



**CITY OF SILVERTON – PLANNING COMMISSION
WORK SESSION**

Silverton City Council Chambers
421 S. Water Street

Meeting to be held in person with a virtual option

August 22, 2023 - 6:00 PM

Zoom Meeting Link

<https://us02web.zoom.us/j/89331196124>

Dial in

253 215 8782 US (Tacoma)

Webinar ID: 893 3119 6124

AGENDA

I. ROLL CALL

II. BUSINESS FROM THE FLOOR

Items not on the Agenda.

III. AGENDA ITEM

- 3.1** A presentation by members of the Environmental Management Committee (EMC) regarding the Tree related Development Code Amendments.

Environmental Management Committee Potential Quorum Notice - A quorum of the EMC may be at the Planning Commission Work Session.

IV. REPORTS AND COMMUNICATIONS

V. ADJOURNMENT

Americans with Disabilities Act – The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City at 503-874-2216 at least 48 hours prior to the meeting.

Please submit written comments to Jgottgetreu@silverton.or.us prior to the meeting time. Comments received will be shared with Planning Commission at the meeting and included in the record. Comments may be mailed to City Hall at 306 S Water Street or delivered to City Hall during regular business hours.

Chapter 3.6 TREES

Sections:

- 3.6.100 Purpose.**
- 3.6.110 Definitions**
- 3.6.120 Administration**
- 3.6.130 Creation and Establishment of the Urban Tree Committee**
- 3.6.140 Creation of a Tree Fund**
- 3.6.150 Tree Preservation**
- 3.6.160 Street Trees**
- 3.6.170 Street Tree and Tree Crown Area Reference List**
- 3.6.180 Tree Permit Procedures & Requirements**
- 3.6.190 Fee Schedule**
- 3.6.200 Technical Specifications**
- 3.6.210 Enforcement**

3.6.100 Purpose

The regulations of this Chapter support and complement other City development requirements, with a focus on achieving baseline tree preservation and total tree capacity on a site, considering the anticipated use and level of development. This Chapter regulates the removal, protection and planting of trees through the development process to encourage development, where practicable, to incorporate existing trees, particularly high quality or larger trees and groves, into the site design, to retain sufficient space to plant new trees, and to ensure suitable tree replacement when trees are removed. It is the intent of these provisions to lessen the impact of tree removal and to ensure mitigation when tree preservation standards are not met.

3.6.110 Definitions

The following definitions will apply for terminology used in this chapter. If a definition is not listed in this chapter, the definition in Chapter 1.5 will apply. Where definitions are not provided in this chapter or Chapter 1.5, their normal dictionary meaning will apply:

“Arboriculture” means the practice and study of the care of trees and other woody plants in the landscape.

“Certified arborist” means a person certified by the International Society of Arboriculture (ISA) as having specialized knowledge, experience, and training related to arboriculture.

“City” means the City of Silverton.

“City Engineer” means the City Engineer of the City of Silverton or designee.

“City Manager” means the City Manager or the City Manager’s authorized representative or designee.

“City Tree Commission” means City Planning Commission.

“City trees” means trees located on property designated as city property, including public parks, and trees located in public right-of-way not defined as street right-of-way.

Commented [1]: should use the new list being proposed by EMC group of Urban Forestry experts.

Commented [2]: Street Tree list sent through

Commented [3]: If this Chapter is meant to replace Chapter 3.2, the purpose of Chapter 3.2 should be folded in here:

The purpose of this chapter is to promote community health, safety, and welfare by protecting natural vegetation and setting development standards for landscaping, street trees, fences, and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health, and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees, and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces.

Commented [4]: Committee agrees to include.

Commented [5]: replace with "maximize urban forest canopy"

Commented [6]: Committee approves

Commented [7]: This is basically the mission statement for this entire Chapter. I don't like that it is centered on "the development process" and the wording includes "encourage development." This Chapter is intended to protect trees across the board, not only in the context of development. A better mission statement might be:

"This Chapter regulates the removal of trees on public and private property, provides protections for significant trees, including heritage trees, and stipulates requirements that new development incorporate existing significant trees and groves into the site design to the fullest practicable extent, as well as to retain sufficient space to plant new, suitable trees when trees must be removed."

Commented [8]: Change "removal" to "removal and retention"
Committee agrees

Commented [9]: Statement of intent. We should be shooting much higher than to "lessen the impact" of removal and "ensure mitigation." A stronger statement of intent might be:

"It is the intent of these provisions to identify and maintain the City's significant tree stock, to confine removal of significant trees to a last resort, and to ensure ecologically suitable mitigation when tree preservation cannot be achieved."

Commented [10]: Cut "significant" from the sentence.
Committee approves.

"Construction Staging Area" means a designated area for the storage of equipment and vehicles, stockpiles, waste bins, and other construction-related materials during a construction project. Any construction trailers are to be included in the construction staging area. In some cases, more than one staging area may be established on site.

"Council of Tree and Landscape Appraisers (CTLA)" means the publishers of the Guide for Plant Appraisal.

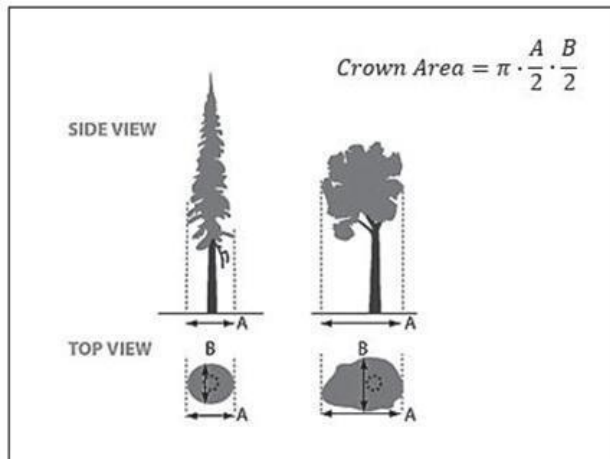
"Critical root zone" means the distance extending out from and surrounding a tree trunk. The critical root zone distance is calculated by multiplying the diameter of the tree, in inches, measured at four and one-half feet above the mean ground level, by 18 or the canopy drip line of the tree, whichever is larger. For example, a tree with a diameter of two inches would have a critical root zone of 36 (two times 18) inches all around the tree.

