

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



NOTICE OF RECOMMENDATION

Si necesita ayuda para comprender esta informacion, por favor llame 503-588-6173

RECOMMENDATION OF PLANNING COMMISSION CODE AMENDMENT CASE NO. CA22-03

WHEREAS, on October 4, 2022, the Salem Planning Commission initiated amendments to the Salem Revised Code (SRC) updating Chapter 86 (Trees on City Owned Property); and

WHEREAS, after due notice, a public hearing on the proposed amendments was held before the Planning Commission on November 15, 2022, at which time witnesses were heard and testimony received; and

WHEREAS, the Planning Commission having carefully considered the entire record of this proceeding, including all testimony provided; and after due deliberation and being fully advised; NOW THEREFORE

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SALEM, OREGON:

Section 1. FINDINGS:

The Planning Commission hereby adopts as its findings of fact the findings of the staff report included in Exhibit A, dated November 8, 2022, and the supplemental staff report included in Exhibit B, dated November 15, 2022; herewith attached and by this reference incorporated herein.

Section 2. ORDER:

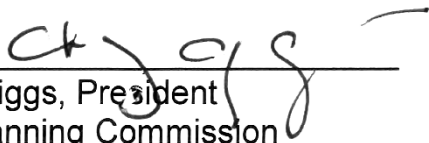
Based upon the foregoing findings and conclusions, the Planning Commission RECOMMENDS the City Council take the following action:

The City Council accept first reading of an ordinance bill with amendments based on feedback from the Planning Commission and the public, for the purpose of:

- 1) Amending the Salem Revised Code (SRC) to update Chapter 86 (Trees on City Owned Property) to address issues that have arisen based on experience with the current code and based on feedback received from Council and the public, since the code was last amended in 2015.
 - a. The ordinance bill shall include amendments as identified in the Planning Commission staff report and the supplemental staff report, and as recommended by the Planning Commission at the public hearing.

PLANNING COMMISSION VOTE

YES 7 NO 0 ABSENT 1 (Augustyn) ABSTAIN 1 (Geobel)



Chane Griggs, President
Salem Planning Commission

Pursuant to SRC 300.1110(i), the City Council may proceed with adoption of an ordinance, hold a public hearing to receive additional evidence and testimony, refer the proposal back to the Planning Commission for additional deliberation, or abandon the proposal.

The City Council will make a final decision on the proposal. The appeal of the Council decision would be to the Oregon Land Use Board of Appeals. The appeal period is 21 days from the mailing date of the Council decision.

The case file and copies of the staff report are available upon request by contacting the case manager, Laurel Christian, Development Services Planner II, 503-588-6211 or LChristian@cityofsalem.net, or at Public Works Development Services, 555 Liberty Street SE, Room 325, during regular business hours.

FOR MEETING OF: November 15, 2022CASE NO.: CA-22-03AGENDA ITEM: 5.1**TO: PLANNING COMMISSION****THROUGH: LISA ANDERSON-OGILVIE, AICP
INTERIM COMMUNITY DEVELOPMENT DIRECTOR AND
PLANNING ADMINISTRATOR****FROM: PETER FERNANDEZ, PE
PUBLIC WORKS DEPARTMENT DIRECTOR****SUBJECT: PROPOSED AMENDMENT TO SALEM REVISED CODE CHAPTER 86
(TREES ON CITY OWNED PROPERTY)****ISSUE**

Should the Planning Commission recommend City Council approval of proposed amendments to the Salem Revised Code (SRC) updating Chapter 86 (Trees on City Owned Property) to address issues that have arisen based on experience with the current code and based on feedback received from Council and the public, since the code was last amended in 2015.

RECOMMENDATION

Adopt the facts and findings of this staff report and recommend that the City Council accept first reading of an ordinance bill to amend SRC Chapter 86.

SUMMARY AND BACKGROUND

The Public Works Department administers Salem Revised Code (SRC) Chapter 86, titled Trees on City Owned Property. SRC 86 was last revised in 2015. After several years of experience with the code and based on feedback received from Council and the public, amendments to the SRC are recommended.

The purpose of SRC 86 is to provide a unified, consistent, and efficient means for the planning, planting, maintaining, and removing of trees located on City-owned property and to limit the adverse impacts to City trees and City infrastructure. The proposed amendments to SRC 86 are needed to account for lessons learned since the code was last revised in October 2015 by Ordinance No. 23-15, which completely replaced the earlier ordinance.

PROCEDURAL FINDINGS

1. Pursuant to SRC 300.1110(a)(2), the Planning Commission may initiate a legislative land use proceeding by the adoption of a resolution referring the matter to public hearing for review and recommendation to the City Council.
2. On October 4, 2022, the proposed code amendments were initiated by the Planning Commission with the adoption of Resolution No. 22-01.

3. ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCD) on any proposed amendment to a local land use regulation at least 35 days prior to the first public hearing. Notice to DLCD was initially submitted on October 5, 2022.
4. Public notice, as required under SRC 300.1110(e)(1)(A), was mailed October 20, 2022, and public notice was published in the newspaper, as required under SRC 300.1110(e)(2), on September November 3, 2022, and November 10, 2022.
5. The public hearing on the proposed code amendments is scheduled for November 15, 2022.

FACTS AND FINDINGS

1. Proposed Code Amendments

The proposed code amendments recommended by staff are generally summarized below. The proposed text of the amendments is included as **Attachment A**.

- a) Land Use Approval Process. The current process for permitting removal of City-owned trees is completely separate from the land use process. In the recommended amendments, proposals to remove a City-owned tree as a result of development will be approved (or denied) during the land use approval process. Notices of street tree removal will be incorporated into the general land use notices sent to SPRAB, the Neighborhood Association(s), and the nearby property owners. Any affected party objecting to a decision to approve or deny removal of City-owned trees will file an appeal of the land use application that proposed removal of the tree(s). Objections to removal of City-owned trees will be considered by the appropriate appeal authority for the land use applications, generally to the Planning Commission, Hearings Officer, or City Council. Currently, appeals for street tree removal permits are considered by SPRAB separate from the land use approval process, which can often occur months or years after the land use approval has been issued.
- b) Cost of Restoration. A violator of SRC 86 will be required to pay for the City's costs to restore the damage. Currently, the violator is required to submit a restoration plan for City approval and, upon its approval, is responsible for implementing the plan.
- c) Tree Classifications. Definitions are added to account for the inherent value of a tree based on size, species, health, historic qualities, and other factors consistent with definitions in SRC Chapter 808. These definitions are then to be used when determining the civil penalty when a tree is removed in violation of the code. Currently, there is no consideration of tree classification when determining a penalty.
- d) Minimum Number of Trees Planted. A minimum planting requirement is added for development adjacent to a public street based on spacing standards already established in the Public Works Design Standards, generally between 15 and 40 feet depending on the types of trees planted. The Director may allow a developer to pay a fee-in-lieu of meeting this minimum if the Director determines it is in the public interest. The payment will be deposited into the City Tree Fund.

2. Proposed Administrative Rule Amendments

- a. To accompany the proposed code amendments, staff is recommending revisions to Administrative Rule 109-500-002 provide additional rules, design standards, and procedures for implementation of proposed amendments to Salem Revised Code (SRC) Chapter 86, Trees on City Owned Property.
- b. The proposed revisions to the Administrative Rule are included as **Attachment B** for informational purposes only. Neither adoption of Administrative Rules nor adoption of rule amendments requires Planning Commission or Council approval. Council may elect to review the proposed Administrative Rule; however, the scope of Council's review is limited to determining whether: (1) the rule is within the scope of the provision of the Code authorizing adoption; and (2) the rule is duplicative of, or conflicts with, another rule or other Federal, State or local law or regulation, or is outside of the range of staff's rulemaking authority. The Legal Department has reviewed the proposed rules for consistency with the code pursuant to SRC 20J.080.

3. Public Testimony

Comments received from interested parties are included as **Attachment C**.

4. AMENDMENTS TO UNIFIED DEVELOPMENT CODE (UDC) APPROVAL CRITERIA

Salem Revised Code (SRC) 110.085 sets forth the following criteria that must be met in order for an amendment to the code to be approved:

SRC 110.085(b)(1): The amendment is in the best interest of the public health, safety, and welfare of the City.

Finding: The Code is in the best interest of the public health, safety, and welfare of the city because they will better ensure that City trees are protected and preserved. City trees benefit the public health, safety, and welfare of the community by providing environmental, aesthetic, and other critical benefits.

SRC 110.085(b)(2): The amendment conforms with the Salem Area Comprehensive Plan, applicable Statewide Planning Goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.

Finding: The Salem Area Comprehensive Plan (SACP) is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meet the needs of present and future residents of the Salem urban area.

The proposed Code amendments were reviewed for conformance with applicable goals and policies of the SACP, Statewide Planning Goals, and administrative rules adopted by the Department of Land Conservation and Development (DLCD). The Following goals and policies relate to the proposed Code amendments:

SACP Goal N2.1 - Tree Canopy: *The City shall facilitate and support community efforts to improve the quality, quantity, and equitable distribution of the urban forest in the Salem Urban Area and strive to meet Salem's tree canopy goals and mitigate the urban heat island effect.*

The proposed amendments support this goal by establishing more clear standards for street tree planting and establishes a City Tree Fund to be used for planting, repairs, and improvements to City trees. Code provisions ultimately will provide additional tree canopy and help mitigate the urban heat island effect.

SACP Goal N2.4 - Street Trees: *The City shall ensure new street trees are planted, existing street trees are preserved, and removed street trees are replaced when streets are developed or improved.*

The proposed amendments supports this goal by creating a process for review of City tree removal in conjunction with land use applications to ensure development impacts minimize the need for street tree removal. Additionally, the proposed amendments provide clearer guidelines and establish a minimum number of trees required to be planted for development applications, supporting the goal of ensuring new street trees are planted through development proposals.

SACP Goal L3 - Urban Development Goal: *Ensure that future development within the Salem Urban Area is designed to respond to and enhance the surrounding environment, while accommodating growth.*

The proposed amendments support this goal by providing new street trees through development proposals and establishing minimum planting requirements. The proposal includes a process for City tree removal plan review as part of the land use process. Street trees enhance the visual streetscape and the natural environment by contributing to the City's tree canopy goals.

Statewide Planning Goal 1 - Citizen Involvement: Public notice and the process of a public hearing on proposed changes provide additional opportunities for citizen participation in the decision-making process.

Statewide Planning Goal 2 - Land Use Planning: The proposed Code amendments are being presented to the community through a public notification and hearing process that includes the public and DLCD and as is consistent with the decision-making process identified for land use actions under Goal 2.

Attachments: A. Proposed Code Amendments
B. Proposed Administrative Rule Amendments
C. Public Comments

Prepared by: Glenn Davis, Chief Development Engineer
Public Works Department

Sec. 86.010. Definitions.

Unless the context otherwise specifically requires, terms used in this chapter shall have the meanings set forth in this section; provided, however, where a term is not defined in this section, the term shall have its ordinary accepted meaning within the context in which it is used. Webster's *Third New ~~Int'l~~ International Dictionary* (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

Biological material means any plant material, including but not limited to cones, seeds, cuttings, epiphytic plants or other plant material.

City project means any City-initiated construction or enhancement project on City property. Maintenance of existing infrastructure is not considered a City project.

City property means real property and improvements, if any, owned by, dedicated to, managed by, or subject to an easement in favor of, the City for the public's use, including, but not limited to, City parks, City rights-of-way and other City properties within city limits.

City rights-of-way means an area that allows for the passage of people and vehicles that is dedicated or deeded, or for which there is an easement to the City or the public, for public use and under the control of the City. As used in this chapter, the term "right-of-way" includes streets, bike paths, walkways, landscaping strips, ~~and~~ all other land within the area designated as right-of-way by the deed, dedication, or easement, and special setback areas on arterial or collector streets pursuant to SRC 800.040, but does not include alleys. Easements for utilities or other ~~non-roadway~~ non-transportation purposes are not included in this definition.

City tree means a tree with a trunk that is partially or completely on City property.

Class 1 Tree means a tree that is healthy, structurally stable, and is one of the following: (A) a Heritage Tree; (B) a "significant tree" pursuant to SRC 808.005; or (C) a tree with exceptional ecological, aesthetic, or historic qualities as determined by the City Forester or Planning Administrator.

Class 2 Tree means a healthy, structurally stable tree that does not meet Class 1 criteria but has a dbh of over six inches and a viable lifespan of more than five years.

Class 3 Tree means a tree with a dbh of six inches or less or a tree over six inches dbh that does not meet the criteria for a Class 1 or a Class 2 tree.

Construction activities include, but are not limited to, excavation, filling, tunneling, trenching, land clearing, compacting, demolition, storage of construction materials, utility work, grading, or other ground disturbing activity.

Construction of public infrastructure means infrastructure improvements, owned by or to be dedicated to the public, subject to construction permits issued under SRC 77.090.

Critical Tree Zone (CTZ) means a defined area surrounding the trunk intended to protect the tree's trunk, roots, branches, and soil to ensure tree health and stability. It is the area defined by the tree's dripline or an area measured one-foot per one-inch diameter at breast height, whichever is greater.

Development means to construct or alter a structure, to make alterations or improvements to the land or to make a change in use or appearance of land, to divide or reconfigure land, or to create, alter, or terminate a right of access. The term "development" does not include:

- (a) Maintenance and repair, usual and necessary for the continuance of an existing use;
- (b) Reasonable emergency procedures necessary for the safety or operation of property; or
- (c) Interior or exterior remodeling that does not increase the square footage or height of a structure, or substantially alter the appearance of a structure.

Diameter at breast height (dbh) means the diameter of the tree trunk measured at 4.5 feet above the ground level.

Diseased tree means any tree with an infectious condition or infestation that without reasonable treatment, pruning, or removal is likely to spread to adjacent trees and cause such adjacent trees to become infected, infested, or a risk.

Emergency means a situation exists in which action must be undertaken immediately to prevent an imminent threat to public health, public safety, or property.

Ground disturbing activity means any activity that exposes soil through the use of mechanical equipment, including, but not limited to, grading, excavating, filling, clearing, or working of land. Such disturbance may be permanent (i.e., gravel mining, farming, gardening, sports fields, etc.); or temporary or short-term duration, such as construction, excavation, fill, grading, landscape installation, or other vegetative clearing activities.

Hedge means a row or grouping of closely spaced woody plants that are planted and maintained to form a barrier or screen, or to mark a boundary.

Heritage Tree means a tree designated as such by Council.

Imminent risk of becoming infected or infested means there is an immediate and impending threat of the tree becoming a host to an invasive pest or pathogen due to its species, size, or condition and its proximity to other infested or infected trees.

Infrastructure means streets, curbs, sidewalks, buildings, utilities, or other public improvements.

Plant (verb) means to place ~~the placement of~~ vegetation into the ground.

Prohibited tree means any tree listed in the administrative rules as prohibited.

Property owner means the owner(s) of record, as shown on the latest tax rolls or deed records of

the county, of property containing or adjacent to a City tree.

Prune means to trim or remove branches or roots from a tree or other plant using approved practices to achieve a specified objective.

Public Works Design Standards means those promulgated by City Public Works Department as administrative rules through SRC chapter 20J.

Risk tree means a tree or part thereof that has a high probability of failure due to an uncorrectable structural defect, infestation, or disease which poses a potential threat to the public or City property in the event of failure. Risk trees that are not in danger of imminent failure do not constitute an emergency.

Top and topping means the practice of reducing the length of major limbs to prevent the limb from assuming a terminal role in an effort to reduce the height of the tree.

Treat means to protect or reestablish the normal function, vigor, and condition through the use of products or actions.

Tree means a woody plant that is commonly sold by the Oregon nursery trade as a tree and not maintained as a hedge, shrub, or topiary form. Pursuant to SRC 86.015(f), the Director shall have the authority to determine whether a particular woody plant is considered a City tree.

Tree removal means to cut down a tree, or remove more than 30 percent of the crown, circumference of the bark down to the heartwood, or root system of a tree, or to damage a tree in any manner so as to cause the tree to decline, become unstable, or die.

Tree trimmer means any person engaged in the business of pruning, altering, removing, or providing tree surgery for City trees.

Variance means a ~~situation where~~ a modification to the requirements of this chapter that has been made pursuant to SRC 86.055. ~~is reasonably necessary to prevent undue hardship.~~

Sec. 86.015. Administration; rulemaking; responsibilities.

(a) *General.* The Director shall have jurisdiction over all City trees, including the planting, removal, care, maintenance, and protection thereof and consistent with SRC Chapter 808. The Director shall administer and enforce this chapter and shall have the authority to render written and oral interpretations and to adopt administrative rules, design standards, and procedures for its proper administration and enforcement.

(b) *Removal or treatment of City trees.* The Director may remove or permit the removal of any City tree, or plant or part thereof that is diseased, in an unsafe condition, or is causing damage to City property, when the condition of the tree cannot otherwise be remedied by accepted arboricultural practices. The Director may, or permit another to, remove, treat, or cause to be treated any City tree or plant or part

thereof that is currently infected or infested, or at imminent risk of becoming infected or infested, with a fungus, disease, insect, or other pest such that it becomes a risk, as authorized by this chapter and administrative rules.

(c) *Pruning of trees projecting into City property.* It is the responsibility of the property owner to maintain and prune trees, shrubs, or other plants on private property that ~~project~~ encroach into City property in accordance with applicable administrative rules. If the Director determines pruning of any such tree, shrub, or plant is deemed necessary, the Director shall have the power to prune or cause or order the same to be pruned. The City may assume the responsibility for pruning and bill the cost of pruning to the property owner, if notice to the property owner has been provided under SRC 86.105.

(d) *Disease and pest inspection on private property.* The Director shall have the authority, either by consent of the property owner or by appropriate legal process, to enter private property for the purpose of inspecting a tree thereon to determine if such tree may be a risk tree and threat to public safety or City property. Upon discovering that any such tree is a risk tree, an order shall be sent to the property owner advising the property owner of the conditions and the corrective measures to take. In the event the property owner fails to take the corrective measures indicated in the order, the Director shall have the power to cause the corrective measures to be made. If the Director undertakes the corrective measures, the Director may bill the cost to the property owner, if notice to the property owner has been provided under SRC 86.105.

(e) *Planting street trees.* Pursuant to SRC 803.035(k), any person undertaking development adjacent to public streets shall ensure that a minimum number of trees are planted along the street frontage to provide tree canopy as specified in the applicable administrative rules. The Director may allow a developer to pay a fee in lieu of meeting the minimum number of trees as required by this chapter if the Director has determined that such a payment is in the public interest. The payment will be deposited in the City Tree Fund. ~~provide street trees to the maximum extent feasible in accordance with the standards and specifications set forth in this chapter and applicable administrative rules.~~

(f) *Determination of City tree.* The Director shall have the authority to determine whether a particular woody plant shall be considered a City tree. Such determination shall be final and not subject to local appeal.

(g) *Maintenance around tree.* The property owner, the property owner's lessee, occupant, or person in charge of property containing or adjacent to the City right-of-way is responsible for maintaining, in such a way as not to cause a hazard to public health or safety, or public property, the area around City trees. This responsibility includes maintaining landscaping, shrubs, or bushes, in accordance with applicable

administrative rules, unless this responsibility is expressly assumed in writing by the City.

(h) City not responsible. The City is not responsible for maintaining trees, shrubs, vegetation, or landscaping on private property.

Sec. 86.020. Role of the Salem Parks and Recreation Advisory Board.

(a) Duties. In addition to the functions and duties assigned in SRC chapter 13, the Salem Parks and Recreation Advisory Board (SPRAB) shall have the following duties:

- (1) Issue decisions on appeals of decisions of the Director as set forth in this chapter.
- (2) Issue decisions on applications referred to ~~the Board~~ SPRAB by the Director.
- (3) Issue decisions on City projects referred to SPRAB by the Director. ~~Issue recommendations on nominations for Heritage Tree designations.~~
- (4) Issue recommendations to Council on nomination for Heritage Tree designations or on proposed recission of a Heritage Tree designation.
- (5) Provide advisory recommendations to the Director, and to the Council on matters relating to City trees.

