10.180.

18A.80.060 Parking incentives.

H. Credit for Tree Preservation. For every significant tree and/or heritage tree preserved within the property, the required number of parking spaces may be reduced by 0.5 spaces, provided the total reduction does not exceed five (5) percent of the total required parking spaces, when combined with all parking incentive credits.

18B.200.230 District-Wide Development Standards.

Unless otherwise specifically modified by an adopted development agreement or master plan, in addition to the regulations and requirements contained in other sections of this title, the following property development standards apply to all land and buildings in the Downtown District:

A. *Density.*

1. Maximum density is 100 units per acre, except where other conditions are met in subsections (A)(2) through (A)(4) of this section. To qualify for 100 units per acre density, the residential uses shall be part of a mixed-use development, or added to a commercial site, or provide a first-floor height of 16 feet for at least a 30-foot depth that allows for future commercial occupancies.
2. On sites allowed a density of 100 units per acre under subsection (A)(1) of this section, density may be increased up to 125 units per acre for affordable housing according to the provisions of LMC 18A.90.050, Inclusionary density bonuses, only if the affordable housing is part of a mixed-use development.
3. Density shall not exceed 80 units per acre for residential-only developments that are not added to or associated with existing commercial sites, or that do not provide a first-floor height that allows for future commercial occupancies.
4. No density limit may be allowed in the Town Center Incentives Overlay if a master plan is approved per LMC 18B.700.720; provided, that the total number of dwellings is consistent with the planned action ordinance (Ordinance No. 696) and allowable height and bulk per this title's design parameters.

5. Density Bonus for Tree Preservation.

- a. For multi-family uses, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Downtown District (not to exceed more than 20% of the total allowable units)

- b. Bonus density, where applicable, shall be computed by adding the bonus units authorized by LMC 18A.90.050 to the base units computed under this section.
- c. For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in a census tract with a tree equity score of under the City's 2018 average score of 69 (not to exceed of more than 20% of the total allowable units)

18B.700.720 Master Planned Development – Town Center Incentive Overlay.

G. *Required Findings.* A master planned development shall only be granted after the Hearing Examiner has reviewed the proposed use and has made written findings that all of the standards and criteria set forth below have been met or can be met subject to conditions of approval:

1. The master planned development is consistent with the comprehensive plan; and
2. The master planned development is consistent with the vision and objectives of the downtown plan in LMC 18B.100.110; and
3. The master planned development, by the use of allowed flexibility and variation in design, is a development practice that results in better urban design features than found in traditional development. Net benefit to the City may be demonstrated by one or more of the following:
 - a. Placement, type or reduced bulk of structures; or
 - b. Interconnected usable open space; or
 - c. Recreation facilities; or
 - d. Other public facilities; or
 - e. Preservation of significant and/or heritage trees; or
 - ef. Conservation of natural features; or
 - fg. Conservation of critical areas and critical area buffers beyond; or
 - gh. Aesthetic features and harmonious design; or
 - hi. Energy efficient site design or building features; or
 - ij. Use of low impact development techniques; and

18C.200.230 District-wide development standards.

Unless otherwise specifically modified by an adopted development agreement or master

plan, in addition to the regulations and requirements contained in other sections of this title and LMC Title 15, the following property development standards apply to all land and buildings in the Station District:

A. *Density*. Maximum density is based on the standards in the base zoning districts.

1. *Density Bonus for Tree Preservation*.

- a. For multi-family uses, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Station District (not to exceed of more than 20% of the total allowable units)
- b. Bonus density, where applicable, shall be computed by adding the bonus units authorized by LMC 18A.90.050 to the base units computed under this section.
- c. For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in a census tract with a tree equity score of under the City's average score of 69 (not to exceed of more than 20% of the total allowable units)

18C.600.610 Parking.

B. *Parking Reductions or Increases*. The amount of required parking may be reduced or eliminated, or increased above the maximum, based on a site-specific parking study that demonstrates one (1) or more of the following:

1. *Reduction Due to Shared Parking at Mixed-Use Sites and Buildings*. A shared use parking analysis for mixed-use buildings and sites that demonstrates that the anticipated peak parking demand will be less than the sum of the off-street parking requirements for specific land uses.
2. *Reduction Due to Public Parking Availability*. The availability of public parking to accommodate the parking demand generated by the site or building. The City may approve a reduction in the amount of required parking by up to fifty (50) percent for any parking stalls that will be open and available to the public. On-street parking may be considered for the reduction; any new on-street parking provided will be counted toward the required parking availability.
3. *Reduction Due to Lower Parking Demand or Increase Based on Greater Parking Demand*. Demonstrating that anticipated parking demand will be less than the minimum parking required, or greater than the maximum allowed, shall be based on collecting local parking data for similar land uses on a typical day for a minimum of eight (8) hours.
4. *Reduction for Housing in Proximity to Sounder Station (RCW 36.70A.620)*. When located within one-quarter (0.25) mile of the Sounder Station, an applicant may apply for an exception allowing minimum parking requirements to be reduced at least to one (1) parking space per bedroom or three-quarters (0.75) space per unit, as justified through a parking study prepared to the satisfaction of the Community Development Director or their designee:

- a. Housing units that are affordable to very low-income or extremely low-income individuals;
- b. Housing units that are specifically for seniors or people with disabilities;
- c. Market rate multifamily housing.

5. Credit for Tree Preservation. For every significant tree and/or heritage tree preserved within the property, the required number of parking spaces may be reduced by 0.5 spaces, provided the total reduction does not exceed five (5) percent of the total required parking spaces, when combined with all parking incentive credits.

In determining whether to grant a parking reduction, the Community Development Director may also consider if the project is proposed in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.