"Crown" means area of the tree above the ground, measured in mass, volume, or area extending from the trunk and including the branches, stems, leaves, and reproductive structures.

"Crown area" means the average area in square feet that the tree crown covers (Figure 3.6.110-1).

"Crown cover" means the area directly beneath the crown and within the drip-line of a tree or shrub. The crown consists of the above ground branches, stems, and leaves.

**Figure 3.6.110-01
Measuring Crown Area**



"Cutting" means the felling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. Cutting does not include normal trimming or pruning but does include topping of trees.

"DBH" means the diameter at breast height.

Commented [11]: Add (from Chapter 3.2): "Conservation" means maintaining significant native trees and vegetation into the landscapes of development and protecting vegetation in sensitive natural areas. The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and replanting. Mature landscaping provides summer shade and wind breaks, controls erosion, and allows for water conservation due to larger plants having established root systems.

Commented [12]: Input needed from Eric on the value and appropriateness of this source.

Commented [13]: Eric confirms appropriateness.

Commented [14]: add abbreviation, DBH

Commented [15]: should be: height, as measured at four and one-half feet above ground. Say, 'See Diameter at Breast Height below', or include the full definition with how to measure DBH on a hillside, and for multi-stemmed trees. This is an important explainer for measuring trees.

"Dangerous tree" is a tree which in the professional assessment of an expert recognized by the City (such as but not limited to an arborist, professional forester or landscape architect) has a strong likelihood of causing a hazard to life or property.

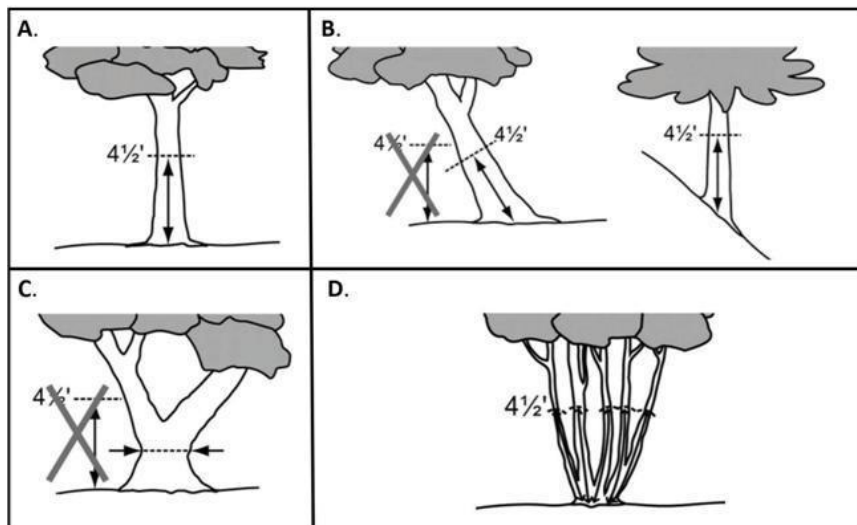
Commented [16]: an ISA certified arborist

"Dead tree" means a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.

"Development Impact Area" is the area on a site affected by proposed site improvements, including buildings, structures, parking and loading areas, landscaping, and paved or graveled areas. The development impact area also refers to areas devoted to storage of materials, or construction activities such as grading, filling, trenching, or other excavation necessary to install utilities or access.

"Diameter at breast height" or "DBH" means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree (Figure 3.6.110-02). The DBH may be determined by measuring the circumference of the tree trunk 4.5 feet above the mean ground level at the base of the tree and dividing by 3.14. Trees existing on slopes are measured at the mean ground level at the base of the tree (Figure 3.6.110-02). When the trunk branches or splits less than 4.5 feet from the ground, measure the smallest circumference below the lowest branch and divide by 3.14 (Figure 3.6.110-02). For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter of the largest trunk to 1/2 the diameter of each additional trunk. A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground (Figure 3.6.110-02).

Figure 3.6.110-02
Measuring Diameter at Breast Height



"Drip-line" means an imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

"Dying tree" means a tree that is diseased, infested by insects, deteriorating, or rotting, as determined by a professional certified in the appropriate field, and that cannot be saved by reasonable treatment or pruning, or a tree that must be removed to prevent the spread of infestation or disease to other trees.

"Fee Schedule" is the schedule of City fees and charges adopted by City Council for the services provided by the City.

"Heritage Tree" is a tree designated as a Historic Landmark Tree, a Historic Tree, or a Heritage Tree.

"Invasive species" means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or identified by the City of Silverton in this Chapter.

"ISA" means the International Society of Arboriculture.

"ISA Best Management Practices" means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

"Major tree pruning" means removal of 20% or more of the live crown, or removal of or injury to 15% or more of the root system during any 12-month period.

"Minor tree pruning" means the trimming or removal of less than 20% of any part of the live crown, or less than 15% of the root system during a 12-month period.

"Owner" means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner's written consent.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns.

"Planter strip" means a landscaped area for city-approved street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk. See also "Tree well." Refer to the City of Silverton list of recommended trees.

"Public agency" means any public agency or public utility as defined in ORS 757.005, or a drainage district organized under ORS Chapter 547.

"Public right-of-way" means land dedication or easement conveyance to the city or other public entity for public use; typically for streets, utilities, parkland and/or similar facilities. Permanent structures, objects and buildings are not allowed to project over or encroach into public rights-of-way, except as allowed by the city for landscaping and trees.