(b) *Rules of procedure.* The Director may establish rules of procedure for appeals before ~~the Salem Parks and Recreation Advisory Board~~ SPRAB by administrative rule.

Sec. 86.023. City Tree Fund.

There is established a special fund designated as the City Tree Fund from which expenditures may be made for planting city trees, and site repairs or improvements needed to successfully establish City trees as that term is defined at SRC 86.010. Expenditures from the fund are limited to the reasons described above and allocation shall be made through the City's budgeting process.

Sec. 86.025. Relationship to other regulations.

Where a conflict exists between the provisions of this chapter and other provisions of the Salem Revised Code, or state or federal law or regulations, the more restrictive provision shall govern.

Sec. 86.030. Prohibited activities.

(a) It shall be unlawful for any person, except as expressly allowed by a written permit, exemption, or variance granted pursuant to the terms of this chapter, to willfully or negligently injure, destroy, top, or prevent the growth of a City tree, including, but not limited to, the following:

- (1) Pouring or spraying of an injurious chemical on or around any City tree.
- (2) Posting any sign on a City tree, tree stake, or tree guard.
- (3) Attaching or fastening any structure or device to any City tree, tree stake, or tree guard.
- (4) Piling materials or storing supplies or debris within the Critical Tree Zone that may cause

injury or damage to the tree or damage the tree, tree stake, or tree guard.

- (5) Using concrete, asphalt, brick, or impervious material that may cause injury or damage to the tree.
- (6) Causing or permitting the growth of vines, ramblers, or other climbing plants on City trees.
- (7) Construction within the Critical Tree Zone.
- (8) Parking or maneuvering vehicles that may cause injury or damage to the City tree, not including parking or maneuvering on existing paved surfaces.

(b) The Director may exempt electrical utility providers from the prohibitions related to pruning and topping.

Sec. 86.035. Certain trees prohibited.

It shall be unlawful for any person to plant any prohibited tree on City property. Established prohibited trees may be allowed to remain until the tree becomes dead, diseased, or a risk tree.

Sec. 86.040. Diseased trees and shrubs prohibited.

To ensure the health of City trees, it shall be unlawful for any property owner or occupant of private property to allow any tree, or other vegetation growing on the property owner's or occupant's property, to become infected with a fungus, disease, insect, or other pest such that it could adversely affect a City tree.

Sec. 86.050. Activities requiring permits.

- (a) A permit is required for the following activities:
 - (1) *Permit required to prune or remove City trees or tree protection devices.* It shall be unlawful for any person, without a written permit from the Director, to prune or remove a City tree, or to remove a tree protection device from a City tree, or cause or authorize or procure any person to do so. The Director may, by administrative rule, develop criteria for City tree pruning that does not require a permit where the Director finds the actions are minor and are unlikely to cause damage to the City tree.
 - (2) *Permit required for construction within Critical Tree Zone of City trees.* It shall be unlawful for any person, without a written permit from the Director, to undertake or cause or authorize or procure any person to undertake any construction activity within the Critical Tree Zone of City trees.
 - (3) *Permit required to treat City trees.* It shall be unlawful for any person, without a written permit from the Director, to treat a City tree, including, but not limited to, applying chemicals or biological controls; installing hardware or devices for the preservation of a City tree or for the control of insects or diseases; or causing or authorizing or procuring any person to do

such treatment. A permit to treat a City tree may be granted if the Director determines the treatment proposed is beneficial and unlikely to harm the City tree. Any work authorized by written permit shall comply with applicable administrative rules and meet all local, state, and federal regulations.

- (4) *Permit required to collect biological materials from City trees.* It shall be unlawful for any person, without a written permit from the Director, to remove plant material from a City tree or cause or authorize or procure any person to do so. A written permit is not required for the noncommercial gathering of fruit or windfall.
- (5) *Permit required to install lights or other attachments to City trees.* It shall be unlawful for any person, without a written permit from the Director, to install or otherwise physically place lighting or other attachments on a City tree or cause or authorize or procure any person to do so. If permitted, the installation and removal shall be accomplished without damage to the City tree. The correction of any damage to the tree or replacement of the tree shall be at the permit holder's cost and shall be accomplished by a tree trimmer licensed under SRC chapter 30. The City will not be responsible for damage to any attachments or associated devices related to the lighting under this permit. In addition, the City shall not be responsible for the cost associated with the repair or installation of replacement materials.
- (6) *Permit required to plant trees on City property.* It shall be unlawful for any person to plant trees, tree seeds, or seedlings, or to cause or authorize or procure any person to do so, in or upon any City property or alleys without obtaining from the Director a written permit to do so, or obtaining approval of a landscape plan pursuant to SRC 807.020, and without first complying in all respects with the conditions set forth in such permit or approval and with the provisions of this chapter.
- (b) City projects and programs do not require a permit. will be considered in compliance with the permitting requirements of SRC 86.030(a) and this section where the City projects and programs shall comply ~~complies~~ with applicable standards and criteria of this chapter, applicable Public Works Design Standards, and input from the City's Urban Forester. The process for City projects to seek input from the City's Urban Forester shall be described in the administrative rules issued pursuant to this chapter.
- (c) The Director may refer any permit decision to ~~the Salem Parks and Recreation Advisory Board~~ SPRAB at the sole discretion of the Director for final decision. The Director may refer consideration of City projects pursuant to SRC 86.053.
- (d) An application for a permit shall be submitted on a form provided by the Director, along with the

applicable permit application fee. Incomplete applications or applications submitted without the required fee will be rejected. The Director may adopt administrative rules establishing the processes and procedures necessary to obtain a permit under this section, as well as the manner in which activities conducted pursuant to a permit are carried out. Activities conducted under a permit issued pursuant to this chapter must comply with the administrative rules issued pursuant to this chapter, as well as any other applicable administrative rules issued by the Director.

(e) The Director may require additional information from an applicant depending on the circumstances of the request.

(f) Removal of City trees under a written permit may be done by any licensed general contractor or licensed tree trimmer; any other work done to City trees under written permit must be performed by a City licensed tree trimmer in strict accordance with the terms of the permit, the provisions of this chapter, and all applicable design standards.

Sec. 86.053. Director referral.

(a) The Director may refer a City project that contemplates removal of a City tree to SPRAB for purposes of authorizing or denying the removal of a City tree. City projects that contemplate removal of a City tree that is subject to a land use decision may not be referred if the land use decision authorizes the tree removal.

(b) When a City Project is referred to SPRAB, the referral is project-specific. Whether the goals of the City project could be achieved elsewhere is beyond the scope of SPRAB’s referral. SPRAB shall consider the following:

- (1) The goals of the project;
- (2) The necessity of removing the tree in order to achieve the goals of the project;
- (3) The health, longevity, historical significance, and environmental efficacy of the tree being considered for removal. By way of illustration but not limitation, efficacy of a tree includes the tree’s ability to capture carbon dioxide; the shade the tree provides to the surrounding area; the obstruction by the tree of views; the damage being done by the tree to surrounding property or infrastructure; and the habitat for wildlife provided by the tree;
- (4) The options considered other than removing the tree that are provided in the reasonable alternative analysis that was prepared pursuant to the applicable administrative rule;
- (5) The criteria for tree removal listed in SRC 86.090(a);
- (6) The adequacy of the mitigation plan proposed by the City’s Urban Forester; and
- (7) The community benefits of the project when weighed against the consequences of the

removal of the tree, with a preference for preservation of the tree when practicable to do so.

(c) If additional mitigation beyond that recommended by the Urban Forester would, in the opinion of SPRAB, allow for the project to be built as designed, SPRAB may issue a conditional approval and recommend such additional mitigation as SPRAB deems appropriate.

Sec. 86.060. Fees.

Fees for applications and other related services provided by the City under this chapter, including variances and appeals, shall be set by resolution of the Council. Fees shall be paid at the time the application is submitted or, if no application is required, at the time the request for a particular service is made. For applications or services requiring payment of a deposit, the amount of the deposit shall be credited against the exact final calculated costs. If applicable, any unused portion of the deposit shall be refunded once all incurred fees are paid. Applications submitted without the applicable fee or deposit shall be rejected.

Sec. 86.070. Tree pruning and treating criteria.

A permit to prune or treat a City tree may be granted if one or more of the following criteria are met, as determined by the Director:

- (a) A City tree is encroaching onto private property and causing injury to privately-owned trees or shrubs.
- (b) A City tree is having an adverse effect on adjacent infrastructure or buildings that may be resolved by pruning or treatment.
- (c) A City tree's branches pose a threat to utility lines, cables, or other overhead structures.
- (d) The pruning or treatment proposed is unlikely to harm the City tree, public health or safety, or environmental health.
- (e) A City tree is obstructing clearance areas/zones as established in applicable administrative rules or Public Works Design Standards.
- (f) A City tree is at imminent risk of becoming infected or infested.

Sec 86.075. Review of City tree removal plans in conjunction with land use approval

(a) Applicability. A City tree removal plan is required in conjunction with any development activity requiring land use approval under SRC Chapter 300 that proposes to remove a City tree.

(b) Submittal requirements. A City tree removal plan shall include the following:

- (1) A site plan, of a size and form and in the number of copies meeting the standards established by the Director, identifying the type, size, and location of all existing City trees abutting the development site and depicting which trees are proposed for removal;
 - (2) An assessment of reasonable alternatives per the applicable administrative rule, which includes an evaluation based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3.)
- (c) Procedure type. A City tree removal plan is processed as a Type I procedure under SRC Chapter 300.
- (d) Decision. The Director shall approve or deny the application according to the applicable administrative rules, standards, and criteria. The decision shall be a written order.
- (e) Notice of Decision. Notice of the decision shall be delivered to the applicant and to the Planning Administrator. The notice shall include the case number of the land use approval necessitating removal of the tree or trees, and a statement regarding how the applicant may appeal the decision for the land use decision that generated the need for City tree removal.
- (f) Appeals. Any party objecting to the Director’s decision regarding the street tree removal plan application may do so by appealing the decision of the land use application that necessitated the City tree removal pursuant to procedures in SRC Chapter 300. The appeal body may affirm, deny, or modify the Director’s approval or denial of the City tree removal plan in conjunction with the overall land use decision.
- (g) Effective Date. The Director’s decision becomes effective concurrent with the effective date of the land use decision that necessitated the City tree removal.

Sec 86.076. Adjustments to approved City tree removal plans

- (a) Applicability. No tree designated for preservation in an approved City tree removal plan shall be removed unless a City tree removal plan adjustment has been approved pursuant to this section.
- (b) Submittal requirements. A City tree removal plan adjustment application shall include the following:
 - (1) The approved City tree removal plan
 - (2) A site plan, of a size and form and in the number of copies meeting the standards established by the Director, identifying the type, size, location of all existing City trees abutting the development site and depicting the adjustments to the approved City tree removal plan
 - (3) An assessment of reasonable alternatives per the applicable administrative rule, which includes an evaluation based, in part, on the classification of the tree (i.e., Class 1, Class 2, or

Class 3).

(c) Procedure type. A City tree removal plan adjustment is processed as a Type I procedure under SRC Chapter 300.

(d) Notice of Decision. Notice of the decision shall be mailed to the applicant and forwarded to the Planning Administrator. The notice shall include the case number of the land use approval necessitating removal of the tree or trees, and a statement regarding how the applicant may appeal the decision.

(e) Appeals. The decision may be appealed only by the applicant. The Review Authority for an appeal of an adjustment to an approved City tree removal plan shall be the Hearings Officer pursuant to procedures in SRC Chapter 300.

Sec. 86.080. Review of applications for City tree removal not in conjunction with land use approval.

Upon receipt of a complete permit application for City tree removal, the Director shall review the application, and if the application fails to meet the applicable criteria the application shall be denied, and a notice of denial shall be provided to the applicant, which notice shall identify the reasons for the denial. If the application meets the applicable criteria, the Director shall provide written notice to SPRAB and the neighborhood association where the tree or trees are located, and post notice of the approval as near as practicable to the tree or trees to be removed.

(a) The notice shall include the following:

- (1) The name of the applicant;
- (2) The location of the tree or trees subject to the decision;
- (3) A reference to the criteria or standards applicable to the decision;
- (4) A statement that interested persons may appeal the decision pursuant to SRC 86.095; and
- (5) The effective date of the decision if no appeal is filed.

(b) The notice shall be provided to the neighborhood association and posted a minimum of 30 days prior to the effective date of the decision.

(c) Effective date. A decision to approve a permit application for City tree removal shall be effective no earlier than 30 calendar days after the decision has been issued, unless an appeal has been filed, and any appeal fee paid.

Sec. 86.085. Removal of ~~city~~ trees in the right-of-way in historic districts and or abutting city City-owned designated historic sites.

~~(a) In addition to the requirements in this chapter, an application to remove a City tree that is a historic contributing object or within a City owned historic site, as those terms are defined in SRC Chapter 230, shall be subject to Historic Design Review under SRC Chapter 230.~~

(a) In addition to the requirements in this chapter, an application to remove a tree in the right-of-way that is located in an historic district or abutting a City-owned historic resource shall include a determination from the City's Planning Division indicating whether the City tree is contributing to the historic district or resource in which it is located.

(b) If the tree proposed for removal is contributing to the historic district or resource in which it is located then, in addition to the requirements of this chapter, the application must include a written opinion from a Certified Arborist, including the facts supporting the opinion, that the application meets the requirements for approval set forth in this chapter.

~~(b)(c)~~ Replanting, in conformance with the Public Works Design Standards, shall be required upon removal of any City tree located in the right-of-way within a local historic district, a National Register historic district, or abutting a City-owned designated historic resource site. Waiver of this requirement may only be granted through ~~Historic Design Review~~ a zoning adjustment under SRC Chapter ~~230~~250.

Sec. 86.090. City tree removal criteria.

(a) A permit to remove a City tree may be granted if one or more of the following criteria are met, as determined by the Director:

- (1) The tree is dead.
- (2) The tree is in an advanced state of decline.
- (3) The tree is structurally unsound and poses an imminent risk to person or property, as determined by a tree risk assessment, and when the risk cannot be mitigated or the tree cannot be made sound by accepted arboricultural practices.
- (4) The tree is infected, or at imminent risk of becoming infected, with an acute fatal disease that cannot be treated successfully or there is a strong potential that the pathogen could spread and kill other trees in the immediate vicinity (e.g., Dutch Elm Disease).
- (5) The tree is infested, or at imminent risk of becoming infested, with an insect that cannot be treated successfully or there is a high likelihood that the infestation could spread and kill other trees or vegetation in the immediate vicinity (e.g., Emerald Ash Borer).
- (6) When City trees have been planted too close to each other based on administrative rules and the spacing causes an adverse effect on neighboring trees. The tree with the greatest vigor will remain unless it meets other criteria for removal. The applicant shall bear the cost of tree and stump removal.
- (7) When past pruning and other tree maintenance practices, other than required electrical line clearance, has destroyed the natural shape of the tree or caused the tree to go into decline.

- (8) The Director may permit the removal of a City tree due to construction if there is no reasonable alternative. The applicant shall be required to bear all cost of the tree's removal and replacement. Prior to the Director issuing a permit authorizing removal of a City tree, the applicant must submit an assessment of reasonable alternatives per the applicable administrative rule, which includes an evaluation based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3).
- (9) The Director may permit the removal of a City tree if the tree is having an adverse effect on adjacent infrastructure and that effect cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices. Prior to the Director issuing a permit authorizing removal of a City tree, the applicant must submit an assessment of reasonable alternatives per the applicable administrative rule that is based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3.)
- (b) Except as provided in SRC 86.085~~(b)~~(c), if a tree is removed pursuant to subsection (a)(8) of this section, the tree will be replaced in conformance with the applicable administrative rules and Public Works Design Standards.
- (c) The City shall not permit the removal of a City tree for any other reason, including, but not limited to, the following, unless the criteria for a variance has been approved:
- (1) Dropping of leaves, flowers, seeds, bark, sap, stems, pests, or other matter.
 - (2) Improvement or maintenance of views.
 - (3) Competition with turf or impact on non-plant landscaping (e.g., mulch or gravel).
 - (4) Common allergies.
 - (5) Damage to items that have been placed too close to the trunk such as pavers, bricks, blocks and concrete.
- (d) Removals by City.
- (1) Where the City proposes to remove a City tree smaller than ten inches dbh, no posting shall be required.
 - (2) Where the City proposes to remove a City tree larger than ten inches dbh, the City shall post notice of the removal as near as practicable to the tree to be removed for a period of 15 days prior to the removal.
 - (3) Where the City has determined that an emergency exists, no posting shall be required.
 - ~~(3)~~(4) No appeals of decisions related to removals by the City shall be allowed, unless part of another decision which provides for an appeal.

(e) Removals pursuant to City tree removal plans.

(1) Where an approved City tree removal plan or an adjusted plan specifies removal of a City tree, no posting shall be required.

(2) No appeals of decisions for removals related to an approved City tree removal plan or an adjusted plan shall be allowed unless part of another decision that provides for an appeal.

Sec. 86.095. Appeal of decisions or orders not in conjunction with land use approval.

(a) General. Except as otherwise provided in this chapter, An appeal of a decision on a permit application issued by the Director shall be to ~~the Salem Parks and Recreation Advisory Board~~ SPRAB. The appeal decision by ~~the Salem Parks and Recreation Advisory Board~~ SPRAB is final; no further appeal or review shall be available. The Director shall send notice of the appeal decision issued by ~~the Salem Parks and Recreation Advisory Board~~ SPRAB to the applicant, the applicable neighborhood association, and any person that participated in the appeal.

(b) Director order. Except as otherwise provided for in this chapter, an appeal of an order issued by the Director shall be governed by SRC chapter 20J.

(c) *Standing to appeal.*

(1) Permit application decisions. The applicant, the applicable neighborhood association where the tree or trees are located, and any interested person shall have standing to appeal a decision on a permit application by filing a notice of intent to appeal with the Director. In the event a permit application or variance is denied by the City and the applicant appeals the denial, the City shall provide written notice of appeal to the applicable neighborhood association, and post notice of appeal for 30 calendar days as near as practicable to the tree or trees at issue. The notice of appeal shall include the following;

- (A) The name of the applicant;
- (B) The location of the tree or trees subject to the decision;
- (C) A reference to the criteria or standards applicable to the decision;
- (D) The date, time and place of the hearing on the appeal; and
- (E) A statement that any interested person may participate in the appeal by submitting written testimony, or by appearing in person to testify at the hearing.

(2) Director order. ~~The~~ Only the property owner or the person to whom the order is issued has standing to appeal an order issued by the Director under this chapter.

(d) *Notice of intent to appeal.* A written notice of intent to appeal allowed by this chapter shall be filed with the Director not later than ~~30~~15 calendar days after the date the decision was issued. The notice

of intent to appeal shall state the basis of the appeal and why the decision was in error, and shall be accompanied by the nonrefundable appeal fee as set by Council.

(e) *Appeal procedures.* The Director shall provide rules of the procedure of appeals to ~~the Salem Parks and Recreation Advisory Board~~ SPRAB under this chapter by administrative rule.

Sec. 86.100. ~~Master city~~ City tree plan.

(a) A ~~master street~~ City tree plan may be prepared by the Director for the downtown historic district and central business district with the advice of ~~the Salem Parks and Recreation Advisory Board~~ SPRAB. This plan shall be consistent with this chapter and shall include policies and guidelines that:

- (1) Provide for the preservation of Heritage Trees.
- (2) Encourage the preservation of trees in construction areas when ~~said~~ City trees are desirable types and in healthy condition.

(b) A ~~master street~~ City tree plan may be prepared for other areas of the City, including other historic districts and City owned historic resources and sites.

Sec. 86.105. Enforcement.