"Public tree" means a tree on land owned or maintained by the City.

"Public Works Director" means the Public Works Director or the director's designee.

"Remove or removal" means to fell or sever a tree or the intentional use of any procedure, the natural result of which is to cause the death or substantial destruction of the tree. Removal does not in any context include normal trimming of trees.

"Responsible Party" is a person in control of property in fee ownership or tenancy where a tree is located or property adjacent to a street tree. The responsible party may include the owner or owners, lessees,

Commented [17]: What is "reasonable" in this instance?

Commented [18]: Per Public Works Director, "reasonable" results in determination being made by City staff. Public Works Director and Planning Director sign off on tree removal requests. Public Works Director and staff investigates to start, makes recommendation to and Planning Director.

Tighten up instances of "reasonable." In this instance, the code should identify a qualified professional (staff level or third-party) to determine what is "reasonable."

Committee agrees.

Commented [19]: Add definition: "Grove" is a group of trees that grows close together, generally without many understory bushes or trees.

Commented [20]: Committee Agrees

Commented [21]: Our group asks "what is a group"? What other factors? Wind-buffering, habitat, as examples. By the joint session we can have a proposal.

Commented [22]: This is confusing. "Heritage Trees: Are designated as 1. Historic Landmark 2. A Historic Tree. 3. Heritage Tree??

Commented [23]: Reference existing Title 12 definition

Commented [24]: 12.60.080 Heritage trees.

The historic landmarks commission may designate certain trees as "heritage trees" within the city with the consent of the owner(s) of record. The purpose of the heritage tree designation is to recognize, foster

Commented [25]: The City has formally recognized Heritage Trees for their unique size, age, and historic

Commented [26]: See" 12.60.080

Commented [27]: Reference, dovetail, incorporate, as determined in joint work session with Planning

Commented [28]: Elyce thank you for your editing.

Formatted: Pattern: Clear (Custom Color(RGB(241,194,50))), Not Highlight

Formatted: Pattern: Clear (Custom Color(RGB(241,194,50))), Not Highlight

Formatted: Pattern: Clear (Custom Color(RGB(241,194,50)))

Commented [29]: Add definition: "Heritage Grove" is a grove that has been formally

Commented [30]: Add: "Low Impact Development" is a development method that allows natural infiltration

Commented [31]: Eric advises to think about where this gets incorporated.

Commented [32]: revise to "infiltration of rainfall"

tenants, occupants or other persons in charge. In cases of violations, the responsible party may also include the person, partnership, or corporation who violated the provisions of this Chapter.

"Significant tree" means:

1. Any tree meeting the threshold standards in ~~SDC 3.2.200~~ Section 3.6.150, and those that are located within a sensitive land area as identified by the comprehensive plan or any refinement of the comprehensive plan, or as inventoried through the development review process. See also environment-related definitions in SDC ~~1.5.300 and 3.2.200~~;
2. Any tree designated as a heritage tree as set forth under ~~SMC 12.60.080~~ Section 3.6.150.
3. ~~Significant Trees~~ ~~Vegetation~~; "Significant trees-vegetation" means ~~street trees and plants within designated sensitive land areas such as floodplains, hillside protection areas, and wetlands, and trees not within such area that have a caliper of six inches or larger at four 4.5 feet above grade; except that protection shall not be required for nonnative, invasive trees-plants (blackberries, poison-oak, poison-ivy, etc.) and any plants~~ trees designated by the city as prohibited.

"Street tree" means a city-approved tree planted in a planter strip or tree well in a city street right-of-way. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree. ~~See the City of Silverton recommended list of trees.~~

~~"Street Tree and Tree Crown Area Reference List" is the list of~~ includes tree species approved by the City for planting ~~within the right-of-way and tree crown calculations for residential development.~~

"Topping" means the inappropriate pruning practice used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not include acceptable pruning practices as described in the American National Standards Institute (ANSI) "A300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material. Topping is considered "removal".

"Tree" means a self-supporting, perennial woody plant characterized by one main trunk or in some cases multiple trunks, and one main canopy of leaves, usually growing to a height of 15 feet or higher.

"Tree Board" means the City of Silverton Urban Tree ~~Committee.~~

"Tree canopy" means the ground area that, when viewed from above the crown of one or more trees, is mostly covered by the tree (s). For deciduous trees, canopy area is based on the time of year when foliage is present.

"Tree circumference" means the distance measured around the trunk of a tree at four and a half feet above the mean ground level from the base of the trunk. ~~The circumference of a tree with multiple trunks is determined by adding together the individual trunk circumferences greater than six inches.~~ For multi-stemmed trees, the size is determined by measuring all the trunks, and then adding the total diameter of the largest trunk to 1/2 the diameter of each additional trunk.

"Tree Contractor" means a person licensed to complete tree servicing work by the state of Oregon Construction Contractors Board (CCB).

"Tree Fund" means the Tree Fund as created by this Chapter.

Commented [33]: Every instance of "vegetation" (in terms of protection) has been struck. Where will protections of vegetation be located? It seems most logical to include it within this Chapter and name the Chapter "Tree and Native Vegetation Preservation."

Commented [34]: Committee agrees we need to keep vegetation protections as well.

Commented [35]: this encompass ALL trees larger than 6" DBH which is a pretty small tree. It isn't practical or very useful. It needs to be tightened up with more specificity. See my notes below on page 7.

Commented [36]: I don't see any need in this item to include the caliper info or any info for "trees not within such area..." - Trees not within such area would be covered by item #1 above, which links to Section 3.6.150 - this is where details should go.

Commented [37]: Committee agrees.

Commented [38]: In the definitions section, all we need to do is reference 3.6.150.