(a) *Order to abutting property owner to prune trees and shrubs.* Whenever the property owner, or the property owner's lessee, occupant, or person in charge of abutting property shall neglect or refuse to prune any tree, shrub, or plant provided in SRC 86.015, the Director may serve upon such owner, lessee, occupant, or person in charge of abutting property a written order to prune or remove such trees, shrubs, or plants within ten days after the giving of such order, and in case such owner, lessees, occupants, or person in charge of abutting property fail to do so, such persons shall be in violation of this chapter and subject to the penalties provided by SRC 86.120. Such order shall be served upon the property owner, lessees, occupants, or person in charge of the abutting property by regular mail to the last known address of said person or persons.

(b) *Notice by City upon failure of abutting property owner.* If the property owner, or the property owner's lessee, occupant, or person in charge of the abutting property, shall fail and neglect to trim such trees, shrubs, or plants within ten days after receiving the order provided for in SRC 86.105(a), the Director may cause such trees, shrubs, or plants to be trimmed or removed.

(c) *Costs of restoration.* Persons violating this chapter, or a permit issued hereunder, shall be responsible for the cost of the City to restore ~~restoring~~ damaged areas. ~~in conformance with a plan approved by the Director that provides for repair of any environmental or property damage and restoration of the site. Costs of restoration shall be not less than those determined equal to the monetary value of the regulated trees removed in violation of this chapter, or permit issued hereunder, as set forth in~~

~~an appraisal acceptable to the Director and based upon applicable administrative rules.~~ Each removal of a regulated tree in violation of this chapter shall result in a separate civil fine in addition to costs of restoration.

Sec. 86.110. Statement of costs; billing and collection procedures.

(a) _____ Where the Director takes action under SRC 86.105(b), the Director shall keep an accurate account of the costs of enforcing this chapter. The Director shall invoice each affected property owner for the amount due the City, which shall include an amount equal to ten percent of the cost of labor and materials to defray administrative costs of enforcing this chapter. The affected property owner shall have 15 business days to file objections to the costs. If no objections are filed within the 15-day period, the Director may pursue all remedies available at law or equity, including referral to a collection agency. Collection of costs, fees, and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court or entered into the City's lien docket in the manner provided by SRC 20J.410 and a lien for the entire amount placed against the real property pursuant to SRC 20J.180.

(b) All fines and penalties collected pursuant to this chapter, including those related to the cost of restoration and appraised monetary value of regulated trees, shall be deposited into the City Tree Fund. All other administrative costs related to enforcing this chapter shall be applied to the General Fund

Sec. 86.120. Stop work orders; permit revocation; civil penalties; enforcement.

(a) Stop work orders and permit revocation. The Director may suspend work or revoke a permit specifying the basis for the suspension or revocation that must be remedied prior to resuming other work on the project, upon a finding that:

- (1) The work is not authorized by a valid permit;
- (2) Inaccurate information was used to obtain the permit;
- (3) The applicant is not complying with the terms of the permit or this chapter;
- (4) The work is, or threatens to become, risk to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way; or is otherwise adversely affecting the public health, safety, or welfare; or
- (5) The permit was issued in error.

(b) *Rescinding a stop work order or revocation.* Penalty fees shall be paid to the City and deposited to the Salem City Tree Fund as required before a stop work order or permit revocation is rescinded.

(c) *Civil penalty.* Any person who fails to comply with the requirements of this chapter, or the terms of a permit issued hereunder; who undertakes an activity regulated by this chapter without first obtaining

a permit; or who fails to comply with a stop work order issued pursuant to this chapter, shall be subject to a civil penalty and associated costs and appraisals.

(1) Unauthorized City tree removal shall be subject to a civil penalty not to exceed \$2,000.00 per violation. The civil penalty shall be determined in accordance with the applicable administrative rule and will be based, in part, on the class of tree removed. The civil penalty is in addition to the cost of restoration pursuant to SRC 86.105(c) plus the value of the tree as calculated in accordance with the applicable administrative rule. ~~in addition to the value of the tree as calculated in accordance with applicable administrative rules (or in the absence of administrative rules, in accordance with the most current edition of Council of Tree and Landscape Appraisers "Guide for Plant Appraisal").~~

(2) All other violations shall be subject to a civil penalty not to exceed \$2,000.00 per violation.

Each day that a violation continues shall constitute a separate violation.

(d) *Civil penalties against agents.* Any person who acts as the agent of, or otherwise assists, a person who engages in an activity that would be subject to a civil penalty may likewise be subject to a civil penalty.

(e) *Injunctive relief.* The City may seek injunctive relief against any person who has willfully engaged in violation of this chapter, such relief to be in effect for a period not to exceed five years.

(f) *License Revocation.* Violation of this chapter shall be grounds for denial, revocation, or refusal to renew a tree trimmer license issued by the City.

CITY OF SALEM
DEPARTMENT OF PUBLIC WORKS
ADMINISTRATIVE RULE
CHAPTER 109
DIVISION 500
SECTION 002
TREES ON CITY OWNED PROPERTY
TABLE OF CONTENTS

2.1 Introduction

2.2 Requirements for a Permit Application to Plant, Remove, Treat or Prune City Trees

2.3 Protection of City Trees

2.4 Reasonable Alternatives Analysis

2.5 City Tree Planting

2.6 City Tree Pruning

2.7 Pruning of Trees Projecting into City Property or Vision Clearance Areas

2.8 ~~Street~~ City Tree Removal and Replacement Standards

2.9 Damage and Damage Assessment

2.10 ~~Salem~~ City Tree Fund

2.11 Notice of Violation

2.12 Appraising the Value of Regulated Trees

2.13 Restoration Cost

2.14 Reference Documents

Appendices:

- A Recommended and Prohibited Street Tree Lists

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

2.1 Introduction

- (a) The requirements in this Division shall apply where required by Chapter 86 of the *Salem Revised Code* (SRC) or where referenced by a requirement in this Administrative Rule (Rule). This Rule shall establish regulations and practices applicable to trees on City property as required in SRC Chapter 86. These regulations and practices will protect and enhance the health and longevity of City trees as well as enhance public safety through minimum requirements, approved methods, criteria, and details.
- (b) **Objectives.** The intent of this Rule is to, among other things:
 - (1) Reduce potential negative impacts to City trees by construction activities;
 - (2) Protect valuable healthy City trees to the maximum extent feasible;
 - (3) Provide guidance on common and accepted arboricultural practices, such as planting, and pruning;
 - (4) Provide approved and prohibited street tree lists; and
 - (5) Provide permit application requirements.
- (c) **Authority to Adopt.** This Rule is authorized by SRC Chapters 20J and 86. The provisions of this Rule are intended to be consistent with and supplement SRC Chapter 86. In those cases where a conflict may exist, the SRC provisions will take precedence.

2.2 Requirements for a Permit

- (a) **General.** Permits are required to plant, prune, remove, treat, install lights or other attachments, or to collect biological materials. Permits may be required to engage in ground disturbing activities within the Critical Tree Zone (CTZ) of City Trees pursuant to SRC Chapter 86 and Public Works Design Standards.
- (b) **City Projects and City Programs.** City Projects and City Programs do not require permits and shall comply with pertinent Administrative Rules and Public Works Design Standards.
- (c) **Required Information.** Applications for permits to conduct such work must include:
 - (1) The name of the applicant and the contractor performing the work, if different, and a description of the work to be done;
 - (2) The location, number, diameter at breast height (dbh), and species of City tree or trees within or adjacent to the project area to be cut, trimmed, removed, treated, or protected, and the address of the abutting property;
 - (3) Locations of any new or replacement City trees proposed;
 - (4) A Tree Protection Plan, if applicable; and
 - (5) Any reasonable alternatives considered, if required under SRC Chapter 86.090(a)(8), SRC Chapter 86.090(a)(9), and SRC Chapter 86.070(b).
- (d) At the discretion of the City's Urban Forester, site-specific circumstances may require a certified arborist report.

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

2.3 Protection of City Trees

- (a) **General.** Injury of City trees is generally prohibited by SRC Chapter 86, unless authorized by a valid permit from the City. The provisions of this Rule are intended as a guide to ensure that projects are designed to avoid injury to City trees where possible. Where impacts to City trees are unavoidable, this Rule shall guide the determination whether to issue a permit for the project. The permit process is designed to require the implementation of best management practices in order to eliminate or minimize adverse effects on healthy City trees. The methods for developing tree protection best management practices will be determined through the permit process and in consultation with the City's Urban Forester. Section 2.6(b) of this Rule exempts some activities from the permitting requirement because of the low likelihood to produce adverse impacts.
- (b) **Requirement to Identify Existing and Proposed City Trees on Project Plans.** In order to meet the spirit and intent of SRC Chapter 86 and this Rule, protection and planting of City trees must be considered as early as possible during project design. For projects with ground disturbing activities or other activities with the potential to impact City trees, the City trees in the vicinity of the project shall be shown on any construction plans submitted for a City permit.
- (c) **Permit Process.** For activities requiring permits under SRC Chapter 86, the City's Urban Forester will review permit applications and any proposed tree protection methods. Permits may only be issued where the permit application demonstrates that the project will satisfy the standards and criteria of SRC Chapter 86, this Rule, and Public Works Design Standards. Permits for projects with the potential to impact City trees shall require the development and implementation of tree protection measures. Project elements in the vicinity of City trees with the potential to impact the trees may include:
- (1) Mechanical injury to roots, trunk, or branches.
 - (2) Compaction of soil within the CTZ.
 - (3) Changes in existing grade within the CTZ which can cut or suffocate roots.
 - (4) Alteration of the drainage in the vicinity of the tree.
 - (5) Microclimate change, exposing sheltered trees to sun or wind.
 - (6) Creating sterile soil conditions within the CTZ, including stripping off topsoil.
 - (7) Construction or other ground disturbing activities in the Critical Tree Zone.
- (d) **Tree Protection.** In order to prevent unnecessary injury to City trees, tree protection measures may be required as part of the permitting process. Protection measures are especially important in the Critical Tree Zone (CTZ) of City trees. Where tree protection measures are required, the area protected is known as the Tree Protection Area (TPA). The methods used to protect City trees and the extent of the TPA shall be determined by the City's Urban Forester.
- (1) **Fencing.** Tree protection fencing may be required for any project with the potential to impact City trees. The determination shall be made as part of the permit process, with input from the City's Urban Forester. If tree protection fencing is required, the fence shall be installed and posted with a weather resistant sign identifying the fence as tree

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

protection fencing and stating that the fence should not be moved as per Public Works Design Standards and Standard Construction Specifications. The location of the tree protection fencing is site and project specific.

(2) Working in the Critical Tree Zone (CTZ)

(A) Tree Protection Plan. Ground disturbing activities within the CTZ may require the preparation of a Tree Protection Plan. A Tree Protection Plan shall identify the tree protection measures selected for a particular project. The Plan shall contain the site work, location of City trees, and the measures that will be implemented to avoid and minimize impacts.

(1) Timing. The plan shall be submitted in conjunction with any ground disturbing activity plans, such as grading or erosion control plans. The plan must be approved by the City prior to obtaining a permit.

(2) Contents. The plan must include, in addition to the requirements of Section 2.3 of this Rule:

(a) The dbh and CTZ for City trees adjacent to and within the project area;

(b) Proposed locations and extents of any proposed unavoidable work in the CTZ;

(c) Location and description of all proposed tree protection measures and TPA if different from the CTZ;

(d) Location of existing and proposed utilities, including stormwater facilities; and

(e) Proposed work, including grade changes, trenching, temporary cut or fill, property improvements.

(B) Protective Measures. Construction related activities within the CTZ of any City tree shall be considered to have the potential to impact City trees, and will require the impacts to City trees to be assessed as part of the permitting process. This assessment may result in the development of a Tree Protection Area, implementing selected tree protection measures as determined by the City's Urban Forester and consistent with applicable Public Works Design Standards and Standard Construction Specifications.

(1) Tree Root Protection Measures Protecting City tree roots from damage during ground disturbing activities over tree roots within the CTZ may require protective measures. Protective measures will be found in the Public Works Design Standards and Standard Construction Specifications.

(2) Surface Protection Measures. If traffic and construction activities cannot be kept outside of the CTZ for the duration of construction activities, actions may be required to disperse the vehicular load and/or surface

City of Salem Administrative Rule 109-500-002

Trees on City Owned Property

compaction to protect the roots and minimize root damage. Measures required will be based on proximity of the activity to the tree, the types of vehicles/machinery anticipated to be used, and the duration of the activity.

- (3) **Tree Trunk Protection Measures.** Tree trunk protection measures may be required if construction activities cannot be kept out of the TPA for the duration of construction. Measures required will be based on proximity of the activity to the tree, the types of vehicles/machinery anticipated to be used, and the type of work being conducted.
 - (4) **Watering Measures.** If construction activities occur within the CTZ during the months of May through September, supplemental watering, including hand watering or another regular source of water may be required.
 - (5) **Irrigation Prohibited Around Oregon White Oaks.** In the right-of-way, permanent irrigation is prohibited in the CTZ of Oregon white oaks unless approved by the City's Urban Forester.
 - (6) **Canopy/Clearance Pruning Protection Measures.** Should pruning of the tree canopy or tree roots be permitted, the tree work shall be performed by a qualified tree trimmer. The work shall be done as per Public Works Design Standards and Standard Construction Specifications and shall be the minimum necessary for construction or to meet Salem's minimum clearance standards if adjacent to a street or sidewalk.
 - (7) **Utility Location Measures.** For projects involving new utility locations, the utility poles and meters shall follow Public Works Design Standards and Standard Construction Specifications.
 - (8) **Boring, Tunneling, Jacking and Trenching Protection Measures.** To the extent reasonably feasible boring, tunneling, jacking, and trenching in the CTZ shall be conducted to minimize damage to tree roots and according to Public Works Design Standards and Standard Construction Specifications.
 - (9) **Root Severance Protection Measures.** If root pruning is required, severed roots shall be pruned with a saw, reciprocating saw~~sawzall~~, narrow trencher with sharp blades or other approved root pruning equipment.
 - (10) **Landscaping Protection Measures.** Projects involving landscaping within the CTZ may require the use of hand tools.
- (e) **Notification of Work.** If construction activities are desired to be conducted within the CTZ and a permit is granted, the Urban Forester shall be given at least ~~24 hours~~^{24 hours} advance notice prior to anticipated commencement of construction activities.
- (f) **City Projects and City Programs.** As the steward of the City's trees, the City's Urban Forester shall

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

be consulted on matters related to City trees and impacts from City projects and programs. Best Management Practices (“BMPs”) for City projects and programs, designed to protect and preserve City trees to the maximum extent practicable, should be developed in consultation with the City’s Urban Forester. In the absence of established BMPs, the City projects and City programs shall conform to the most current version of American National Standards Institute, ANSI A300, Part 5: Management of Trees and Shrubs During Site Planning, Site Development, and Construction. The City’s Urban Forester shall be consulted on a case-by-case basis as necessary and will make recommendations for protective measures as warranted by site-specific conditions.

2.4 Reasonable Alternatives Analysis

- (a) **General.** The City desires to preserve unique, valuable, and healthy City trees. In many circumstances alternatives to removal or pruning can be implemented in order to avoid significant tree damage and/or removal. This allows subject trees to continue thriving in urban areas, which is the City’s desired outcome. Alternative treatments, project designs, or construction practices/materials shall be required if reasonable based on the thresholds discussed below.
- (b) **Required Documentation.** The assessment and documentation of reasonable alternatives is required to obtain a permit for the removal of City trees under the criteria of SRC 86.090(a)(8) and (9), and prior to root pruning pursuant to SRC 86.070(b). The determination of whether an alternative is reasonable will vary depending on a variety of circumstances. Where no reasonable alternatives exist, the applicant for a permit shall document the basis for that conclusion as part of the permit application.

Where a City tree is proposed to be removed under SRC 86.090(a)(8) or (9), or root pruned under SRC 86.070(b), the first step in the assessment of reasonable alternatives will be the evaluation and classification of the tree at issue. ~~There are three general classifications that will affect the reasonable alternatives analysis:~~ The rigor required in an assessment of alternatives depends on the classification of the tree under consideration for removal or root pruning. Definitions of tree classifications are provided in SRC 86.010:

- (1) **Class 1.** ~~Healthy, structurally stable trees that are: (A) Heritage trees, (B) Oregon white oaks with a dbh of 24 inches or greater, or (C) trees with exceptional ecological, aesthetic, or historic qualities,~~ Removal or root pruning of a Class 1 Tree will require a the most rigorous assessment of alternatives. The City will generally not permit the removal or root pruning of a Class 1 Tree ~~such trees~~ unless the applicant can demonstrate that they have conducted a thorough ~~and searching~~ analysis and made a determination that no alternative is reasonable under the circumstances. Alternatives that must be examined include: redesign of the project; use of alternative construction practices/materials; alternative locations for the work; and other methods to meet the goals of the project. High cost of an alternative, alone, may not be enough to make an alternative unreasonable for trees that fall into this classification. The Director must concur with the applicant’s determination that no reasonable alternatives exist, prior to permits being issued for trees in this class.
- (2) **Class 2.** ~~Other healthy, structurally stable trees that have a viable lifespan of more than five years, but that do not meet Class 1 criteria~~ Removal or root pruning of a Class 2 Tree will

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

require the applicant to demonstrate that they have conducted a basic assessment of alternatives and made a determination that no alternative was reasonable under the circumstances. Applicants shall still consider alternatives including redesigning the project and use of alternative construction practices/materials and must be able to demonstrate why potential alternatives are not reasonable. High cost of an alternative relative to the proposed project cost and the value of the tree or trees is enough to make an alternative unreasonable for trees in this category. Director concurrence is not required.

- (3) ~~Class 3. Trees that are 6 inches dbh or less, or that do not fall into either of the above classifications shall require a minimal assessment of reasonable alternatives. Applicants~~ For removal or root pruning of a Class 3 Tree, applicants must ~~merely~~ demonstrate that they considered alternatives to removal or root pruning, and no alternative exists that would cost roughly the same or would ~~merely~~ require minor modifications to the proposed project. Director concurrence is not required.

- (c) **Alternative Methods to Prevent Root Pruning or Tree Removal.** The following alternatives should be considered before removing or pruning City trees or tree roots that may result in tree instability or decline, including but not limited to:

- (1) Grinding a raised surface edge.
- (2) Ramping the paved surface over the roots or lifted slab.
- (3) Routing the sidewalk or driveway around the tree roots.
- (4) Use of alternative paving, hardscape, and/or base course materials, where approved by the City.
- (5) Use of root saws, chemical treatments, or pipe lining to inhibit or prevent root growth.
- (6) Relocation of a utility to a new location.

2.5 City Tree Planting

- (a) **General.** In order to ensure the health and longevity of new City trees, it is important to ensure that tree stock, species, and plant locations meet Public Works Design Standards and Standard Construction Specifications and are approved by the Urban Forester.

For projects with City tree planting or City tree replacement, the proposed locations for such trees shall be shown on the plans submitted for a City permit.

City trees shall be planted along streets to provide tree canopy over the right-of-way based on the spacing requirements in the Public Works Design Standards. New City trees shall not be planted closer to existing City or non-City trees than the minimum spacing specified for the types of trees being planted. If space does not permit planting inside the right-of-way, one or more additional trees may be planted within ten feet of the right-of-way as an alternative to trees located inside the right-of-way. If site conditions do not allow for a sufficient number of trees to be planted to provide canopy as required by this section, a fee in-lieu of planting a tree equal to the cost of the trees will be paid to the Salem City Tree Fund.

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

- (b) **Tree Stock.** It is the applicant's responsibility to supply stock that meets the current City specifications that conform to the most current version of American Association of Standards, American Standards for Nursery Stock, ANSI Z60.1: *Specifications for Acceptance of Nursery Trees at the Time of Delivery*.
- (c) **Tree Species.**
- (1) Street tree species shall be appropriate for the planting environment as determined by the City and seek to achieve a balance of the following: compatibility with space constraints for roots and branches at maturity; and providing adequate species diversity citywide and reasonable resistance to pests and diseases.
 - (2) Street tree species shall be from the City's list of approved street trees, unless otherwise approved by the Urban Forester.
 - (3) Trees from the City's list of prohibited trees shall not be planted.
- (d) **Open Space Around Tree.** When any impervious material or substance is permitted within the CTZ of a City tree, the placement and material must meet Public Works Design Standards and Standard Construction Specifications.

2.6 City Tree Pruning

- (a) **General.** The purpose of pruning is to develop and preserve tree structure, health, and the final appearance of the tree(s). Any person pruning a City tree shall do so in an appropriate manner, in order to maintain a tree form that is typical of the species or cultivar of the tree being pruned. The three cut tree pruning method illustrated in Standard Plan 814 shall be used whenever sawing a limb from a tree.
- (1) The City of Salem requires permits for all City tree pruning work unless specifically exempted. All work sites are subject to inspection before, during, and after work is completed.
 - (2) Topping, espalier, or pollarding of City trees is prohibited.
 - (3) Improper pruning may constitute a prohibited act as defined by the Salem Revised Code, Chapter 86 and a violation which may be subject to penalty.
- (b) **Minor Pruning Permit Exemption.** On trees that have at least a 4-inch dbh, up to three tree branches and three tree roots 2-inches or less in diameter may be pruned per year without a permit using accepted arboricultural practices.
- (c) **Pruning of Trees Having an Adverse Effect on Adjacent Infrastructure or Buildings**
- (1) All work shall be performed in accordance with the most current version of ANSI A300 standards for pruning and Public Works Design Standards.
 - (2) Tree branches shall be at least eight feet above any building and 18 inches from any

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

building façade.

- (d) **Pruning of New Street Trees.** Newly planted trees may remain untrimmed provided they do not interfere with street traffic or persons using the sidewalk.
- (e) **Excessive Pruning.** Excessive pruning is prohibited except for infrastructure clearance pruning of primary electrical utility lines, for traffic vision, or for abating a hazard as determined by the City Urban Forester. No more than 33% of the crown shall be removed within an annual growing season.
- (f) **Tools and Equipment**
 - (1) Climbing and pruning practices shall not injure the tree except for the pruning cuts. Equipment that will damage the bark and cambium layer shall not be used on or in any tree.
 - (2) Spikes or climbing spurs shall not be used for climbing trees during pruning operations.

2.7 Pruning of Trees Projecting into City Property or Vision Clearance Areas

The following standards apply to any trees, shrubs or plants that project into city property or obstruct vision clearance areas.

- (a) Trees may be pruned to provide vision clearances as specified in SRC Chapter 805.
- (b) The lowest branches shall not be less than 14 feet above the surface of the street or alley.
- (c) The lowest branches shall not be less than 8.5 feet above the surface of any sidewalk or footpath.
- (d) Trees shall be trimmed in front of all traffic signs, traffic signals, and traffic cameras such that they are clearly visible from the street while meeting all other requirements of this section.

2.8 ~~Street~~ City Tree Removal and Replacement Standards

- (a) **Arborist Report.** With the exception of Single-Family Residential projects, the City may require an Arborist report detailing tree health, condition, and recommendations for or against retention.
- (b) **Closure Permit.** The permit holder must contact Public Works to obtain a Closure Permit prior to any street or lane closure that may be associated with the permitted City tree work.
- (c) **Replacement Trees and Fee in Lieu of Planting.** Trees will be replaced at by the following formula:
 - (1) For each tree removed pursuant to SRC 86.090(a)(1-7) one tree will be planted.
 - (2) For each tree removed for all other reasons one tree will be planted for each six inches of dbh removed, up to five trees.
- (d) **Fee In lieu of Planting**
 - (1) If space does not permit replanting, a fee in-lieu of planting a tree equal to the cost of the replacement trees will be paid to the City Tree Fund.
 - (2) The cost of the replacement tree is located in the City Council fee schedule.

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

2.9 Damage and Damage Assessment

- (a) **Reporting.** Any damage or injury to City trees shall be reported within ~~6 hours~~ six hours upon discovery to Public Works Dispatch (503-588-6333) so that damage assessment and mitigation can commence in a timely manner. ~~take place.~~
- (b) **Damage Assessment.** Assessment of damage to City trees requires approval by the Urban Forester.
- (c) **Penalty for Damage to City trees.** Penalty fees shall be paid to the City and deposited to the City Tree Fund ~~as required.~~

2.10 Salem City Tree Fund

Funds collected from tree violations, damages, and fees in lieu of planting shall go into a dedicated ~~Salem~~ City Tree Fund.

2.11 Notice of Violation

- (a) **Assessment of Costs.** For any notice informing a property owner or occupant of a violation of SRC Chapter 86, the notice shall be issued and be served pursuant to SRC 20J.160 and shall include the following additional information, as applicable:
 - (1) The number of trees removed, if applicable;
 - (2) The number of trees required to be replaced pursuant to Administrative Rule 109-500-002.8(c);
 - (3) The amount of fine or civil penalty being assessed pursuant to Administrative Rule Chapter 109 Division 100-1 (Enforcement of Public Works Regulations);
 - (4) The appraised value of the tree or trees removed pursuant to Section 2.12 of this Administrative Rule, if applicable; and
 - (5) The estimated cost to the City to restore the damaged area pursuant to Section 2.13 of this Administrative Rule.

2.12 Appraising the Value of Regulated Trees

- (a) **General.** Under SRC Chapter 86.105(c) and 86.120(c)(1), the value of each tree removed in violation of the chapter will be calculated in accordance with the most current edition of *Guide for Plant Appraisal (GPA)*, authored by the Council of Tree and Landscape Appraisers.
- (b) **Methodology.** The Cost Reproduction Method using the Trunk Formula Technique as found in the GPA will be used for all tree appraisals.
- (c) **Information Required.** The following information will be used when appraising the value of each tree:
 - (1) **Type of tree.** The type of tree must be at least to the genus classification; species and cultivar preferred.

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

- (2) Trunk diameter at breast height (dbh).** The dbh shall be measured 4.5 feet from the ground. If only a stump remains from a removed tree on the property, dbh may be estimated by the City’s Urban Forester, an arborist certified by the International Society of Arboriculture (ISA), or a Registered Consulting Arborist certified by the American Society of Consulting Arborists (ASCA).
- (3) Condition Rating.** The condition rating is an evaluation of the tree structure, tree health, and tree form. The condition rating must be determined by the City’s Urban Forester, an arborist certified by the ISA, or a Registered Consulting Arborist certified by the ASCA.
- (4) Functional Limitations.** Functional limitations include factors that may limit future growth, development, and overall health, such as site conditions, proximity to utility lines, and susceptibility to pests. Functional limitations must be determined by the City’s Urban Forester, an arborist certified by the ISA, or a Registered Consulting Arborist certified by the ASCA.
- (5) External Limitations.** External limitations include issues outside the control of the property owner that may affect sustainability, structure health, or longevity of the tree. Examples include soil conditions, poor drainage, and conflicts related to right-of-way visibility or utility lines. External limitations must be determined by the City’s Urban Forester, an arborist certified by the ISA, or a Registered Consulting Arborist certified by the ASCA.

(d) Incomplete Information. In the event one or more of the items listed in 2.12(c) is unavailable by direct observation, the information may be deduced using publicly accessible information including street-level photography available online. At the Director’s discretion, information provided by others may be used as a factor to determine the appraised value of a tree. Proposed information offered by the property owner must be submitted no less than 10 days after the notice is sent. If, after reasonable efforts, condition rating, functional limitations, or external limitations cannot be ascertained, the following factors will be used.

- (1) Condition Rating.** 0.75
- (2) Functional Limitations** 0.75
- (3) External Limitations.** 0.75

(e) Inability to Appraise Value. If after reasonable efforts sufficient information cannot be obtained to appraise the value of a regulated tree per the methodology stated in Section 2.12(b) of this Rule, the appraised value of the tree shall be equal to the estimated dbh multiplied by \$500. If the dbh cannot be determined, the assessed value of the tree shall be equal to \$5,000.

(f) Appraisal methodology upon Appeal. The Hearings Officer when considering an appeal of any order or penalty under SRC Chapter 86 shall apply the appraisal methodology contained in Section 2.11 of this Rule.

2.13 Restoration Cost

(a) General. Pursuant to SRC Chapter 86.105(c), persons violating SRC Chapter 86 or a permit issued under SRC Chapter 86 shall be responsible for the City’s cost to restore damaged areas. Further, the

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

cost of restoration shall not be less than the cost determined equal to the monetary value of the regulated trees removed in violation of SRC Chapter 86 or of the permit issued under SRC Chapter 86. Pursuant to SRC 86.120(c)(1), the cost of restoration is in addition to any civil penalties.

(b) Estimating the Cost of Restoration. The City's cost for restoring the damaged area will include consideration of the following:

- (1) The location, size, and species of tree(s) to be planted.
- (2) The total costs to the City to complete the restoration, from plan development through a three-year tree establishment period. Cost estimates may indicate the following line items and can include purchase prices, equipment costs, staff time, and contracted services, as applicable:
 - (A) Plan development, including professional services if used;
 - (B) Site preparation, including site clearing, stump grinding, soil augmentation, and fertilization;
 - (C) Plan implementation, including purchase, delivery, and installation of trees and vegetation, including staking; and
 - (D) Tree establishment for three years, including temporary irrigation/seasonal watering, periodic inspections, pest and disease control, and fertilization.

(c) Responsibilities for Restoration

- (1) The property owner shall deposit into the City Tree Fund either the appraised value of the removed tree(s) as determined pursuant to Section 2.12 of this Rule or the estimated cost of restoration as determined pursuant to Section 2.13 of this Rule, whichever is higher.
- (2) The City shall be responsible for implementing the restoration and for maintaining the restored area. Should the tree(s) die during the establishment period, the City will replant.
 - (A) The City shall be responsible for any costs in excess of the estimated cost of restoration determined pursuant to Section 2.13 of this Rule.
 - (B) If the costs of implementing the restoration plan are less than the cost estimated pursuant to Section 2.13(c)(2), the difference will be transferred to the Salem City Tree Fund.

(d) Consideration of Restoration Plan upon Appeal. The Hearings Officer when considering an appeal of any order or penalty under SRC Chapter 86 shall apply the Restoration Plan methodology contained in Section 2.13 of this Rule. Any determination regarding the scope, requirements, contents, adequacy, or estimates of the City's costs of restoration is not subject to appeal.

2.1114 Reference Documents

In implementing this Rule, the City shall use the following standards, manuals, and guidelines as reference documents for the terms and principles discussed in this Rule:

- (a)** *American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant*

City of Salem Administrative Rule 109-500-002
Trees on City Owned Property

Maintenance – Standard Practices (ANSI A300), American National Standards Institute. Current edition.

- (b)** *American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance – Standard Practices* (ANSI A300, Part 5), American National Standards Institute. Current edition.
- (c)** *Companion Publication to American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Management – Standard Practices (Management of Trees and Shrubs During Site Planning, Site Development, and Construction)* (ANSI A300, Part 5), *Managing Trees During Construction*. American National Standards Institute. Current edition.
- (db)** *American Standard for Nursery Stock* (ANSI Z60.1), American National Standards Institute. Current edition.
- (ee)** *Tree Protection on Construction and Development Sites. A Best Management Practices Guidebook for the Pacific Northwest*. Oregon State University Extension Service. December 2009.
- (fd)** *Guide for Plant Appraisal*. Council of Tree & Landscape Appraisers. Current edition.

APPENDIX A

Table A-1: Salem Recommended Street Trees List 2022
(Note: Other species may be used if approved by City Urban Forester.)

Deciduous Trees

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
<u>1</u>	<u>Acer buergerianum</u>	<u>Trident Maple</u>	<u>6</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
<u>2</u>	<u>Acer campestre</u>	<u>Hedge Maple</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
<u>3</u>	<u>Acer campestre 'Metro Gold'</u>	<u>Hedge Maple</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
<u>4</u>	<u>Acer griseum</u>	<u>Paperbark Maple</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
<u>5</u>	<u>Acer macrophyllum</u>	<u>Bigleaf Maple</u>	<u>10</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
<u>6</u>	<u>Acer miyabei 'Morton'</u>	<u>State Street Maple</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
<u>7</u>	<u>Acer pseudoplatanus</u>	<u>Sycamore Maple, Planetree Maple</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
<u>8</u>	<u>Acer tataricum 'JFS-KW2'</u>	<u>Rugged Charm Maple</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
<u>9</u>	<u>Amelanchier laevis 'Snowcloud'</u>	<u>Snowcloud Serviceberry</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
<u>10</u>	<u>Betula nigra 'Dura Heat'</u>	<u>Dura Heat River Birch</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
<u>11</u>	<u>Carpinus betulus 'Emerald Avenue'</u>	<u>Emerald Avenue Hornbeam</u>	<u>6</u>	<u>No</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
<u>12</u>	<u>Carpinus betulus 'Fastigiata'</u>	<u>Upright European Hornbeam</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>

APPENDIX A

Table A-1: Salem Recommended Street Trees List 2022

(Note: Other species may be used if approved by City Urban Forester.)

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
13	<u>Carpinus betulus 'Frans Fontaine'</u>	<u>Frans Fontaine Hornbeam</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
14	<u>Carpinus caroliniana 'Native Flame'</u>	<u>Native Flame American Hornbeam</u>	6	yes	<u>Global/Pyramidal</u>	<u>Ornamental</u>
15	<u>Carpinus caroliniana 'Rising Fire'</u>	<u>Rising Fire American Hornbeam</u>	4	yes	<u>Global/Pyramidal</u>	<u>Ornamental</u>
16	<u>Celtis occidentalis</u>	<u>Hackberry</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
17	<u>Cercis canadensis</u>	<u>Eastern Redbud</u>	8	yes	<u>Spreading</u>	<u>Ornamental</u>
18	<u>Cladrastis kentukea</u>	<u>American yellowwood</u>	6	yes	<u>Global/Pyramidal</u>	<u>Ornamental</u>
19	<u>Cornus mas 'Saffron Sentinel'</u>	<u>Corneliancherry Dogwood</u>	4	yes	<u>Global/Pyramidal</u>	<u>Ornamental</u>
20	<u>Corylus colurna</u>	<u>Turkish filbert</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
21	<u>Crataegus x mordenensis 'Toba'</u>	<u>Toba Hawthorn</u>	4	yes	<u>Global/Pyramidal</u>	<u>Ornamental</u>
22	<u>Eucommia ulmoides</u>	<u>Hardy Rubber-Tree</u>	8	no	<u>Spreading</u>	<u>Shade</u>
23	<u>Eucommia ulmoides 'Emerald Pointe'</u>	<u>Hardy Rubber-Tree</u>	6	no	<u>Fastigate/Columnar</u>	<u>Shade</u>
24	<u>Fagus grandiflora</u>	<u>American beech</u>	8	no	<u>Spreading</u>	<u>Shade</u>
25	<u>Fagus sylvatica</u>	<u>European Beech</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>

APPENDIX A

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26	<u>Fagus sylvatica 'Dawyck Purple'</u>	<u>Dawyck Purple Beech</u>	4	no	<u>Fastigate/Columnnar</u>	<u>Shade</u>
27	<u>Gleditsia tricanthos var inermis 'Halka'</u>	<u>Halka Honeylocust</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
28	<u>Ginkgo biloba 'Autumn Gold'</u>	<u>Autumn Gold Ginkgo</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
29	<u>Ginkgo biloba</u>	<u>Ginkgo (males only)</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
30	<u>Ginkgo biloba 'Golden Colonnade'</u>	<u>Golden Colonnade Ginkgo</u>	6	no	<u>Fastigate/Columnnar</u>	<u>Shade</u>
31	<u>Ginkgo biloba 'Magyar'</u>	<u>Magyar Ginkgo</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
32	<u>Ginkgo biloba 'Princeton Sentry'</u>	<u>Princeton Sentry Ginkgo</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
33	<u>Ginkgo biloba 'Presidential Gold'</u>	<u>Presidential Gold Ginkgo</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>
34	<u>Gymnocladus dioicus 'Espresso'</u>	<u>Espresso Kentucky Coffee Tree</u>	6	no	<u>Spreading</u>	<u>Shade</u>
35	<u>Gymnocladus dioicus 'Skinny Latte'</u>	<u>Skinny Latte Kentucky Coffee Tree</u>	4	no	<u>Fastigate/Columnnar</u>	<u>Shade</u>
36	<u>Koelreuteria paniculata</u>	<u>Goldenrain Tree</u>	8	yes	<u>Spreading</u>	<u>Ornamental</u>
37	<u>Koelreuteria paniculata 'Fastigiata'</u>	<u>Fastigiata Goldenrain Tree</u>	4	yes	<u>Fastigate/Columnnar</u>	<u>Ornamental</u>
38	<u>Liriodendron tulipifera 'Emerald City'</u>	<u>Emerald City Tulip Poplar</u>	6	no	<u>Global/Pyramidal</u>	<u>Shade</u>

APPENDIX A

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39	<u>Liquidambar styraciflua 'Rotundiloba'</u>	<u>Rotundiloba Seedless Sweetgum</u>	<u>6</u>	<u>no</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
40	<u>Maackia amurensis</u>	<u>Amur Maackia</u>	<u>8</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
41	<u>Maackia amurensis 'Starburst' P.P. #10557</u>	<u>Starburst Amur Maackia</u>	<u>6</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
42	<u>Maclura pomifera var. inermis (male)</u>	<u>White Shield Osage Orange</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
43	<u>Metasequoia glyptostroboides</u>	<u>Dawn Redwood</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
44	<u>Metasequoia glyptostroboides 'Jade Prince'</u>	<u>Jade Prince Dawn Redwood</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
45	<u>Nyssa sylvatica</u>	<u>Black Tupelo/Blackgum</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
46	<u>Nyssa sylvatica 'Firestarter'</u>	<u>Firestarter Black Tupelo/Blackgum</u>	<u>6</u>	<u>no</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
47	<u>Nyssa sylvatica 'Red Rage'</u>	<u>Red Rage Black Tupelo/Blackgum</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
48	<u>Nyssa sylvatica 'Wildfire'</u>	<u>Wildfire Black Tupelo/Blackgum</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
49	<u>Nyssa sylvatica 'Green Gable'</u>	<u>Green Gable Tupelo</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
50	<u>Ostrya virginiana 'Autumn Treasure'</u>	<u>American Hophornbeam</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
51	<u>Oxydendrum arboreum</u>	<u>Sourwood</u>	<u>6</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>

APPENDIX A

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<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
<u>52</u>	<u>Parrotia persica</u>	<u>Persian Parrotia</u>	<u>8</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>53</u>	<u>Parrotia persica 'Vanessa'</u>	<u>Vanessa Persian Parrotia</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
<u>54</u>	<u>Phellodendron amurense 'Eye Stopper'</u>	<u>Eye Stopper Amur Corktree</u>	<u>8</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>55</u>	<u>Pistachia chinensis 'Western Sun'</u>	<u>Western Sun Chinese Pistache</u>	<u>6</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>56</u>	<u>Platanus x acerifolia 'Bloodgood'</u>	<u>Bloodgood London Planetree</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
<u>57</u>	<u>Prunus cerasifera 'Thundercloud'</u>	<u>Thundercloud Plum</u>	<u>6</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>58</u>	<u>Prunus 'Okame'</u>	<u>Okame Cherry</u>	<u>4</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>59</u>	<u>Prunus serrulata 'Kwanzan'</u>	<u>Kwanzan Flowering Cherry</u>	<u>6</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>60</u>	<u>Prunus virginiana 'Canada Red'</u>	<u>Canada Red Chokecherry</u>	<u>4</u>	<u>yes</u>	<u>spreading</u>	<u>Ornamental</u>
<u>61</u>	<u>Prunus x yedoensis</u>	<u>Yoshino cherry</u>	<u>4</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
<u>62</u>	<u>Quercus bicolor</u>	<u>Swamp White Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
<u>63</u>	<u>Quercus bicolor 'Beacon'</u>	<u>Beacon Oak</u>	<u>6</u>	<u>no</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
<u>64</u>	<u>Quercus coccinea</u>	<u>Scarlet Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>

APPENDIX A

Table A-1: Salem Recommended Street Trees List 2022
(Note: Other species may be used if approved by City Urban Forester.)