Commented [39]: Add: "Stormwater runoff" is any surface water runoff or runoff in channels which results directly either from a rainstorm or from the melting of snow. The U.S. EPA has declared pollution from stormwater runoff to be the nation's largest source of water quality problems.

Commented [40]: Elyce to add reference within code.

Commented [41]: shouldn't this be changed the EMC?

Commented [42]: Should "Tree Board" be replaced with "Environmental Management Committee"?

Commented [43]: yes.

"Tree well" means a planter area cut out of a sidewalk within the street furnishing zone, planted with a street tree and including ground cover or a grate cover; typically used in commercial districts where on-street parking or pedestrian traffic makes the use of a planter strip impracticable.

"Trimming" is the selective removal of plant parts to meet specific goals and objectives, using best practices as set forth by American National Standards Institute (ANSI) A300 Standards.

"Urban forest" means the trees that exist within the City.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

3.6.120 Administration

The Public Works Director is responsible for the implementation and enforcement of this chapter public trees and shall have jurisdiction over all street trees and city trees, including the planting, removal, care, maintenance, and protection thereof. (Ord. 19-14 § 1 (Exh. A), 2019)

The Community Development Director is responsible for the implementation and enforcement of trees located on private property and shall have jurisdiction over all private trees, including the planting, removal, care, maintenance, and protection thereof.

3.6.130 Creation and Establishment of the Urban Tree Committee

The Urban Tree Committee was adopted by Silverton City Council by Resolution 22-24 on October 3, 2022. It is formed as a standing committee, with the purpose of providing advice and feedback to the City Council on programs, practices and decision-making involving all aspects of urban forestry.

A. [Tree Board Composition]. The Tree Board will consist of seven (7) at-will members appointed by City Council on an as-needed basis. Membership will include a member of the City Council, a member of the Planning Commission, and five (5) citizen-members-at-large.

B. Compensation. Members of the Tree Board will serve without compensation.

C. Duties and Responsibilities. The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate and provide advice to City Council on the preservation, pruning, planting, replanting, removal or disposition of the Urban Forest.
2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;
3. Provide outreach and education to the community on tree-related issues and concerns;
4. Provide recommendations to City Council on the allocation of funds from the [Tree Fund].

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

D. Operation. The City Council member will act as Chair for the Tree Board and a City staff member will keep minutes of proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

3.6.140 Creation of a Tree Fund

Commented [44]: Add: "Urban heat islands" are metropolitan places where buildings and pavement cause the area to be hotter than outlying areas, with impacts felt most during summer months. Paved roads, parking lots, and buildings absorb and retain heat during the day and radiate that heat back into the surrounding air.

Commented [45]: Committee agrees

Commented [46]: shouldn't this be reworked to be the EMC?

Commented [47]: If the City Council Resolution named it the Urban Tree Committee, seems like we need to keep that, but as noted in the definitions, change "Tree Board" to the EMC. I think that would allow the EMC to encompass the UTC, but not be limited to it...?

Commented [48]: Committee agrees this needs to be clarified.

Commented [49]: Change to EMC?

Commented [50]: Agreed

Commented [51]: this needs to be cleaned up by (council?). if tree board is EMC, then there is no Planning member.

Commented [52]: agreed.

Commented [53]: This is a surprise! Do we have a member of the Planning Commission on the EMC?

Commented [54]: Remove. This is not a requirement.

Commented [55]: Tree Fund dollars should directly support retention of tree stock. See my note regarding this in 3.6.180.

Commented [56]: Revisit at 3.6.180

Commented [57]: Revise to: "A majority of the members or a minimum of 4 members..."? This would allow the EMC to grow without affecting our ability to meet quorum.

Commented [58]: Not necessary since # is capped at 7.

- A. Establishment. A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.
- B. Funding Sources. The following funding sources may be allocated to the Tree Fund:
 1. Tree permit revenue;
 2. Payments received in lieu of required and/or supplemental plantings;
 3. Civil penalties collected pursuant to this chapter;
 4. Agreed-upon restoration payments or settlements in lieu of penalties;
 5. Sale of trees or wood from City property;
 6. Donations and grants for tree purposes;
 7. Other monies allocated by City Council.
- C. Funding Purposes. The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:
 1. Expanding, maintaining, and preserving the urban forest within the City;
 2. Planting and maintaining trees within the City;
 4. Supporting public education related to urban forestry;
 5. Assessing urban forest canopy coverage; or
 6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

3.6.150 Tree Preservation

A. Heritage Trees.

The Historic Landmarks Commission may designate certain trees as "heritage trees" within the city with the consent of the owner(s) of record. The purpose of the heritage tree designation is to recognize, foster appreciation of, and protect trees having significance to the community. The Historic Landmarks Commission shall have the authority to determine, select, and identify such trees that qualify as heritage trees. Once a tree is designated as a heritage tree, it will remain so unless it becomes necessary to classify it as a dangerous tree and removed as such. Heritage trees may not be removed without the express consent of the Historic Landmarks Commission. (Ord. 19-14 § 1 (Exh. A), 2019)

B. Landscape Tree Conservation.

1. Applicability. All development sites containing significant vegetation trees, as defined below, shall comply with the standards of this section Chapter and be subject to development review. The purpose of this section is to incorporate significant native vegetation into the landscapes of development and to protect vegetation in sensitive natural areas. The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and replanting. Mature landscaping provides summer shade and wind breaks, controls erosion, and allows for water conservation due to larger plants having established root systems.
2. Significant Trees Vegetation. "Significant trees vegetation" means street-trees and plants within designated sensitive land areas such as floodplains, hillside protection areas, and wetlands, and trees not within such area that have a caliper of six inches or larger at four 4.5 feet above grade; except that protection shall not be required for nonnative, invasive trees plants (blackberries, poison oak, poison ivy, etc.) and any plants trees designated by the city as prohibited.
3. Mapping and Protection Required. Significant vegetation trees shall be mapped as required by Chapter 4.2 SDC, Land Use Review and Design Review. Significant trees shall be mapped individually and identified by species and diameter or caliper at four 4.5 feet above grade. A "protection" area shall be defined around the edge of all branches (drip-line) of each tree. Drip-lines may overlap between trees. The city also may require An inventory, survey, or assessment prepared by an arborist or other qualified professional to determine tree health, construction

- Commented [59]: "Heritage Trees and Groves"
- Commented [60]: Agreed
- Commented [61]: add Groves of trees to the designation options
- Commented [62]: Needs consideration of definition.
- Commented [63]: Add: "or certain groves as "heritage groves""
- Commented [64]: agree
- Commented [65]: ..."or grove"
- Commented [66]: Agree
- Commented [67]: ..."and groves"
- Commented [68]: agreed
- Commented [69]: Suggest replacing with: "The Historic Landmarks Commission (HLC) shall have the authority to determine whether a tree or grove recommended for consideration qualifies as a heritage tree or grove. Any member of the public, whether an HLC member, property Owner, or third-party citizen, may make recommendations to the HLC."
- Commented [70]: Agreed.
Question raised how many people are on HLC. Not known. Fred is one person - Eric has let him know of the work here.
On City schedule next week.
- Commented [71]: Replace with: "Once a tree or grove has been designated as heritage, ..."
- Commented [72]: Agree
- Commented [73]: this and the prior sentence seem f ...
- Commented [74]: Does this mean to say: "Heritage ...
- Commented [75]: Discussion of process for ...
- Commented [76]: EMC agrees to revise sentence to ...
- Commented [77]: "Significant Trees and Groves"
- Commented [78]: Reject.
- Commented [79]: Again here, while this Chapter will ...
- Commented [80]: Revise: "All sites containing ...
- Commented [81]: Agree
- Commented [82]: 'Significant' as used here doesn't ...
- Commented [83]: See spreadsheet suggestions for ...
- Commented [84]: Agree that #2 should simply ...
- Commented [85]: Why has this been removed? Onc ...
- Commented [86]: EMC agrees to make this a ...
- Commented [87]: City Staff representative asks how ...

~~boundaries, building setbacks, and/or recommended protection or mitigation requirements is required for Land Use Applications that propose the removal of 5 or more significant trees.~~

4. Protection Standards.

- a. Trees on public lands shall not be removed, cut, felled, trimmed or otherwise damaged or destroyed, except as approved by the City. The city may approve removal or trimming when a tree poses an immediate hazard to public safety as determined by the Public Works Director. Other significant trees ~~vegetation~~ (including trees ~~vegetation~~ on private property) identified as meeting the criteria in subsection (2) of this section shall be retained ~~to the extent practicable to protect environmental values and to minimize the risk of erosion, landslide, and stormwater runoff~~. Where protection is impracticable because it would prevent reasonable development of public streets, utilities, or land uses permitted by the applicable land use district, the City may allow removal of significant trees ~~vegetation~~ from the building envelope as defined by required yard setbacks for commercial zones. Tree protection in residential zones shall follow subsections 1 through 3:

- 1) **Applicability.** The tree preservation in this subsection applies to the following types of development in residential zones:
 - i. Land divisions.
 - ii. Construction of a new residential dwelling unit that results in an increase of building footprint.
 - iii. Construction of a new residential dwelling unit that does not result in an increase of building footprint.
 - iv. Design Reviews/Conditional Uses.

- 2) **Clear and Objective Tree Preservation Standards.** Trees are required to be preserved ~~except when their removal is required for construction, demolition, grading, utilities, and other development impacts.~~ Not more than 25% of on-site existing tree canopy may be removed below the overall 40% site canopy coverage standard. The applicant may request more than 25% reduction if the applicant can show development is ~~unreasonably challenged by significant trees then the Planning Commission may approve additional removals subject to mitigation and fees in lieu of planting per Section 3.6.190.~~ ~~Large trees equal to or greater than 24" DBH shall be prioritized for preservation and retained unless over the 40% standard. All percentage numbers shall be rounded to the nearest whole number.~~

~~Unless removal is expressly authorized by a land use action or approval issued by the city of Silverton, it shall be unlawful to remove any Quercus garryana (Oregon oak), on public or private property, larger than or equal to 12" DBH ~~six and one-half feet in circumference (approximately 30 inches in diameter), within the city limits without first making application to the city and obtaining a permit or as otherwise authorized by this code. (Ord. 19-14 § 1 (Exh. A), 2019).~~ In addition, any healthy, non-hazardous tree (not including invasive trees listed in Figure 3.6.150-02) equal to or greater than 24" DBH or trees 12" DBH or greater listed on the City of Silverton Rare, Threatened or Notable Tree List (Figure 3.6.150-1) must be prioritized for preservation and will incur an additional fee if removed per the Fee Schedule (Section 3.6.190). When the trunk of~~

Commented [88]: Defined in the next sentence as "it would prevent reasonable development..." This language is very vague. What is "reasonable development"? Throughout the code are highly subjective terms like: reasonable, significant, practicable, etc. These should be replaced with references to clear standards and guidelines.

Commented [89]: Conversation topic for joint session with Planning Commission.

Commented [90]: Add "Urban Heat Island effect" to this list

Commented [91]: Agreed.

Commented [92]: don't preservation code apply to trees in all cases? They shouldn't become active only when development is occurring.

Commented [93]: What about just ever? #2 below sort of roles that in, but this language makes it seem like if there isn't some sort of development involved, the tree protections don't apply.

Commented [94]: Agreed. Revised sentence: "The tree preservation in this subsection applies always, and to the following types of development in residential zones:"

Commented [95]: When does the builder decide that verse when does the tree get priority and move the construction zone?

Commented [96]: What is "required" - would that ...

Commented [97]: City Staff rep states that this is ...