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
65	<u>Quercus frainetto 'Schmidt'</u>	<u>Forest Green Oak</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
66	<u>Quercus garryana</u>	<u>Oregon White Oak, Garry Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
67	<u>Quercus muehlenbergii</u>	<u>Chinquapin Oak</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
68	<u>Quercus nuttallii</u>	<u>Nuttall Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
69	<u>Quercus phellos</u>	<u>Willow Oak</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
70	<u>Quercus robur 'Fastigiata'</u>	<u>Upright English Oak</u>	<u>4</u>	<u>no</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
71	<u>Quercus rubra</u>	<u>Red Oak, Northern Red Oak</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
72	<u>Quercus shumardii</u>	<u>Shumard Oak, Swamp Red Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
73	<u>Rhamnus purshiana (Frangula purshiana)</u>	<u>Cascara</u>	<u>6</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
74	<u>Sophora japonica (Styphnolobium)</u>	<u>Japanese pagoda tree</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
75	<u>Syringa reticulata 'Ivory Silk'</u>	<u>Japanese tree lilac 'Ivory Silk'</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
76	<u>Taxodium distichum 'Shawnee Brave'</u>	<u>Shawnee Brave Baldcypress</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
77	<u>Taxodium distichum 'Green Whisper'</u>	<u>Green Whisper Baldcypress</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>

APPENDIX A

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(Note: Other species may be used if approved by City Urban Forester.)

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
78	<u>Tilia americana 'Redmond'</u>	<u>Redmond Linden</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
79	<u>Tilia cordata 'Corinthian'</u>	<u>Corinthian Littleleaf Linden</u>	<u>4</u>	<u>no</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
80	<u>Tilia codata 'Greenspire'</u>	<u>Greenspire Littleleaf Linden</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
81	<u>Tilia cordata 'Harvest Gold'</u>	<u>Harvest Gold Littleleaf Linden</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
82	<u>Tilia x euchlora</u>	<u>Crimean Linden</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
83	<u>Tilia tomentosa 'Sterling'</u>	<u>Sterling Silver Linden</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
84	<u>Ulmus americana 'New Harmony'</u>	<u>New Harmony Elm</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
85	<u>Ulmus americana 'Valley Forge'</u>	<u>Valley Forge Elm</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
86	<u>Ulmus americana 'Princeton'</u>	<u>Princeton elm</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
87	<u>Ulmus japonica x wilsoniana 'Morton'</u>	<u>Accolade Elm</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
88	<u>Ulmus parvifolia</u>	<u>Chinese Elm</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
89	<u>Ulmus parvifolia 'Emer II'</u>	<u>Allee Chinese Elm</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
90	<u>Ulmus propinqua 'JFS-Bieberich'</u>	<u>Emerald Sunshine Elm</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>

APPENDIX A

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<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
91	<u>Ulmus 'Morton Glossy'</u>	<u>Triumph Elm</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>
92	<u>Zelkova serrata 'Green Vase' P.P. #5080</u>	<u>Green Vase Zelkova</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
93	<u>Zelkova serrata 'Halka'</u>	<u>Halka Zelkova</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Shade</u>
94	<u>Zelkova serrata 'JFS-KW1' P.P. #20996</u>	<u>City Sprite Zelkova</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Ornamental</u>
95	<u>Zelkova serrata 'Musashino'</u>	<u>Musashino Columnar Zelkova</u>	<u>6</u>	<u>no</u>	<u>Fastigate/Columnar</u>	<u>Shade</u>
96	<u>Zelkova serrata 'Schmidtlow'</u>	<u>Wireless Zelkova</u>	<u>6</u>	<u>yes</u>	<u>Spreading</u>	<u>Ornamental</u>
97	<u>Zelkova serrata 'Village Green'</u>	<u>Village Green Zelkova</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Shade</u>

Evergreen Trees*

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
<u>1</u>	<u>Arbutus menziesii</u>	<u>Pacific Madrone</u>	<u>8</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Evergreen</u>
<u>2</u>	<u>Calocedrus decurrens</u>	<u>Incense Cedar</u>	<u>8</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Evergreen</u>
<u>3</u>	<u>Magnolia grandiflora 'Edith Bogue'</u>	<u>Edith Bogue Southern Magnolia</u>	<u>6</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Evergreen</u>

* Note: Trees on this evergreen list need to be considered on a case-by-case basis by the Urban Forester.

APPENDIX A

Table A-1: Salem Recommended Street Trees List 2022

(Note: Other species may be used if approved by City Urban Forester.)

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Min. Plant Width (in.)</u>	<u>Under Power Line?</u>	<u>Form</u>	<u>Class</u>
<u>4</u>	<u>Pinus flexilis 'Vanderwolfs Pyramid'</u>	<u>Vanderwolf's Pyramid Pine</u>	<u>6</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Evergreen</u>
<u>5</u>	<u>Pinus ponderosa (Willamette Valley)</u>	<u>Ponderosa Pine</u>	<u>10</u>	<u>no</u>	<u>Global/Pyramidal</u>	<u>Evergreen</u>
<u>6</u>	<u>Quercus chrysolepis</u>	<u>Canyon Live Oak</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>7</u>	<u>Quercus douglasii</u>	<u>Blue Oak</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>8</u>	<u>Quercus hypoleucoides</u>	<u>Silverleaf Oak</u>	<u>6</u>	<u>yes</u>	<u>spreading</u>	<u>Evergreen</u>
<u>9</u>	<u>Quercus ilex</u>	<u>Holly Oak</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>10</u>	<u>Quercus myrsinifolia</u>	<u>Bamboo-leaf Oak</u>	<u>6</u>	<u>yes</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>11</u>	<u>Quercus suber</u>	<u>Cork Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>12</u>	<u>Quercus virginiana</u>	<u>Live Oak</u>	<u>8</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>13</u>	<u>Quercus wislizeni</u>	<u>Interior Live Oak</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>14</u>	<u>Umbellularia californica</u>	<u>Oregon Myrtle</u>	<u>6</u>	<u>no</u>	<u>Spreading</u>	<u>Evergreen</u>
<u>15</u>	<u>Magnolia virginiana 'Jim Wilson'</u>	<u>Jim Wilson Sweetbay magnolia</u>	<u>4</u>	<u>yes</u>	<u>Global/Pyramidal</u>	<u>Evergreen</u>

* Note: Trees on this evergreen list need to be considered on a case-by-case basis by the Urban Forester.

APPENDIX A

Table A-2: Salem Prohibited Street Trees List 2022

<u>No.</u>	<u>Scientific Name</u>	<u>Common Name</u>
<u>1</u>	<u>Acer negundo</u>	<u>Box elder</u>
<u>2</u>	<u>Acer saccharinum</u>	<u>Silver maple</u>
<u>3</u>	<u>Aeschulus spp.</u>	<u>Common Horse Chestnut</u>
<u>4</u>	<u>Ailanthus altissima</u>	<u>Ailanthus, Tree of Heaven</u>
<u>5</u>	<u>Ilex spp.</u>	<u>Holly</u>
<u>6</u>	<u>Juglans nigra</u>	<u>Black walnut</u>
<u>7</u>	<u>Paulownia tomentosa</u>	<u>Empress Tree</u>
<u>8</u>	<u>Populus spp.</u>	<u>Poplar, Cottonwood</u>
<u>9</u>	<u>Robinia spp.</u>	<u>Black Locust</u>
<u>10</u>	<u>Salix spp.</u>	<u>Willow</u>

APPENDIX A

Table A-1: Salem Recommended Street Trees List 2015

(Note: other species may be used if approved by City Urban Forester)

No.	Scientific Name	Common Name	Plant Width	Under Powerline?	Form	Type
1	<i>Acer macrophyllum</i>	Bigleaf Maple	8'+	No	Spreading	Shade
2	<i>Acer platanoides</i> 'Crimson King'	Crimson King Maple	8'+	No	Global/ Pyramidal	Shade
3	<i>Acer platanoides</i> 'Deborah' P.P. #4944	Deborah Maple	8'+	No	Global/ Pyramidal	Shade
4	<i>Acer platanoides</i> 'Emerald Queen'	Emerald Queen Norway Maple	8'+	no	Global/ Pyramidal	Shade
5	<i>Acer platanoides</i> 'Pond' P.P. #4837	Emerald Lustre Maple	8'+	No	Global/ Pyramidal	Shade
6	<i>Acer rubrum</i> 'Franksred'	Red Sunset Maple	8'+	No	Global/ Pyramidal	Shade
7	<i>Acer rubrum</i> 'October Glory' P.P. #2216	October Glory Maple	8'+	No	Global/ Pyramidal	Shade
8	<i>Catalpa bignonioides</i> 'Aurea'	Golden Southern Catalpa	8'+	No	Spreading	Shade
9	<i>Cercidiphyllum japonicum</i>	Katsura Tree	8'+	No	Global/ Pyramidal	Shade
10	<i>Gleditsia triacanthos</i> var. <i>inermis</i> 'Suncole'	Sunburst Honeylocust	8'+	No	Global/ Pyramidal	Shade
11	<i>Platanus x acerifolia</i> 'Bloodgood'	Bloodgood London Planetree	8'+	No	Global/ Pyramidal	Shade
12	<i>Quercus bicolor</i>	Swamp White Oak	8'+	No	Global/ Pyramidal	Shade
13	<i>Quercus coccinea</i>	Scarlet Oak	8'+	No	Global/ Pyramidal	Shade
14	<i>Quercus garryana</i>	Oregon White Oak, Garry Oak	8'+	No	Global/ Pyramidal	Shade
15	<i>Quercus shumardii</i>	Shumard Oak, Shumard Red Oak	8'+	No	Global/ Pyramidal	Shade
16	<i>Acer miyabei</i> 'Morton'	State Street Maple	6'–8' +	No	Global/ Pyramidal	Shade
17	<i>Acer rubrum</i> 'Armstrong'	Armstrong Red Maple	6'–8' +	No	Fastigate/ Columnar	Shade
18	<i>Acer pseudoplatanus</i>	Sycamore Maple, Planetree Maple	6'–8' +	No	Global/ Pyramidal	Shade

No.	Scientific Name	Common Name	Plant Width	Under Powerline?	Form	Type
19	<i>Betula-jacquemontii</i>	Jacquemontii Birch, whitebarked Himalayan Birch	6'–8' +	No	Global/ Pyramidal	Shade
20	<i>Carpinus-betulus</i> 'Fastigiata'	Upright European Hornbeam	6'–8' ±	No	Global/ Pyramidal	Shade
21	<i>Carpinus-betulus</i> 'Frans Fontaine'	Frans Fontaine European Hornbeam	6'–8' +	No	Global/ Pyramidal	Shade
22	<i>Carpinus-quercifolia</i>	Oakleaf Hornbeam	6'–8' +	No	Global/ Pyramidal	Shade
23	<i>Cladrastis-kentukea</i>	American yellow-wood	6'–8' +	No	Global/ Pyramidal	Shade
24	<i>Eucomia-ulmoides</i>	Hardy rubber tree	6'–8' ±	No	Global/ Pyramidal	Shade
25	<i>Fagus-sylvatica</i>	European Beech	6'–8' ±	No	Global/ Pyramidal	Shade
26	<i>Fraxinus-americana</i> 'Junginger'	Autumn Purple Ash	6'–8' ±	No	Global/ Pyramidal	Shade
27	<i>Fraxinus-pennsylvanica</i> 'Marshall'	Marshall Green Ash	6'–8' ±	No	Global/ Pyramidal	Shade
28	<i>Ginkgo-biloba</i> 'Autumn Gold'	Autumn Gold Ginkgo	6'–8' ±	No	Global/ Pyramidal	Shade
29	<i>Gymnocladus-dioica</i> 'Espresso'	Espresso Kentucky Coffee Tree	6'–8' ±	No	Spreading	Shade
30	<i>Nyssa-sylvatica</i>	Black tupelo	6'–8' ±	No	Global/ Pyramidal	Shade
31	<i>Quercus-frainetto</i> 'Schmidt'	Forest Green Oak	6'–8' ±	No	Global/ Pyramidal	Shade
32	<i>Quercus-rubra</i>	Red Oak, Northern Red Oak	6'–8' ±	No	Global/ Pyramidal	Shade
33	<i>Ulmus-japonica</i> x <i>wilsoniana</i> 'Morton'	Accolade Elm	6'–8' ±	No	Spreading	Shade
34	<i>Ulmus-parvifolia</i> 'Emer II'	Allee Chinese Elm	6'–8' ±	No	Global/ Pyramidal	Shade
34	<i>Zelkova-serrata</i> 'Green Vase' P.P. #5080	Green Vase Zelkova	6'–8' ±	No	Global/ Pyramidal	Shade
35	<i>Zelkova-serrata</i> 'Halka'	Halka Zelkova	6'–8' ±	No	Global/ Pyramidal	Shade
36	<i>Acer-platanoides</i> 'Columnar'	Columnar Norway Maple	4'– 7.5'	No	Fastigiata/ Columnar	Shade

No.	Scientific Name	Common Name	Plant Width	Under Powerline?	Form	Type
37	<i>Acer rubrum</i> 'Bowhall'	Bowhall Red Maple	4' 7.5'	No	Fastigate/ Columnar	Shade
38	<i>Acer rubrum</i> 'Scanlon'	Scanlon Maple	4' 7.5'	No	Global/ Pyramidal	Shade
39	<i>Acer rubrum</i> 'Searsen' P.P. #3109	Scarlet Sentinel Maple	4' 7.5'	No	Global/ Pyramidal	Shade
40	<i>Carpinus</i> spp.	Hornbeam	4' 7.5'	No	Global/ Pyramidal	Shade
41	<i>Fagus sylvatica</i> 'Dawyck Purple'	Dawyck Purple Beech	4' 7.5'	No	Fastigate/ Columnar	Shade
42	<i>Fraxinus oxycarpa</i> 'Flame'	Flame Ash	4' 7.5'	No	Global/ Pyramidal	Shade
43	<i>Fraxinus oxycarpa</i> 'Raywood'	Raywood Ash, Claret Ash	4' 7.5'	No	Global/ Pyramidal	Shade
44	<i>Fraxinus pennsylvanica</i> 'Summit'	Summit Ash	4' 7.5'	No	Global/ Pyramidal	Shade
45	<i>Pyrus calleryana</i> 'Glen's Form'	Glen's Form Chanticleer Flowering Pear	4' 7.5'	No	Fastigate/ Columnar	Shade
46	<i>Quercus robur</i> 'Fastigiata'	Upright English Oak, Skyrocket Oak, Columnar English Oak	4' 7.5'	No	Fastigate/ Columnar	Shade
47	<i>Sorbus aucuparia</i> 'Michred'	Cardinal Royal Mountain Ash	4' 7.5'	No	Fastigate/ Columnar	Shade
48	<i>Cornus nuttallii</i>	Pacific Dogwood	8'	Yes	Spreading	Ornamental
49	<i>Acer campestre</i>	Hedge Maple	6'—8'	Yes	Fastigate/ Columnar	Ornamental
50	<i>Acer grandidentatum</i> 'Schmidt'	Rocky Mountain Glow Maple	6'—8'	Yes	Global/ Pyramidal	Ornamental
51	<i>Cercis canadensis</i>	Eastern Redbud	6'—8'	Yes	Global/ Pyramidal	Ornamental
52	<i>Prunus cerasifera</i>	Thundercloud Plum	6'—8'	Yes	Global/ Pyramidal	Ornamental
53	<i>Prunus serrulata</i> 'Kwanzan'	Kwanzan Flowering Cherry	6'—8'	Yes	Global/ Pyramidal	Ornamental
54	<i>Robinia pseudoacacia</i>	Globe Locust	6'—8'	Yes	Global/ Pyramidal	Ornamental

No.	Scientific Name	Common Name	Plant Width	Under Powerline?	Form	Type
55	<i>Acer platanoides</i> 'Crimson Sentry' P.P. #3258	Crimson Sentry Maple	4'- 7.5'	Yes	Fastigate/ Columnar	Ornamental
56	<i>Crataegus x lavellei</i>	Lavalle Hawthorn	4'- 7.5'	Yes	Global/ Pyramidal	Ornamental
57	<i>Fraxinus excelsior</i> 'Aureaefolia'	Golden Desert Ash	4'- 7.5'	Yes	Global/ Pyramidal	Ornamental
58	<i>Sorbus americana</i> 'Dwarferown' P.P. #4157	Red Cascade Mountain Ash	4'- 7.5'	Yes	Global/ Pyramidal	Ornamental
59	<i>Acer buergerianum</i>	Trident Maple	4'+	Yes	Global/ Pyramidal	Ornamental
60	<i>Acer campestre</i>	Hedge Maple	4'+	Yes	Global/ Pyramidal	Ornamental
61	<i>Acer ginnala</i> 'Flame'	Flame Maple	4'+	Yes	Global/ Pyramidal	Ornamental
62	<i>Acer griseum</i>	Paperbark Maple	4'+	Yes	Global/ Pyramidal	Ornamental
63	<i>Acer platanoides</i> 'Globosum'	Globe Maple	4'+	Yes	Global/ Pyramidal	Ornamental
64	<i>Acer tataricum</i>	Tatarian Maple	4'+	Yes	Global/ Pyramidal	Ornamental
65	<i>Acer tataricum</i> 'JFS KW2'	Rugged Charm Maple	4'+	Yes	Global/ Pyramidal	Ornamental
66	<i>Amelanchier grandiflora</i> 'Princess Diana'	Princess Diana Serviceberry	4'+	Yes	Spreading	Ornamental
67	<i>Amelanchier x grandiflora</i> 'Robin Hill'	Robin Hill Serviceberry	4'+	Yes	Global/ Pyramidal	Ornamental
68	<i>Amelanchier laevis</i> 'Snowcloud'	Snowcloud Serviceberry	4'+	Yes	Global/ Pyramidal	Ornamental
69	<i>Amelanchier x grandiflora</i> 'Autumn Brilliance'	Autumn Brilliance Serviceberry	4'+	Yes	Global/ Pyramidal	Ornamental
70	<i>Amelanchier x grandiflora</i> 'Cole's Select'	Cole's Select Serviceberry	4'+	Yes	Global/ Pyramidal	Ornamental
71	<i>Crataegus laevigata</i> 'Crimson Cloud'	Crimson Cloud Hawthorn	4'+	Yes	Global/ Pyramidal	Ornamental
72	<i>Crataegus laevigata</i> 'Paul's Scarlet'	Paul's Scarlet Hawthorn	4'+	Yes	Global/ Pyramidal	Ornamental
73	<i>Crataegus x lavellei</i>	Lavalle Hawthorn	4'+	Yes	Global/ Pyramidal	Ornamental