Commented [98]: City Staff rep suggests this entire ...

Commented [99]: 'unreasonably challenged' as ...

Commented [100]: does the PC decide IF fees will b ...

Commented [101]: the fees below are not large ...

Commented [102]: Agree.

Commented [103]: why is this a different measure ...

Commented [104]: should be trees meeting ...

Commented [105]: agreed.

Commented [106]: give a much weighted preference ...

Commented [107]: should this match the earlier 6" ...

Commented [108]: What would cause its removal to ...

Commented [109]: Continued conversation with ...

Commented [110]: City Staff rep and Planning ...

Commented [111]: change to any tree meeting ...

Commented [112]: this is a ridiculous size designati ...

Commented [113]: This seems really broad - it shou ...

Commented [114]: penalty, not fee.

a tree crosses the property line at ground level it is considered an on-site tree for the purposes of these tree preservation standards.

**Figure 3.6.150-01
Rare, Threatened or Notable Trees**

Scientific Name	Common Name
Quercus garryana	Oregon White Oak
Sequoiadendron giganteum	Giant Sequoia

Commented [115]: why are these on this list? If it is going to be on here, it should have a rank it must meet, like 60, 72, 80" DBH.

Invasive tree species on the Oregon Noxious Weed List or Silverton Invasive and Potential Nuisance Tree List are not to be included in the total canopy coverage calculations. Public right-of-way is not considered part of the development site for the purposes of the canopy coverage calculations. When the trunk of a tree crosses a property line at ground level it is considered an on-site tree for the purposes of these tree preservation standards.

**Figure 3.6.150-02
Invasive and Potential Nuisance Trees**

Scientific Name	Common Name	Invasive
Acer negundo	Box Elder	
Acer platanoides	Norway Maple	
Acer pseudoplatanus	Sycamore Maple	
Acer saccharinum	Silver Maple	
Aesculus hippocastanum	Horse Chestnut	
Ailanthus altissima	Tree-of-Heaven	Yes
Betula pendula	European White Birch	
Crataegus monogyna	English Hawthorn	Yes
Ilex aquifolium	English Holly	
Laburnum watereri	Goldenchain Tree	
Liquidambar styraciflua	American Sweetgum	
Paulownia tomentosa	Empress/Princess Tree	
Populus	Cottonwoods and Poplars	
Prunus avium	Sweet Cherry	
Robinia pseudoacacia	Black Locust	
Salix	Willows	
Sorbus aucuparia	European Mountain Ash	
Ulmus Pumila	Siberian Elm	

Commented [116]: EMC not sure why this is not the list.

Commented [117]: these are native and are not invasive (by definition). If the point it to prevent their planting, let's say that specifically, but they can't be on this list here. Or, list the specific species and cultivars prohibited. There are ample Salix Hakuru Nishiki planted in town and I don't think PW cares; be specific!

Commented [118]: None of these are on the approved street tree list. Need to list actual individual species. Natives should not be on this list.

Healthy trees with DBH of 6 inches or greater may receive additional canopy credits for existing tree crown area to be factored into preservation calculations as defined in the Fee Schedule.

Any tree saved and protected through a land division application must be identified and labeled on the site plan and the deed. Prior to the final plat being signed, a sign shall be posted at each tree or grove stating the trees are required to remain and be

Commented [119]: labeled on the deed? I need to understand this more. How long does it stay on the deed?

Commented [120]: This is from Oregon Builders Association - can't do anything with this.

protected through development and include penalty fees for violation. Signs shall be weatherproof and installation shall not cause any damage to the tree.

- 3) Clear and Objective Tree Planting Standards. 40% canopy coverage is the standard site canopy coverage for residential developed lots. In addition to the preservation of on-site trees, at least 40% tree canopy is required for a development site from existing trees or new tree plantings unless mitigation is provided. Public right-of-way will be considered off-site for the purpose of these planting standard calculations. Invasive tree species on the Oregon Noxious Weed List or Silverton Invasive and Potential Nuisance Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Silverton standards:

**Figure 3.6.150-03
Tree Planting Standards**

Tree Location	Existing Trees	Newly Planted Trees
On-Site Trees (Trees located within the tax lot)	100% of the existing or future mature crown area, whichever is greater *Significant tree credit for large DBH trees – see Fee Schedule*	75% of the future mature crown area
Off-Site Trees (Street trees within the adjacent ROW)	50% of the existing or future mature crown area, whichever is greater	50% of the future mature crown area

- i. 75% of the mature crown area of planted on-site trees.
- ii. 50% of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.
- iii. 100% of the existing crown area or mature crown area of on-site trees that are preserved, whichever is greater. In cases where a portion of the crown area of on-site trees extends off site, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of off-site trees extends on site, the crown area is not eligible for credit towards the tree canopy requirements. Healthy trees with DBH of 6 inches or greater may receive additional canopy credits for existing or future mature crown area to be factored into preservation calculations as defined in the Fee Schedule.
- iv. 50% of the existing crown area of street trees that are preserved in the public right-of-way directly abutting the development site.

When the trunk of a tree crosses a property line at ground level it is considered an on-site tree except when the trunk crosses a public right-of-way line at ground level, it is considered a street tree for the purposes of these tree planting standards.

Commented [121]: Doesn't make sense to put this under "Protection Standards." It also doesn't make sense overall - who/when does this apply? Where should this go? Joint session conversation.

Commented [122]: How is this reasonable for a 7,000 sqft lot, a 4,500 sqft lot? On these lots there isn't room for a tree canopy to expand without damaging the house, driveway, roof, etc. On larger lots with 80% canopy coverage, for example, this allows 50% of the canopy to be removed?

Commented [123]: The sentence after this states: "In addition to the preservation of on-site trees, at least 40% tree canopy..." It seems like this sentence is not saying that you can chop down as many trees as you want as long as you maintain 40% canopy; it is saying that if you follow the tree preservation codes and still don't have 40% canopy, you need to add trees. ? If that's what it is saying, it should be made more clear.

Commented [124]: City Code should REQUIRE the removal of all trees on these lists.

Commented [125]: Joint session conversation.

Commented [126]: What is the timeline for receiving this credit? What if the planted and credited trees die within 1, 2, 5, 10 years prior to reaching canopy size which ostensibly they were credited for replacing.

Commented [127]: Joint session conversation.

Commented [128]: Again, what if they get a credit and then later apply to remove the trees they get a credit for? What is to prevent them from doing this? What enforcement is there to ensure the canopy reaches maturity?

Commented [129]: Joint session conversation.

5. Mitigation Required. Where removal of or impact to significant trees vegetation is proposed, or it is reasonable to expect it will be unavoidable during development, the City shall require mitigation through development review. Mitigation shall be proportionate to the loss of significant trees per chart below vegetation. Where complete mitigation on site is not practical due to limitations of the site overall canopy coverage, the City may accept an in-lieu fee for mitigation which will occur off site (see Section 3.6.190).

**Figure 3.6.150-04
Tree Replacement Requirements**

4.5' DBH (Diameter at Breast Height)	Number of Replacement 2" DBH Trees Required Per Each Tree Removed
6" - 11"	3 Tree
12" - 23"	6 Trees
24" to 35"	12 Trees
36" or greater	18 Trees

6. Submittal Requirements. For applications for construction of a new residential dwelling unit that does not result in an expansion of building footprint, applicants must demonstrate compliance with the applicable provisions by submitting a report including elements outlined in Subsection 3.6.150.B.6.b. For applications for land subdivision or construction of a new residential dwelling unit that results in an expansion of the building footprint an ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of this Chapter. Other professionals such as engineers, landscape architects, soil scientists, and surveyors may assist the project arborist as needed in preparing the required information, but the arborist must organize, review, and approve the final product. The minimum submittal requirements include an inventory of existing trees, tree preservation plan, tree canopy plan, and arborist report with the following elements:

a. Tree Inventory Requirements

- 1) Survey the locations of all trees at least 6-inch DBH, all trees at least 2-inch DBH that are listed on the Oregon Noxious Weed List or Silverton Invasive Tree List, and trees less than 6-inch DBH as specified on the City of Silverton Rare or Threatened Tree List. Trees that must be surveyed include those that are on site, within abutting public rights-of-way, and on abutting sites with root protection zones that extend into the site. The locations and information for trees on abutting sites may be estimated.
- 2) Number each tree for identification at the site and on the plans.
- 3) Identify the common name and scientific name of each tree.
- 4) Measure the DBH of each tree in inches according to accepted ISA standards.
- 5) Measure the approximate average crown radius of each tree in feet.
- 6) Provide the crown area of each tree using the formula: (crown radius)² x π.

Commented [130]: It should only be proposed if it is unavoidable. Why say "proposed OR unavoidable"?

Commented [131]: need clarity here

Commented [132]: This is key. How is the decision being made whether to allow a significant tree to be cut down?

Commented [133]: Thought experiment: significant tree list approved; application made to Travis who says no; applicant appeals to planning commission; Planning Commission makes final call based on code.

Staff rep: Often the situation is someone wants to remove a "problem tree" - often in the Cambridge area off Steelhammer. Really has to do with an individual not wanting a tree for one reason or another.

Eric: Code also requires that the tree be replaced with a new tree.

Commented [134]: Leaving off July 18, 2023

Commented [135]: This would not capture the significant dogwood, crabapple, willow, and vine maple, if we apply 4" DBH for those species.

Commented [136]: one size doesn't work here, make the species list by size

Commented [137]: should be ALL trees on the weed list, regardless of size.

7) Assess the health condition of each tree using the following categories:

- i. Good (no significant health issues)
- ii. Fair (moderate health issues but likely viable for the foreseeable future)
- iii. Poor (significant health issues and likely in decline)
- iv. Very poor or dead (in severe decline or dead)

8) Identify whether the tree is on the **Silverton Rare or Threatened Tree List.**

Commented [138]: What about whether it is classified as a Significant Tree?

9) Identify whether the tree is proposed for removal or retained.

10) Organize the tree inventory information in a table or other format approved in writing by the City.

b. Tree Preservation Plan Requirements

1) Provide a site plan drawn to scale.

2) Include the existing tree locations and corresponding tree numbers from the tree inventory.

3) **Identify** rare or threatened trees as described in the City of Silverton Rare or Threatened Tree List.

Commented [139]: Ditto above. What about identifying significant trees?

4) Identify the following site disturbances:

- i. Demolition
- ii. Tree removal
- iii. Staging, storage, and construction access
- iv. Grading and filling
- v. Paving
- vi. Construction of structures, foundations, and walls
- vii. Utility construction
- viii. Trenching and boring
- ix. Excavation
- x. Any other demolition or construction activities that could result in ground disturbances and/or tree damage.

5) Locate tree and soil protection fencing to scale.

6) Locate soil compaction prevention methods to scale.

7) Include tree protection specifications from the arborist report on the plans including a detail and description of tree protection fencing and signage.

8) The elements of the tree preservation plan may be included on multiple plan sheets for clarity.