No.	Scientific Name	Common Name	Plant Width	Under Powerline?	Form	Type
74	<i>Crataegus x mordenensis</i> 'Snowbird' C.O.P.F.	Snowbird Hawthorn	4'+	Yes	Global/ Pyramidal	Ornamental
75	<i>Crataegus x mordenensis</i> 'Toba'	Toba Hawthorn	4'+	Yes	Global/ Pyramidal	Ornamental
76	<i>Fraxinus excelsior</i> 'Aureaefolia'	Golden Desert Ash	4'+	Yes	Global/ Pyramidal	Ornamental
77	<i>Fraxinus pennsylvanica</i> 'Johnson' P.P. #9136	Leprechaun Ash	4'+	Yes	Global/ Pyramidal	Ornamental
78	<i>Halesia carolina</i> 'Uconn Wedding Bells'	Wedding Bells Silverbell	4'+	Yes	Global/ Pyramidal	Ornamental
79	<i>Maaekia amurensis</i>	Amur Maaekia	4'+	Yes	Global/ Pyramidal	Ornamental
80	<i>Maaekia amurensis</i> 'Starburst' P.P. #10557	Starburst Amur Maaekia	4'+	Yes	Global/ Pyramidal	Ornamental
81	<i>Malus</i> 'Schmidt cutleaf'	Golden Raindrops Crabapple	4'+	Yes	Global/ Pyramidal	Ornamental
82	<i>Prunus cerasifera</i> 'Thundercloud'	Thundercloud Plum	4'+	Yes	Global/ Pyramidal	Ornamental
83	<i>Prunus</i> 'Frankthrees'	Mt. St. Helens Plum	4'+	Yes	Global/ Pyramidal	Ornamental
84	<i>Prunus</i> 'Newport'	Newport Plum	4'+	Yes	Global/ Pyramidal	Ornamental
85	<i>Prunus sargentii</i> 'JFS KW58'	Pink Flair Cherry	4'+	Yes	Fastigate/ Columnar	Ornamental
86	<i>Prunus</i> 'Snow Goose'	Snow Goose Cherry	4'+	Yes	Global/ Pyramidal	Ornamental
87	<i>Zelkova serrata</i> 'JFS KW1' P.P. #20996	City Sprite Zelkova	4'+	Yes	Global/ Pyramidal	Ornamental
88	<i>Zelkova serrata</i> 'Schmidtlow'	Wireless Zelkova	4'+	Yes	Spreading	Ornamental
89	<i>Koelreuteria paniculata</i>	Goldenrain Tree	4'+	Yes	Spreading	Ornamental
90	<i>Malus</i> 'Adirondaack'	Adirondaack Crabapple	4'+	Yes	Fastigate/ Columnar	Ornamental
91	<i>Malus</i> 'Jarmin' P.P. #14337	Marilee Crabapple	4'+	Yes	Fastigate/ Columnar	Ornamental
92	<i>Malus</i> 'Jeweleole'	Red Jewel Crabapple	4'+	Yes	Global/ Pyramidal	Ornamental
93	<i>Malus</i> 'Red Barron'	Red Barron Crabapple	4'+	Yes	Fastigate/ Columnar	Ornamental

No.	Scientific Name	Common Name	Plant Width	Under Powerline?	Form	Type
					Columnar	
94	<i>Malus</i> 'Sentinel'	Sentinel Crabapple	4'+	Yes	Fastigate/ Columnar	Ornamental
95	<i>Parrotia persica</i> 'Vanessa'	Vanessa Persian Parrotia	4'+	Yes	Fastigate/ Columnar	Ornamental
96	<i>Prunus cerasifera</i> 'Crimpoint'	Crimson Pointe Plum	4'+	Yes	Fastigate/ Columnar	Ornamental
97	<i>Prunus serrulata</i> 'Amanogawa'	Amanogawa Cherry	4'+	Yes	Fastigate/ Columnar	Ornamental
98	<i>Prunus x cistena</i> 'Schmidteis'	Big Cis Plum	4'+	Yes	Global/ Pyramidal	Ornamental
99	<i>Prunus x hillien</i> 'Spire'	Spire Cherry	4'+	Yes	Fastigate/ Columnar	Ornamental
100	<i>Pyrus calleryana</i> 'Jaezam'	Jack Pear	4'+	Yes	Global/ Pyramidal	Ornamental
101	<i>Sorbus americana</i> 'Dwarferown'	Red Cascade Mountain Ash	4'+	Yes	Fastigate/ Columnar	Ornamental

Table A-2: Salem Prohibited Street Trees List 2015

No.	Scientific Name	Common Name
1	<i>Populus spp.</i>	Poplar, Cottonwood
3	<i>Salix spp.</i>	Willow
4	<i>Aeschulus hippocastanum</i>	Common horse chestnut
5	<i>Acer negundo</i>	Box elder
6	<i>Laburnum spp.</i>	Laburnum, Golden chain tree
7	<i>Acer saccharinum</i>	Silver maple
8	<i>Ilex spp.</i>	Holly
9	<i>Ailanthus altissima</i>	Ailanthus, Princess tree, tree of heaven

Stewarding Our Oregon Oaks Project: Willamette University

Website: <https://growing-oaks.wixsite.com/my-site-4>

Email: growing-oaks@willamette.edu

November 5, 2022

Salem Public Works Department, 555 Liberty Street SE, Room 325, Salem, Oregon 97301.

RE: SRC CHAPTER 86 UPDATES

To the Salem Planning Commission,

We are a group of students from Willamette University promoting the growth and protection of the Oregon white oak through our grant-funded project: Stewarding Our Oregon Oaks. We would like to propose the following definitions be added to Salem Revised Code (SRC) Chapter 86, pursuant to proposed change C in the public hearing notice:

- *Heritage tree* means a tree designated as a heritage tree pursuant to SRC 808.010(a) (The Council may, by resolution, designate a heritage tree upon nomination by the property owner, in recognition of the tree's location, size, or age; botanical interest; or historic or cultural significance)
- *Significant tree* means:
 - (a) A rare, threatened, or endangered tree of any size, as defined or designated under state or federal law and included in the tree and vegetation technical manual;
 - (b) An Oregon white oak (*Quercus garryana*) with a dbh of 20 inches or greater; and
 - (c) Any other tree with a dbh of 30 inches or greater, but excluding:
 - (1) Tree of heaven (*Ailanthus altissima*);
 - (2) Empress tree (*Paulownia tomentosa*);
 - (3) Black cottonwood (*Populus trichocarpa*); and
 - (4) Black locust (*Robinia pseudoacacia*).

We also propose the following amendments to each upon their addition to Section 86:

- Oregon white oaks be added under the heritage tree definition as a new subsection, a heritage species, thus granting any tree of the species the same protections given to individually designated heritage trees.

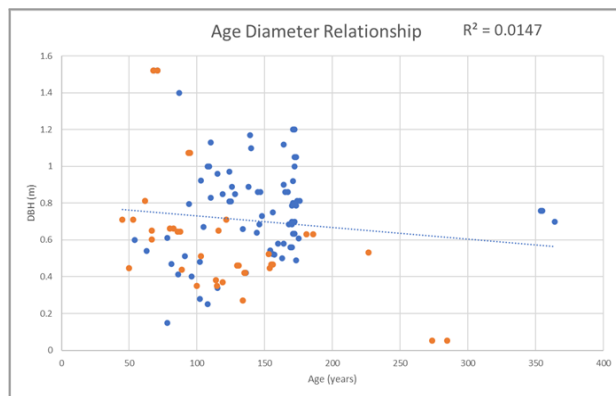
OR:

- The threshold for an Oregon white oak's designation as a significant tree be lowered from a dbh of 20 inches to 16 inches.

Our project believes that all Oregon white oaks are valuable to our community, both as a cultural and historical beacon and as a significant indicator and contributor to wildlife in Salem and the Willamette Valley.

The Oregon white oak has a large cultural significance due to its deep connection with the indigenous peoples of the Willamette Valley. According to [Oregon Encyclopedia](#), Native Americans created controlled fires to keep the oaks' habitat, the oak savanna, open for hunting and herb collection; they also used their acorns for soup, bread, or other traditional recipes. However, after the arrival of white colonizers and the [subsequent genocide](#) of the Kalapuya tribes, these practices were forced to end. The results have been both long-lasting and [devastating](#) for the species, with an estimated 15% of its original, pre-colonial habitat remaining. As a part of our [mission](#), Growing Oaks advocates for the preservation of Oregon white oak habitats as a form of racial justice and reconciliation with indigenous groups, and we feel that this is not achievable under the current city codes.

Due to this cultural significance and the Oregon white oak's long standing relationship with the indigenous people of the Willamette Valley, it is especially essential to protect older trees that harbor the most history. However, age in Oregon white oak trees is highly difficult to determine based on external features alone, as no significant relationship has been shown between diameter and age. A survey was done by the [Oak Salvage](#) project of 153 trees, of which 42% were able to be aged and measured. When these 64 data points are plotted on a graph (right), the line of best fit has a very low coefficient of determination. The correlation between dbh (diameter at breast height), the current indicator of tree value under Salem city codes, and age is therefore shown to be very insignificant: according to this study, only 1.47% of the variability observed in age is determined by dbh. Given how much variation is present, it is better to take a cautious, conservative approach to the dbh threshold, thus protecting more historical landmarks instead of less.



The biodiversity Oregon white oaks provide to their environments is also a key factor in their importance and the need for their preservation. Oregon white oaks provide shelter, food, and habitat to [over 200 species](#) of animals and insects, including several threatened or endangered species, as well as mycorrhizal fungi that reside in the root systems of older trees. The aforementioned destruction of much of their habitat has also directly impacted many of these species, and it is critical to conserve as many of these remaining trees as possible.

We believe that the best way to protect this vital species is through the changes to Salem Revised Code (SRC) Chapter 86 previously outlined. Thank you for your time and consideration.

Sincerely,
The Growing Oaks Team



November 4, 2022

Laurel Christian
Development Services Planner II
City of Salem
555 Liberty Street SE, Room 325
Salem, OR 97301

RE: Code Amendment Case No. CA22-03

Ms. Christian,

Thank you for the opportunity to offer written testimony on the proposed amendments to Salem Revised Code Chapter 86 (SRC 86). AKS Engineering & Forestry, LLC has relevant experience in complying with these requirements on a variety of projects. We hope our experience is valuable to the refinement of SRC 86 and we appreciate your consideration of our input.

Compliance with SRC 86 has been problematic where tree removal is necessary to construct public street improvements when they are conditioned by the City in a land use decision. When constructed, these infrastructure improvements are dedicated to the City to deliver essential services such as transportation, sewer, water, and stormwater management facilities that benefit the citizens of Salem. The problems arise from the conflicting and competing public work standards that govern the design of these essential facilities and street tree preservation. Typically, the facilities are constructed as part of boundary street improvements in conjunction with a Subdivision, or street frontage improvements in conjunction with a Site Plan Review or Design Review for multiple family projects. In other jurisdictions we serve, it is uncommon that a standalone or additional process to remove street trees is required in situations where public improvements warrant such tree removal.

The current and amended process under SRC 86 complicates and adds uncertainty to the development process in the following ways:

- The process for evaluating reasonable alternatives under proposed SRC 86.075(b)(2) is not clear or objective. The code is unclear as to what alternatives are reasonable to include in the evaluation, how many alternatives require evaluation, and the degree to which the Director is willing to deviate from the objective public works design standards to entertain those alternatives.
- The definitions of the tree classifications under proposed SRC 86.010 rely heavily on subjective and value laden language (e.g. “exceptional ecologic, aesthetic, or historic qualities”, “healthy, structurally stable”, and “viable lifespan”). The subjective nature of the tree classification definitions prevent an Applicant from preparing a reasonable alternatives analysis with an acceptable degree of certainty that the relevant trees are included in the analysis.
- The subjective and discretionary nature of the process is not appropriate for a Type I application. Type I procedures are used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application (SRC 300.100 Table 300-1). As discussed previously, the process for identifying alternatives that are included in the reasonable alternatives analysis, the definitions of the tree classifications under SRC 86.010, and the Director’s willingness to deviate from the objective public works design standards to

entertain alternative street designs all involve subjective and value-laden policy judgements that are outside the scope of the Type I process.

- The subjective nature of the process means that it cannot be applied to applications for housing projects, including Subdivision applications and multifamily housing projects that require Design Review and Site Plan Review. ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the creation of housing, and such standards, conditions, and procedures cannot have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. As previously discussed, the proposed process relies heavily on subjective and value laden language that runs afoul of ORS 197.307(4). For this reason, the process cannot be applied to housing applications.
- The City implicitly acknowledges the challenges in complying with these procedures by exempting City projects from the permitting requirements in SRC 86 (proposed SRC 86.050(b)). The permitting process for public infrastructure projects required in conjunction with land use approvals should be exempt from these requirements in the same way that City-initiated public infrastructure projects are exempt.

Please consider the following suggestions for addressing the deficiencies in the current draft of the amendment that relate to the construction of public improvements required by land use decisions:

- Treat these essential public improvements the same way the City-initiated public improvements are treated by exempting them from the permitting requirements under SRC 86.
- Revise the definition of Class 1 trees by striking the subjective language under proposed subsection (C) as follows:
Class 1 Tree means a tree that is healthy, structurally stable, and is one of the following: (A) a Heritage Tree; (B) a "significant tree" pursuant to SRC 808.005.; or (C) a tree with exceptional ecological, aesthetic, or historic qualities as determined by the City Forester or Planning Administrator.
- Revise the definitions of Class 2 and Class 3 trees to be consistent with the definition of *tree* in SRC 808.005 (10 inches or more DBH).

This is not an exhaustive list of suggestions. We encourage the City to review SRC 86 to make the process as clear, objective, and transparent as possible. Thank you for the opportunity to provide feedback on this amendment. We appreciate your thoughtful consideration of our input.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC



Curt Fisher, Land Use Planner
3700 River Rd N, Suite 1, Keizer, OR 97303
(503) 400-6028 | fisherc@aks-eng.com



FOR MEETING OF: November 15, 2022CASE NO.: CA22-03AGENDA ITEM: 5.1

TO: PLANNING COMMISSION

**THROUGH: LISA ANDERSON-OGILVIE, AICP
INTERIM COMMUNITY DEVELOPMENT DIRECTOR AND
PLANNING ADMINISTRATOR**

**FROM: PETER FERNANDEZ, PE
PUBLIC WORKS DEPARTMENT DIRECTOR**

**SUBJECT: SUPPLEMENTAL STAFF REPORT FOR CA22-03: PROPOSED
AMENDMENT TO SALEM REVISED CODE CHAPTER 86 (TREES ON
CITY OWNED PROPERTY)**

ISSUE

Should the Planning Commission recommend City Council approval of proposed amendments to the Salem Revised Code (SRC) updating Chapter 86 (Trees on City Owned Property) to address issues that have arisen based on experience with the current code and based on feedback received from Council and the public, since the code was last amended in 2015.

RECOMMENDATION

Adopt the facts and findings of this supplemental staff report with the recommendation that staff make necessary changes to clarify the approval process for removing a city owned tree in conjunction with land use approval and forward the ordinance bill to City Council for a first reading.

SUMMARY AND BACKGROUND

On October 4, 2022, the proposed code amendments to Salem Revised Code (SRC) Chapter 86, titled Trees on City Owned Property, were initiated by the Planning Commission with the adoption of Resolution No. 22-01. Public notice was sent to affected and interested parties pursuant to SRC 300.1110. This supplemental report recommends modifications to the ordinance and provides additional findings in response to citizen comments.

FACTS AND FINDINGS

1. Recommended Modifications

- a. Definitions – Class 1 Tree. A response from Willamette University requested that the definition of Class 1 Tree include more trees of smaller diameter to provide greater protection for the smaller trees. A response from AKS Engineering and Forestry requested that the definition be limited to clear and objective standards.

As a result, staff recommends that the proposed modification to the definition of a

Class 1 Tree in SRC 86.010 (Definitions). As shown in Attachment A, staff's revised amendments ensure a clear and objective standard by defining trees as Class 1 based solely on diameter and species. Furthermore, staff's revised recommendation reduces the minimum diameter at breast height of a Class 1 Tree to 16 inches for Oregon white oak (*Quercus garryana*) and 20 inches for other trees to provide greater protection for a larger number of trees.

- b. Procedure Type. A response from AKS Engineering and Forestry identified that the discretion used in approving or denying street tree removal permits warrants a Type II process. Approval or denial of a request to remove a street tree removal permit is based on a Reasonable Alternative Analysis, criteria which are outlined in the Administrative Rules related to Trees on City Owned Property (109-500-002 Section 2.4).

Upon further review, Staff agree that more clear and objective criteria are needed. Staff will work with AKS Engineering and Forestry and others to revise the draft code and administrative rule to clarify criteria for removing Class 1, Class 2, and Class 3 trees to make the approval criteria as clear and objective as possible for all classes of trees.

2. Other Citizen Comments

- a. Developer vs. City-funded projects. AKS Engineering and Forestry correctly noted that City projects as defined in SRC 86.010 are exempt from street tree removal permits. The firm requested that developer-funded projects related to public improvements receive the same exemption. Staff disagree. The permit exemption is provided to the City for City Projects so that the City does not need to issue itself a permit for work already approved by the City. However, although a permit is not issued, as stated in SRC 86.050(b) the City is still required to comply with the provisions of SRC Chapter 86. In contrast, projects that do not fall within the definition of a City Project still require permitting to allow for an orderly process of review, approval and, if warranted, enforcement to ensure compliance with the provisions of SRC Chapter 86.

Attachments: A. Proposed Code Amendments
B. Public Comments

Prepared by Glenn Davis, Chief Development Engineer
Public Works Department

Sec. 86.010. Definitions.

Unless the context otherwise specifically requires, terms used in this chapter shall have the meanings set forth in this section; provided, however, where a term is not defined in this section, the term shall have its ordinary accepted meaning within the context in which it is used. Webster's *Third New Int'l-International Dictionary* (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

Biological material means any plant material, including but not limited to cones, seeds, cuttings, epiphytic plants or other plant material.

City project means any City-initiated construction or enhancement project on City property. Maintenance of existing infrastructure is not considered a City project.

City property means real property and improvements, if any, owned by, dedicated to, managed by, or subject to an easement in favor of, the City for the public's use, including, but not limited to, City parks, City rights-of-way and other City properties within city limits.

City rights-of-way means an area that allows for the passage of people and vehicles that is dedicated or deeded, or for which there is an easement to the City or the public, for public use and under the control of the City. As used in this chapter, the term "right-of-way" includes streets, bike paths, walkways, landscaping strips, ~~and~~ all other land within the area designated as right-of-way by the deed, dedication, or easement, and special setback areas on arterial or collector streets pursuant to SRC 800.040, but does not include alleys. Easements for utilities or other ~~non-roadway~~ non-transportation purposes are not included in this definition.

City tree means a tree with a trunk that is partially or completely on City property.

Class 1 Tree means a tree that is healthy, structurally stable, and is one of the following: (A) a Heritage Tree; (B) a "significant tree" pursuant to SRC 808.005; ~~or (C) a tree with exceptional ecological, aesthetic, or historic qualities as determined by the City Forester or Planning Administrator.~~ **(B) a rare, threatened, or endangered tree of any size, as defined or designated under state or federal law and included in the tree and vegetation technical manual; (C) an Oregon white oak (Quercus garryana) with a dbh of 16 inches or greater; or (D) any other tree with a dbh of 20 inches or greater, but excluding:**

(1)Tree of heaven (Ailanthus altissima);

(2)Empress tree (Paulownia tomentosa);

(3)Black cottonwood (Populus trichocarpa); and

(4)Black locust (Robinia pseudoacacia).

Class 2 Tree means a healthy, structurally stable tree that does not meet Class 1 criteria but has a

dbh of over six inches and a viable lifespan of more than five years.

Class 3 Tree means a tree with a dbh of six inches or less or a tree over six inches dbh that does not meet the criteria for a Class 1 or a Class 2 tree.

Construction activities include, but are not limited to, excavation, filling, tunneling, trenching, land clearing, compacting, demolition, storage of construction materials, utility work, grading, or other ground disturbing activity.

Construction of public infrastructure means infrastructure improvements, owned by or to be dedicated to the public, subject to construction permits issued under SRC 77.090.

Critical Tree Zone (CTZ) means a defined area surrounding the trunk intended to protect the tree's trunk, roots, branches, and soil to ensure tree health and stability. It is the area defined by the tree's dripline or an area measured one-foot per one-inch diameter at breast height, whichever is greater.

Development means to construct or alter a structure, to make alterations or improvements to the land or to make a change in use or appearance of land, to divide or reconfigure land, or to create, alter, or terminate a right of access. The term "development" does not include:

- (a) Maintenance and repair, usual and necessary for the continuance of an existing use;
- (b) Reasonable emergency procedures necessary for the safety or operation of property; or
- (c) Interior or exterior remodeling that does not increase the square footage or height of a structure, or substantially alter the appearance of a structure.

Diameter at breast height (dbh) means the diameter of the tree trunk measured at 4.5 feet above the ground level.

Diseased tree means any tree with an infectious condition or infestation that without reasonable treatment, pruning, or removal is likely to spread to adjacent trees and cause such adjacent trees to become infected, infested, or a risk.

Emergency means a situation exists in which action must be undertaken immediately to prevent an imminent threat to public health, public safety, or property.

Ground disturbing activity means any activity that exposes soil through the use of mechanical equipment, including, but not limited to, grading, excavating, filling, clearing, or working of land. Such disturbance may be permanent (i.e., gravel mining, farming, gardening, sports fields, etc.); or temporary or short-term duration, such as construction, excavation, fill, grading, landscape installation, or other vegetative clearing activities.

Hedge means a row or grouping of closely spaced woody plants that are planted and maintained to form a barrier or screen, or to mark a boundary.

Heritage Tree means a tree designated as such by Council.

Imminent risk of becoming infected or infested means there is an immediate and impending threat of the tree becoming a host to an invasive pest or pathogen due to its species, size, or condition and its proximity to other infested or infected trees.

Infrastructure means streets, curbs, sidewalks, buildings, utilities, or other public improvements.

Plant (verb) means to place ~~the placement of~~ vegetation into the ground.

Prohibited tree means any tree listed in the administrative rules as prohibited.

Property owner means the owner(s) of record, as shown on the latest tax rolls or deed records of the county, of property containing or adjacent to a City tree.

Prune means to trim or remove branches or roots from a tree or other plant using approved practices to achieve a specified objective.

Public Works Design Standards means those promulgated by City Public Works Department as administrative rules through SRC chapter 20J.

Risk tree means a tree or part thereof that has a high probability of failure due to an uncorrectable structural defect, infestation, or disease which poses a potential threat to the public or City property in the event of failure. Risk trees that are not in danger of imminent failure do not constitute an emergency.

Top and topping means the practice of reducing the length of major limbs to prevent the limb from assuming a terminal role in an effort to reduce the height of the tree.

Treat means to protect or reestablish the normal function, vigor, and condition through the use of products or actions.

Tree means a woody plant that is commonly sold by the Oregon nursery trade as a tree and not maintained as a hedge, shrub, or topiary form. Pursuant to SRC 86.015(f), the Director shall have the authority to determine whether a particular woody plant is considered a City tree.

Tree removal means to cut down a tree, or remove more than 30 percent of the crown, circumference of the bark down to the heartwood, or root system of a tree, or to damage a tree in any manner so as to cause the tree to decline, become unstable, or die.

Tree trimmer means any person engaged in the business of pruning, altering, removing, or providing tree surgery for City trees.

Variance means a ~~situation where a~~ modification to the requirements of this chapter that has been made pursuant to SRC 86.055. is reasonably necessary to prevent undue hardship.

Sec. 86.015. Administration; rulemaking; responsibilities.

(a) *General.* The Director shall have jurisdiction over all City trees, including the planting, removal,

care, maintenance, and protection thereof and consistent with SRC Chapter 808. The Director shall administer and enforce this chapter and shall have the authority to render written and oral interpretations and to adopt administrative rules, design standards, and procedures for its proper administration and enforcement.

(b) *Removal or treatment of City trees.* The Director may remove or permit the removal of any City tree, or plant or part thereof that is diseased, in an unsafe condition, or is causing damage to City property, when the condition of the tree cannot otherwise be remedied by accepted arboricultural practices. The Director may, or permit another to, remove, treat, or cause to be treated any City tree or plant or part thereof that is currently infected or infested, or at imminent risk of becoming infected or infested, with a fungus, disease, insect, or other pest such that it becomes a risk, as authorized by this chapter and administrative rules.

(c) *Pruning of trees projecting into City property.* It is the responsibility of the property owner to maintain and prune trees, shrubs, or other plants on private property that ~~project~~ encroach into City property in accordance with applicable administrative rules. If the Director determines pruning of any such tree, shrub, or plant is deemed necessary, the Director shall have the power to prune or cause or order the same to be pruned. The City may assume the responsibility for pruning and bill the cost of pruning to the property owner, if notice to the property owner has been provided under SRC 86.105.

(d) *Disease and pest inspection on private property.* The Director shall have the authority, either by consent of the property owner or by appropriate legal process, to enter private property for the purpose of inspecting a tree thereon to determine if such tree may be a risk tree and threat to public safety or City property. Upon discovering that any such tree is a risk tree, an order shall be sent to the property owner advising the property owner of the conditions and the corrective measures to take. In the event the property owner fails to take the corrective measures indicated in the order, the Director shall have the power to cause the corrective measures to be made. If the Director undertakes the corrective measures, the Director may bill the cost to the property owner, if notice to the property owner has been provided under SRC 86.105.

(e) *Planting street trees.* Pursuant to SRC 803.035(k), any person undertaking development adjacent to public streets shall ensure that a minimum number of trees are planted along the street frontage to provide tree canopy as specified in the applicable administrative rules. The Director may allow a developer to pay a fee in lieu of meeting the minimum number of trees as required by this chapter if the Director has determined that such a payment is in the public interest. The payment will be deposited in the City Tree Fund. ~~provide street trees to the maximum extent feasible in accordance with the standards~~

~~and specifications set forth in this chapter and applicable administrative rules.~~

- (f) Determination of City tree. The Director shall have the authority to determine whether a particular woody plant shall be considered a City tree. Such determination shall be final and not subject to local appeal.
- (g) Maintenance around tree. The property owner, the property owner's lessee, occupant, or person in charge of property containing or adjacent to the City right-of-way is responsible for maintaining, in such a way as not to cause a hazard to public health or safety, or public property, the area around City trees. This responsibility includes maintaining landscaping, shrubs, or bushes, in accordance with applicable administrative rules, unless this responsibility is expressly assumed in writing by the City.
- (h) City not responsible. The City is not responsible for maintaining trees, shrubs, vegetation, or landscaping on private property.

Sec. 86.020. Role of the Salem Parks and Recreation Advisory Board.

- (a) Duties. In addition to the functions and duties assigned in SRC chapter 13, the Salem Parks and Recreation Advisory Board (SPRAB) shall have the following duties:
 - (1) Issue decisions on appeals of decisions of the Director as set forth in this chapter.
 - (2) Issue decisions on applications referred to ~~the Board~~ SPRAB by the Director.
 - (3) Issue decisions on City projects referred to SPRAB by the Director.~~Issue recommendations on nominations for Heritage Tree designations.~~
 - (4) Issue recommendations to Council on nomination for Heritage Tree designations or on proposed rescission of a Heritage Tree designation.
 - (5) Provide advisory recommendations to the Director, and to the Council on matters relating to City trees.
- (b) *Rules of procedure.* The Director may establish rules of procedure for appeals before ~~the Salem Parks and Recreation Advisory Board~~ SPRAB by administrative rule.

Sec. 86.023. City Tree Fund.

There is established a special fund designated as the City Tree Fund from which expenditures may be made for planting city trees, and site repairs or improvements needed to successfully establish City trees as that term is defined at SRC 86.010. Expenditures from the fund are limited to the reasons described above and allocation shall be made through the City's budgeting process.

Sec. 86.025. Relationship to other regulations.

Where a conflict exists between the provisions of this chapter and other provisions of the Salem Revised Code, or state or federal law or regulations, the more restrictive provision shall govern.

Sec. 86.030. Prohibited activities.

(a) It shall be unlawful for any person, except as expressly allowed by a written permit, exemption, or variance granted pursuant to the terms of this chapter, to willfully or negligently injure, destroy, top, or prevent the growth of a City tree, including, but not limited to, the following:

- (1) Pouring or spraying of an injurious chemical on or around any City tree.
- (2) Posting any sign on a City tree, tree stake, or tree guard.
- (3) Attaching or fastening any structure or device to any City tree, tree stake, or tree guard.
- (4) Piling materials or storing supplies or debris within the Critical Tree Zone that may cause injury or damage to the tree or damage the tree, tree stake, or tree guard.
- (5) Using concrete, asphalt, brick, or impervious material that may cause injury or damage to the tree.
- (6) Causing or permitting the growth of vines, ramblers, or other climbing plants on City trees.
- (7) Construction within the Critical Tree Zone.
- (8) Parking or maneuvering vehicles that may cause injury or damage to the City tree, not including parking or maneuvering on existing paved surfaces.

(b) The Director may exempt electrical utility providers from the prohibitions related to pruning and topping.

Sec. 86.035. Certain trees prohibited.

It shall be unlawful for any person to plant any prohibited tree on City property. Established prohibited trees may be allowed to remain until the tree becomes dead, diseased, or a risk tree.

Sec. 86.040. Diseased trees and shrubs prohibited.

To ensure the health of City trees, it shall be unlawful for any property owner or occupant of private property to allow any tree, or other vegetation growing on the property owner's or occupant's property, to become infected with a fungus, disease, insect, or other pest such that it could adversely affect a City tree.

Sec. 86.050. Activities requiring permits.

(a) A permit is required for the following activities:

- (1) *Permit required to prune or remove City trees or tree protection devices.* It shall be unlawful for any person, without a written permit from the Director, to prune or remove a City tree, or to remove a tree protection device from a City tree, or cause or authorize or procure any person to do so. The Director may, by administrative rule, develop criteria for City tree pruning that does not require a permit where the Director finds the actions are minor and are unlikely to cause damage to the City tree.

- (2) *Permit required for construction within Critical Tree Zone of City trees.* It shall be unlawful for any person, without a written permit from the Director, to undertake or cause or authorize or procure any person to undertake any construction activity within the Critical Tree Zone of City trees.
- (3) *Permit required to treat City trees.* It shall be unlawful for any person, without a written permit from the Director, to treat a City tree, including, but not limited to, applying chemicals or biological controls; installing hardware or devices for the preservation of a City tree or for the control of insects or diseases; or causing or authorizing or procuring any person to do such treatment. A permit to treat a City tree may be granted if the Director determines the treatment proposed is beneficial and unlikely to harm the City tree. Any work authorized by written permit shall comply with applicable administrative rules and meet all local, state, and federal regulations.
- (4) *Permit required to collect biological materials from City trees.* It shall be unlawful for any person, without a written permit from the Director, to remove plant material from a City tree or cause or authorize or procure any person to do so. A written permit is not required for the noncommercial gathering of fruit or windfall.
- (5) *Permit required to install lights or other attachments to City trees.* It shall be unlawful for any person, without a written permit from the Director, to install or otherwise physically place lighting or other attachments on a City tree or cause or authorize or procure any person to do so. If permitted, the installation and removal shall be accomplished without damage to the City tree. The correction of any damage to the tree or replacement of the tree shall be at the permit holder's cost and shall be accomplished by a tree trimmer licensed under SRC chapter 30. The City will not be responsible for damage to any attachments or associated devices related to the lighting under this permit. In addition, the City shall not be responsible for the cost associated with the repair or installation of replacement materials.
- (6) *Permit required to plant trees on City property.* It shall be unlawful for any person to plant trees, tree seeds, or seedlings, or to cause or authorize or procure any person to do so, in or upon any City property or alleys without obtaining from the Director a written permit to do so, or obtaining approval of a landscape plan pursuant to SRC 807.020, and without first complying in all respects with the conditions set forth in such permit or approval and with the provisions of this chapter.
- (b) City projects and programs do not require a permit. ~~will be considered in compliance with the~~

~~permitting requirements of SRC 86.030(a) and this section where the City projects and programs shall comply~~ complies with applicable standards and criteria of this chapter, applicable Public Works Design Standards, and input from the City's Urban Forester. The process for City projects to seek input from the City's Urban Forester shall be described in the administrative rules issued pursuant to this chapter.

(c) ~~The Director may refer any permit decision to the Salem Parks and Recreation Advisory Board SPRAB at the sole discretion of the Director for final decision. The Director may refer consideration of City projects pursuant to SRC 86.053.~~

(d) ~~An application for a permit shall be submitted on a form provided by the Director, along with the applicable permit application fee. Incomplete applications or applications submitted without the required fee will be rejected. The Director may adopt administrative rules establishing the processes and procedures necessary to obtain a permit under this section, as well as the manner in which activities conducted pursuant to a permit are carried out.~~ Activities conducted under a permit issued pursuant to this chapter must comply with the administrative rules issued pursuant to this chapter, as well as any other applicable administrative rules issued by the Director.

(e) The Director may require additional information from an applicant depending on the circumstances of the request.

(f) Removal of City trees under a written permit may be done by any licensed general contractor or licensed tree trimmer; any other work done to City trees under written permit must be performed by a City licensed tree trimmer in strict accordance with the terms of the permit, the provisions of this chapter, and all applicable design standards.

Sec. 86.053. Director referral.

(a) ~~The Director may refer a City project that contemplates removal of a City tree to SPRAB for purposes of authorizing or denying the removal of a City tree. City projects that contemplate removal of a City tree that is subject to a land use decision may not be referred if the land use decision authorizes the tree removal.~~

(b) ~~When a City Project is referred to SPRAB, the referral is project-specific. Whether the goals of the City project could be achieved elsewhere is beyond the scope of SPRAB's referral. SPRAB shall consider the following:~~

(1) The goals of the project;

(2) The necessity of removing the tree in order to achieve the goals of the project;

(3) The health, longevity, historical significance, and environmental efficacy of the tree being considered for removal. By way of illustration but not limitation, efficacy of a tree includes

the tree's ability to capture carbon dioxide; the shade the tree provides to the surrounding area; the obstruction by the tree of views; the damage being done by the tree to surrounding property or infrastructure; and the habitat for wildlife provided by the tree;

(4) The options considered other than removing the tree that are provided in the reasonable alternative analysis that was prepared pursuant to the applicable administrative rule;

(5) The criteria for tree removal listed in SRC 86.090(a);

(6) The adequacy of the mitigation plan proposed by the City's Urban Forester; and

(7) The community benefits of the project when weighed against the consequences of the removal of the tree, with a preference for preservation of the tree when practicable to do so.

(c) If additional mitigation beyond that recommended by the Urban Forester would, in the opinion of SPRAB, allow for the project to be built as designed, SPRAB may issue a conditional approval and recommend such additional mitigation as SPRAB deems appropriate.

Sec. 86.060. Fees.

Fees for applications and other related services provided by the City under this chapter, including variances and appeals, shall be set by resolution of the Council. Fees shall be paid at the time the application is submitted or, if no application is required, at the time the request for a particular service is made. For applications or services requiring payment of a deposit, the amount of the deposit shall be credited against the exact final calculated costs. If applicable, any unused portion of the deposit shall be refunded once all incurred fees are paid. Applications submitted without the applicable fee or deposit shall be rejected.

Sec. 86.070. Tree pruning and treating criteria.

A permit to prune or treat a City tree may be granted if one or more of the following criteria are met, as determined by the Director:

(a) A City tree is encroaching onto private property and causing injury to privately-owned trees or shrubs.

(b) A City tree is having an adverse effect on adjacent infrastructure or buildings that may be resolved by pruning or treatment.

(c) A City tree's branches pose a threat to utility lines, cables, or other overhead structures.

(d) The pruning or treatment proposed is unlikely to harm the City tree, public health or safety, or environmental health.

(e) A City tree is obstructing clearance areas/zones as established in applicable administrative rules or Public Works Design Standards.

(f) A City tree is at imminent risk of becoming infected or infested.

Sec 86.075. Review of City tree removal plans in conjunction with land use approval

(a) Applicability. A City tree removal plan is required in conjunction with any development activity requiring land use approval under SRC Chapter 300 that proposes to remove a City tree.

(b) Submittal requirements. A City tree removal plan shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Director, identifying the type, size, and location of all existing City trees abutting the development site and depicting which trees are proposed for removal;

(2) An assessment of reasonable alternatives per the applicable administrative rule, which includes an evaluation based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3.)

(c) Procedure type. A City tree removal plan is processed as a Type I procedure under SRC Chapter 300.

(d) Decision. The Director shall approve or deny the application according to the applicable administrative rules, standards, and criteria. The decision shall be a written order.

(e) Notice of Decision. Notice of the decision shall be delivered to the applicant and to the Planning Administrator. The notice shall include the case number of the land use approval necessitating removal of the tree or trees, and a statement regarding how the applicant may appeal the decision for the land use decision that generated the need for City tree removal.

(f) Appeals. Any party objecting to the Director's decision regarding the street tree removal plan application may do so by appealing the decision of the land use application that necessitated the City tree removal pursuant to procedures in SRC Chapter 300. The appeal body may affirm, deny, or modify the Director's approval or denial of the City tree removal plan in conjunction with the overall land use decision.

(g) Effective Date. The Director's decision becomes effective concurrent with the effective date of the land use decision that necessitated the City tree removal.

Sec 86.076. Adjustments to approved City tree removal plans

(a) Applicability. No tree designated for preservation in an approved City tree removal plan shall be removed unless a City tree removal plan adjustment has been approved pursuant to this section.

(b) Submittal requirements. A City tree removal plan adjustment application shall include the following:

- (1) The approved City tree removal plan
- (2) A site plan, of a size and form and in the number of copies meeting the standards established by the Director, identifying the type, size, location of all existing City trees abutting the development site and depicting the adjustments to the approved City tree removal plan
- (3) An assessment of reasonable alternatives per the applicable administrative rule, which includes an evaluation based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3).

(c) Procedure type. A City tree removal plan adjustment is processed as a Type I procedure under SRC Chapter 300.

(d) Notice of Decision. Notice of the decision shall be mailed to the applicant and forwarded to the Planning Administrator. The notice shall include the case number of the land use approval necessitating removal of the tree or trees, and a statement regarding how the applicant may appeal the decision.

(e) Appeals. The decision may be appealed only by the applicant. The Review Authority for an appeal of an adjustment to an approved City tree removal plan shall be the Hearings Officer pursuant to procedures in SRC Chapter 300.

Sec. 86.080. Review of applications for City tree removal not in conjunction with land use approval.

Upon receipt of a complete permit application for City tree removal, the Director shall review the application, and if the application fails to meet the applicable criteria the application shall be denied, and a notice of denial shall be provided to the applicant, which notice shall identify the reasons for the denial. If the application meets the applicable criteria, the Director shall provide written notice to SPRAB and the neighborhood association where the tree or trees are located, and post notice of the approval as near as practicable to the tree or trees to be removed.

(a) The notice shall include the following:

- (1) The name of the applicant;
- (2) The location of the tree or trees subject to the decision;
- (3) A reference to the criteria or standards applicable to the decision;
- (4) A statement that interested persons may appeal the decision pursuant to SRC 86.095; and
- (5) The effective date of the decision if no appeal is filed.

(b) The notice shall be provided to the neighborhood association and posted a minimum of 30 days prior to the effective date of the decision.

(c) Effective date. A decision to approve a permit application for City tree removal shall be effective no earlier than 30 calendar days after the decision has been issued, unless an appeal has been filed, and any appeal fee paid.

Sec. 86.085. Removal of ~~city~~ trees in the right-of-way in historic districts and or abutting city City-owned designated historic sites.

~~(a) In addition to the requirements in this chapter, an application to remove a City tree that is a historic contributing object or within a City-owned historic site, as those terms are defined in SRC Chapter 230, shall be subject to Historic Design Review under SRC Chapter 230.~~

(a) In addition to the requirements in this chapter, an application to remove a tree in the right-of-way that is located in an historic district or abutting a City-owned historic resource shall include a determination from the City's Planning Division indicating whether the City tree is contributing to the historic district or resource in which it is located.

(b) If the tree proposed for removal is contributing to the historic district or resource in which it is located then, in addition to the requirements of this chapter, the application must include a written opinion from a Certified Arborist, including the facts supporting the opinion, that the application meets the requirements for approval set forth in this chapter.

~~(b)(c)~~ Replanting, in conformance with the Public Works Design Standards, shall be required upon removal of any City tree located in the right-of-way within a local historic district, a National Register historic district, or abutting a City-owned designated historic resource. site. Waiver of this requirement may only be granted through Historic Design Review a zoning adjustment under SRC Chapter 230250.

Sec. 86.090. City tree removal criteria.

(a) A permit to remove a City tree may be granted if one or more of the following criteria are met, as determined by the Director:

- (1) The tree is dead.
- (2) The tree is in an advanced state of decline.
- (3) The tree is structurally unsound and poses an imminent risk to person or property, as determined by a tree risk assessment, and when the risk cannot be mitigated or the tree cannot be made sound by accepted arboricultural practices.
- (4) The tree is infected, or at imminent risk of becoming infected, with an acute fatal disease that cannot be treated successfully or there is a strong potential that the pathogen could spread and kill other trees in the immediate vicinity (e.g., Dutch Elm Disease).
- (5) The tree is infested, or at imminent risk of becoming infested, with an insect that cannot be

treated successfully or there is a high likelihood that the infestation could spread and kill other trees or vegetation in the immediate vicinity (e.g., Emerald Ash Borer).

- (6) When City trees have been planted too close to each other based on administrative rules and the spacing causes an adverse effect on neighboring trees. The tree with the greatest vigor will remain unless it meets other criteria for removal. The applicant shall bear the cost of tree and stump removal.
 - (7) When past pruning and other tree maintenance practices, other than required electrical line clearance, has destroyed the natural shape of the tree or caused the tree to go into decline.
 - (8) The Director may permit the removal of a City tree due to construction if there is no reasonable alternative. The applicant shall be required to bear all cost of the tree's removal and replacement. Prior to the Director issuing a permit authorizing removal of a City tree, the applicant must submit an assessment of reasonable alternatives per the applicable administrative rule, which includes an evaluation based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3).
 - (9) The Director may permit the removal of a City tree if the tree is having an adverse effect on adjacent infrastructure and that effect cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices. Prior to the Director issuing a permit authorizing removal of a City tree, the applicant must submit an assessment of reasonable alternatives per the applicable administrative rule that is based, in part, on the classification of the tree (i.e., Class 1, Class 2, or Class 3).
- (b) Except as provided in SRC 86.085~~(b)~~(c), if a tree is removed pursuant to subsection (a)(8) of this section, the tree will be replaced in conformance with the applicable administrative rules and Public Works Design Standards.
- (c) The City shall not permit the removal of a City tree for any other reason, including, but not limited to, the following, unless the criteria for a variance has been approved:
- (1) Dropping of leaves, flowers, seeds, bark, sap, stems, pests, or other matter.
 - (2) Improvement or maintenance of views.
 - (3) Competition with turf or impact on non-plant landscaping (e.g., mulch or gravel).
 - (4) Common allergies.
 - (5) Damage to items that have been placed too close to the trunk such as pavers, bricks, blocks and concrete.
- (d) Removals by City.

- (1) Where the City proposes to remove a City tree smaller than ten inches dbh, no posting shall be required.
 - (2) Where the City proposes to remove a City tree larger than ten inches dbh, the City shall post notice of the removal as near as practicable to the tree to be removed for a period of 15 days prior to the removal.
 - (3) Where the City has determined that an emergency exists, no posting shall be required.
 - ~~(3)~~(4) No appeals of decisions related to removals by the City shall be allowed, unless part of another decision which provides for an appeal.
- (e) Removals pursuant to City tree removal plans.

- (1) Where an approved City tree removal plan or an adjusted plan specifies removal of a City tree, no posting shall be required.
- (2) No appeals of decisions for removals related to an approved City tree removal plan or an adjusted plan shall be allowed unless part of another decision that provides for an appeal.

Sec. 86.095. Appeal of decisions or orders not in conjunction with land use approval.

- (a) General. Except as otherwise provided in this chapter, An appeal of a decision on a permit application issued by the Director shall be to ~~the Salem Parks and Recreation Advisory Board~~ SPRAB. The appeal decision by ~~the Salem Parks and Recreation Advisory Board~~ SPRAB is final; no further appeal or review shall be available. The Director shall send notice of the appeal decision issued by ~~the Salem Parks and Recreation Advisory Board~~ SPRAB to the applicant, the applicable neighborhood association, and any person that participated in the appeal.
- (b) Director order. Except as otherwise provided for in this chapter, an appeal of an order issued by the Director shall be governed by SRC chapter 20J.
- (c) *Standing to appeal.*
- (1) Permit application decisions. The applicant, the applicable neighborhood association where the tree or trees are located, and any interested person shall have standing to appeal a decision on a permit application by filing a notice of intent to appeal with the Director. In the event a permit application or variance is denied by the City and the applicant appeals the denial, the City shall provide written notice of appeal to the applicable neighborhood association, and post notice of appeal for 30 calendar days as near as practicable to the tree or trees at issue. The notice of appeal shall include the following:
 - (A) The name of the applicant;
 - (B) The location of the tree or trees subject to the decision;

- (C) A reference to the criteria or standards applicable to the decision;
- (D) The date, time and place of the hearing on the appeal; and
- (E) A statement that any interested person may participate in the appeal by submitting written testimony, or by appearing in person to testify at the hearing.

(2) Director order. ~~The~~ Only the property owner or the person to whom the order is issued has standing to appeal an order issued by the Director under this chapter.

(d) *Notice of intent to appeal.* A written notice of intent to appeal allowed by this chapter shall be filed with the Director not later than ~~30~~15 calendar days after the date the decision was issued. The notice of intent to appeal shall state the basis of the appeal and why the decision was in error, and shall be accompanied by the nonrefundable appeal fee as set by Council.

(e) *Appeal procedures.* The Director shall provide rules of the procedure of appeals to ~~the Salem Parks and Recreation Advisory Board~~SPRAB under this chapter by administrative rule.

Sec. 86.100. ~~Master city~~ City tree plan.

(a) A ~~master street~~ City tree plan may be prepared by the Director for the downtown historic district and central business district with the advice of ~~the Salem Parks and Recreation Advisory Board~~SPRAB.

This plan shall be consistent with this chapter and shall include policies and guidelines that:

- (1) Provide for the preservation of Heritage Trees.
- (2) Encourage the preservation of trees in construction areas when ~~said~~ City trees are desirable types and in healthy condition.

(b) A ~~master street~~City tree plan may be prepared for other areas of the City, including other historic districts and City owned historic resources and sites.

Sec. 86.105. Enforcement.

(a) *Order to abutting property owner to prune trees and shrubs.* Whenever the property owner, or the property owner's lessee, occupant, or person in charge of abutting property shall neglect or refuse to prune any tree, shrub, or plant provided in SRC 86.015, the Director may serve upon such owner, lessee, occupant, or person in charge of abutting property a written order to prune or remove such trees, shrubs, or plants within ten days after the giving of such order, and in case such owner, lessees, occupants, or person in charge of abutting property fail to do so, such persons shall be in violation of this chapter and subject to the penalties provided by SRC 86.120. Such order shall be served upon the property owner, lessees, occupants, or person in charge of the abutting property by regular mail to the last known address of said person or persons.

(b) *Notice by City upon failure of abutting property owner.* If the property owner, or the property

owner's lessee, occupant, or person in charge of the abutting property, shall fail and neglect to trim such trees, shrubs, or plants within ten days after receiving the order provided for in SRC 86.105(a), the Director may cause such trees, shrubs, or plants to be trimmed or removed.

(c) *Costs of restoration.* Persons violating this chapter, or a permit issued hereunder, shall be responsible for the cost of the City to restore ~~restoring~~ damaged areas. ~~in conformance with a plan approved by the Director that provides for repair of any environmental or property damage and restoration of the site.~~ Costs of restoration shall be not less than those determined equal to the monetary value of the regulated trees removed in violation of this chapter, or permit issued hereunder, as set forth in ~~an appraisal acceptable to the Director and based upon applicable administrative rules.~~ Each removal of a regulated tree in violation of this chapter shall result in a separate civil fine in addition to costs of restoration.

Sec. 86.110. Statement of costs; billing and collection procedures.

(a) _____ Where the Director takes action under SRC 86.105(b), the Director shall keep an accurate account of the costs of enforcing this chapter. The Director shall invoice each affected property owner for the amount due the City, which shall include an amount equal to ten percent of the cost of labor and materials to defray administrative costs of enforcing this chapter. The affected property owner shall have 15 business days to file objections to the costs. If no objections are filed within the 15-day period, the Director may pursue all remedies available at law or equity, including referral to a collection agency. Collection of costs, fees, and penalties may be, in addition to any other remedy provided for by law, pursued through a contract collection agency or small claims court or entered into the City's lien docket in the manner provided by SRC 20J.410 and a lien for the entire amount placed against the real property pursuant to SRC 20J.180.

(b) All fines and penalties collected pursuant to this chapter, including those related to the cost of restoration and appraised monetary value of regulated trees, shall be deposited into the City Tree Fund. All other administrative costs related to enforcing this chapter shall be applied to the General Fund

Sec. 86.120. Stop work orders; permit revocation; civil penalties; enforcement.

(a) Stop work orders and permit revocation. The Director may suspend work or revoke a permit specifying the basis for the suspension or revocation that must be remedied prior to resuming other work on the project, upon a finding that:

- (1) The work is not authorized by a valid permit;
- (2) Inaccurate information was used to obtain the permit;
- (3) The applicant is not complying with the terms of the permit or this chapter;

- (4) The work is, or threatens to become, risk to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way; or is otherwise adversely affecting the public health, safety, or welfare; or
- (5) The permit was issued in error.
- (b) *Rescinding a stop work order or revocation.* Penalty fees shall be paid to the City and deposited to the Salem City Tree Fund as required before a stop work order or permit revocation is rescinded.
- (c) *Civil penalty.* Any person who fails to comply with the requirements of this chapter, or the terms of a permit issued hereunder; who undertakes an activity regulated by this chapter without first obtaining a permit; or who fails to comply with a stop work order issued pursuant to this chapter, shall be subject to a civil penalty and associated costs and appraisals.
- (1) Unauthorized City tree removal shall be subject to a civil penalty not to exceed \$2,000.00 per violation. The civil penalty shall be determined in accordance with the applicable administrative rule and will be based, in part, on the class of tree removed. The civil penalty is in addition to the cost of restoration pursuant to SRC 86.105(c) plus the value of the tree as calculated in accordance with the applicable administrative rule. ~~in addition to the value of the tree as calculated in accordance with applicable administrative rules (or in the absence of administrative rules, in accordance with the most current edition of Council of Tree and Landscape Appraisers "Guide for Plant Appraisal").~~
- (2) All other violations shall be subject to a civil penalty not to exceed \$2,000.00 per violation. Each day that a violation continues shall constitute a separate violation.
- (d) *Civil penalties against agents.* Any person who acts as the agent of, or otherwise assists, a person who engages in an activity that would be subject to a civil penalty may likewise be subject to a civil penalty.
- (e) *Injunctive relief.* The City may seek injunctive relief against any person who has willfully engaged in violation of this chapter, such relief to be in effect for a period not to exceed five years.
- (f) *License Revocation.* Violation of this chapter shall be grounds for denial, revocation, or refusal to renew a tree trimmer license issued by the City.

Stewarding Our Oregon Oaks Project: Willamette University

Website: <https://growing-oaks.wixsite.com/my-site-4>

Email: growing-oaks@willamette.edu

November 5, 2022

Salem Public Works Department, 555 Liberty Street SE, Room 325, Salem, Oregon 97301.

RE: SRC CHAPTER 86 UPDATES

To the Salem Planning Commission,

We are a group of students from Willamette University promoting the growth and protection of the Oregon white oak through our grant-funded project: Stewarding Our Oregon Oaks. We would like to propose the following definitions be added to Salem Revised Code (SRC) Chapter 86, pursuant to proposed change C in the public hearing notice:

- *Heritage tree* means a tree designated as a heritage tree pursuant to SRC 808.010(a) (The Council may, by resolution, designate a heritage tree upon nomination by the property owner, in recognition of the tree's location, size, or age; botanical interest; or historic or cultural significance)
- *Significant tree* means:
 - (a) A rare, threatened, or endangered tree of any size, as defined or designated under state or federal law and included in the tree and vegetation technical manual;
 - (b) An Oregon white oak (*Quercus garryana*) with a dbh of 20 inches or greater; and
 - (c) Any other tree with a dbh of 30 inches or greater, but excluding:
 - (1) Tree of heaven (*Ailanthus altissima*);
 - (2) Empress tree (*Paulownia tomentosa*);
 - (3) Black cottonwood (*Populus trichocarpa*); and
 - (4) Black locust (*Robinia pseudoacacia*).

We also propose the following amendments to each upon their addition to Section 86:

- Oregon white oaks be added under the heritage tree definition as a new subsection, a heritage species, thus granting any tree of the species the same protections given to individually designated heritage trees.

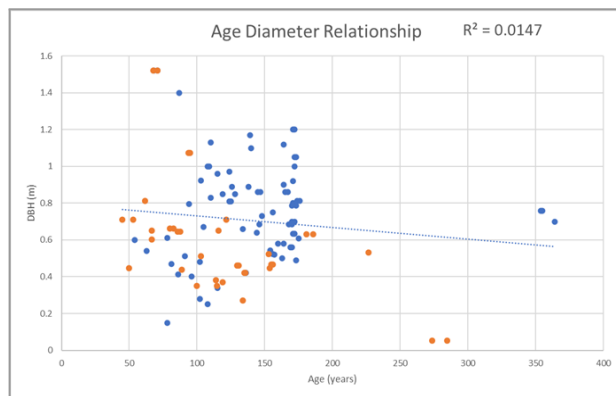
OR:

- The threshold for an Oregon white oak's designation as a significant tree be lowered from a dbh of 20 inches to 16 inches.

Our project believes that all Oregon white oaks are valuable to our community, both as a cultural and historical beacon and as a significant indicator and contributor to wildlife in Salem and the Willamette Valley.

The Oregon white oak has a large cultural significance due to its deep connection with the indigenous peoples of the Willamette Valley. According to [Oregon Encyclopedia](#), Native Americans created controlled fires to keep the oaks' habitat, the oak savanna, open for hunting and herb collection; they also used their acorns for soup, bread, or other traditional recipes. However, after the arrival of white colonizers and the [subsequent genocide](#) of the Kalapuya tribes, these practices were forced to end. The results have been both long-lasting and [devastating](#) for the species, with an estimated 15% of its original, pre-colonial habitat remaining. As a part of our [mission](#), Growing Oaks advocates for the preservation of Oregon white oak habitats as a form of racial justice and reconciliation with indigenous groups, and we feel that this is not achievable under the current city codes.

Due to this cultural significance and the Oregon white oak's long standing relationship with the indigenous people of the Willamette Valley, it is especially essential to protect older trees that harbor the most history. However, age in Oregon white oak trees is highly difficult to determine based on external features alone, as no significant relationship has been shown between diameter and age. A survey was done by the [Oak Salvage](#) project of 153 trees, of which 42% were able to be aged and measured. When these 64 data points are plotted on a graph (right), the line of best fit has a very low coefficient of determination. The correlation between dbh (diameter at breast height), the current indicator of tree value under Salem city codes, and age is therefore shown to be very insignificant: according to this study, only 1.47% of the variability observed in age is determined by dbh. Given how much variation is present, it is better to take a cautious, conservative approach to the dbh threshold, thus protecting more historical landmarks instead of less.



The biodiversity Oregon white oaks provide to their environments is also a key factor in their importance and the need for their preservation. Oregon white oaks provide shelter, food, and habitat to [over 200 species](#) of animals and insects, including several threatened or endangered species, as well as mycorrhizal fungi that reside in the root systems of older trees. The aforementioned destruction of much of their habitat has also directly impacted many of these species, and it is critical to conserve as many of these remaining trees as possible.

We believe that the best way to protect this vital species is through the changes to Salem Revised Code (SRC) Chapter 86 previously outlined. Thank you for your time and consideration.

Sincerely,
The Growing Oaks Team



November 4, 2022

Laurel Christian
Development Services Planner II
City of Salem
555 Liberty Street SE, Room 325
Salem, OR 97301

RE: Code Amendment Case No. CA22-03

Ms. Christian,

Thank you for the opportunity to offer written testimony on the proposed amendments to Salem Revised Code Chapter 86 (SRC 86). AKS Engineering & Forestry, LLC has relevant experience in complying with these requirements on a variety of projects. We hope our experience is valuable to the refinement of SRC 86 and we appreciate your consideration of our input.

Compliance with SRC 86 has been problematic where tree removal is necessary to construct public street improvements when they are conditioned by the City in a land use decision. When constructed, these infrastructure improvements are dedicated to the City to deliver essential services such as transportation, sewer, water, and stormwater management facilities that benefit the citizens of Salem. The problems arise from the conflicting and competing public work standards that govern the design of these essential facilities and street tree preservation. Typically, the facilities are constructed as part of boundary street improvements in conjunction with a Subdivision, or street frontage improvements in conjunction with a Site Plan Review or Design Review for multiple family projects. In other jurisdictions we serve, it is uncommon that a standalone or additional process to remove street trees is required in situations where public improvements warrant such tree removal.

The current and amended process under SRC 86 complicates and adds uncertainty to the development process in the following ways:

- The process for evaluating reasonable alternatives under proposed SRC 86.075(b)(2) is not clear or objective. The code is unclear as to what alternatives are reasonable to include in the evaluation, how many alternatives require evaluation, and the degree to which the Director is willing to deviate from the objective public works design standards to entertain those alternatives.
- The definitions of the tree classifications under proposed SRC 86.010 rely heavily on subjective and value laden language (e.g. “exceptional ecologic, aesthetic, or historic qualities”, “healthy, structurally stable”, and “viable lifespan”). The subjective nature of the tree classification definitions prevent an Applicant from preparing a reasonable alternatives analysis with an acceptable degree of certainty that the relevant trees are included in the analysis.
- The subjective and discretionary nature of the process is not appropriate for a Type I application. Type I procedures are used when there are clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment in their application (SRC 300.100 Table 300-1). As discussed previously, the process for identifying alternatives that are included in the reasonable alternatives analysis, the definitions of the tree classifications under SRC 86.010, and the Director’s willingness to deviate from the objective public works design standards to

entertain alternative street designs all involve subjective and value-laden policy judgements that are outside the scope of the Type I process.

- The subjective nature of the process means that it cannot be applied to applications for housing projects, including Subdivision applications and multifamily housing projects that require Design Review and Site Plan Review. ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the creation of housing, and such standards, conditions, and procedures cannot have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay. As previously discussed, the proposed process relies heavily on subjective and value laden language that runs afoul of ORS 197.307(4). For this reason, the process cannot be applied to housing applications.
- The City implicitly acknowledges the challenges in complying with these procedures by exempting City projects from the permitting requirements in SRC 86 (proposed SRC 86.050(b)). The permitting process for public infrastructure projects required in conjunction with land use approvals should be exempt from these requirements in the same way that City-initiated public infrastructure projects are exempt.

Please consider the following suggestions for addressing the deficiencies in the current draft of the amendment that relate to the construction of public improvements required by land use decisions:

- Treat these essential public improvements the same way the City-initiated public improvements are treated by exempting them from the permitting requirements under SRC 86.
- Revise the definition of Class 1 trees by striking the subjective language under proposed subsection (C) as follows:
Class 1 Tree means a tree that is healthy, structurally stable, and is one of the following: (A) a Heritage Tree; (B) a "significant tree" pursuant to SRC 808.005.; or (C) a tree with exceptional ecological, aesthetic, or historic qualities as determined by the City Forester or Planning Administrator.
- Revise the definitions of Class 2 and Class 3 trees to be consistent with the definition of *tree* in SRC 808.005 (10 inches or more DBH).

This is not an exhaustive list of suggestions. We encourage the City to review SRC 86 to make the process as clear, objective, and transparent as possible. Thank you for the opportunity to provide feedback on this amendment. We appreciate your thoughtful consideration of our input.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC



Curt Fisher, Land Use Planner
3700 River Rd N, Suite 1, Keizer, OR 97303
(503) 400-6028 | fisherc@aks-eng.com



Laurel Christian

From: Roz Shirack <rozshirack7@gmail.com>
Sent: Thursday, November 10, 2022 2:33 PM
To: Shelby Guizar
Cc: Laurel Christian
Subject: Public Works Code Amendment Case No. CA22-03 to Chapter 86 (Trees on City Owned Property)

SCAN Comments for Planning Commission's November 15, 2022, public hearing, item 5.1:

The SCAN Land Use Committee has reviewed the proposed amendments to chapter 86 and supports the staff report.

Thank you,
Roz Shirack, Chair
SCAN Land Use Committee