9) The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

c. Tree Planting Plan

- 1) Provide a site plan drawn to scale.
- 2) Include the existing trees to be retained and their crown areas to scale.
- 3) Include the trees to be planted and their mature crown areas to scale based on the Street Tree and Tree Crown Area Reference List.
- 4) Include a diagram depicting the tree planting that is consistent with ISA best management practices.
- 5) The minimum size of planted trees is 2-inch caliper for deciduous trees and 5-foot tall for evergreens unless otherwise approved by the City. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.
- 6) The species selection and spacing of trees to be planted must be such that it provides for the eventual mature size of the trees. Soil type, soil conditions and other site constraints shall be considered when selecting species for planting. Final site plans must be approved by the City.
- 7) Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the City.
- 8) Where there are overhead high voltage utility lines, the tree species selected must be of a type that, at full maturity, will not require pruning to avoid interference with the lines.
- 9) The elements of the tree canopy plan may be included on multiple plan sheets for clarity.
- 10) The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

Commented [140]: allowance should be made for planting smaller sized native trees, such as Oregon White Oak specifically because it transplants more successfully when it is small.

Commented [141]: trees must be from the city approved street tree list with a designation for planting under high voltage lines

d. Arborist Report

- 1) Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.
- 2) Provide findings and calculations that demonstrate whether the tree preservation standards in Subsection 3.6.150.B.4.a.2) have been met.
- 3) Provide findings and calculations that demonstrate whether the tree planting standards in Subsection 3.6.150.B.4.a.3) have been met.
- 4) If the tree preservation and/or tree planting standards have not been met, provide calculations for the applicable tree mitigation fees as required by Subsection 3.6.150.B.5.
- 5) If the applicant is seeking a variance to the tree preservation and/or tree planting standards in place of providing mitigation fees, provide findings that demonstrate the proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by Subsection 3.6.150.B.11.

6) Provide findings that demonstrate compliance with the tree protection standards in Subsection 3.6.200.A.

7. ~~Construction. All significant trees vegetation on a site that is are not otherwise designated and approved by the City for removal shall be protected prior to, during, and after construction in accordance with a limit of clearing and grading plan approved by the planning official. The City may shall require chain-link or other protective fencing around significant vegetation trees and limit grading activities and operation of vehicles and heavy equipment in and around significant vegetation tree areas to prevent damage to the resource and to prevent erosion, pollution, or landslide hazards.~~
8. Tree Felling for Private Non-development. Review approval is required for the felling of five ~~four~~ or more significant trees or all healthy, non-invasive trees 12" DBH or greater on a lot or property inside the city limits within a calendar year. ~~Felling trees at the direction of the City or by the City necessary to remove or alleviate an immediate danger to life or property; removal of any tree that is defined as a nuisance under the Silverton Municipal Code; to restore utility service or to reopen or maintain a public street or easement is exempt from review.~~
9. Additional Approval Criteria. ~~An application following the submittal requirements for a design review shall be submitted to the City for review prior to any tree removal. When an application is submitted the City may approve the request when the following additional review criteria are is met:~~
- a. Trees shall be retained in significantly large areas and dense stands so as to ensure against wind throw.
 - b. Wooded areas that will likely provide an attractive on-site amenity to occupants of future developments shall be retained.
 - c. ~~Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. The wooded area to be retained shall be at least 10 feet in width or as required elsewhere in this code.~~
 - d. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
 - e. Tree felling on developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future city residents.
 - f. Wooded areas along property lines shall be retained at a minimum width of 10 feet to provide buffers from adjacent properties.
 - g. The plan for tree felling shall be consistent with the preservation of the site's future development potential and zoning.
10. Exemptions. The protection standards in subsections (4) and (5) of this section do not apply to:
- a. ~~Dead or Diseased Vegetation Trees. Dead or diseased vegetation trees meeting the criteria for "significant vegetation trees" may be removed after approval of a Type I land use review.~~

Commented [142]: Can anyone explain why this is cut?

Commented [143]: reference earlier note about significant trees. Here split this to 4 Mature Trees, and 1 Aged Tree.... Consider adding a maximum percentage for removal with a OR 4...

Time is a ?great concern here. Because this code references 'year', it allow the gradual removal of all Mature and Aged Trees. How can that be remedied

Commented [144]: Unless the next sentence is not mitigating this one, then I am concerned that year by year, a grove or forested area could be decimated. Revise to clarify.

Commented [145]: This isn't a complete sentence and I am not sure what it is saying. Is it intending to say that significant trees on private non-devt can only be taken down if it's an immediate danger?

Commented [146]: and the plan should meet the rest of the measures laid out in 3.4 Protection Standards.

Commented [147]: These requirements aren't inclusive enough. Better: Buffer 1 to 2 trees wide ie: prevailing height is 50', then the buffer on either side of the corridor needs to be 50' for a total of 100'. - this get toward meeting state standards.

- b. ~~Hazardous Vegetation~~ Dangerous Trees and Other Emergencies. Significant ~~vegetation~~ trees may be removed without land use approval when the ~~vegetation~~ trees poses an immediate threat to life or safety or protection of property (e.g., windstorm damage, fallen-over house, road or power line, blocked drainage way, or similar circumstance). (Ord. 08-06 § 3, 2008)

11. Tree Variances. The applicant may seek an adjustment or variance at no cost to the applicant for smaller lot sizes, sidewalk deviations, on-street parking reduction, frontage improvements, reduced setbacks or a reduction in the number of parking spaces to avoid removal of significant trees, provided measures are also taken to preserve the health of the trees.

- a. Review Criteria. The ~~City~~ shall consider the following review criteria and may approve, approve with conditions, or deny a design review adjustment based on the following; the applicant shall bear the burden of proof.

- 1) Adjusting the subject code standard(s), i.e., decreasing, increasing, waiving, or making a material substitution, will result in a design that is as good or better than what would likely result under the base standard;
- 2) The adjustment is consistent with the code's stated intent and is in the public interest; and
- 3) In interpreting the public interest, consideration shall be given to intended public benefits or protections such as compatibility with surrounding uses; pedestrian safety and comfort; complementary development scale, materials, and detailing; street visibility; and/or aesthetic concerns. (Ord. 10-02 Exh. A § B, 2010; Ord. 08-06 § 3, 2008)

12. ~~Significant Vegetation~~ Trees. Significant ~~vegetation~~ trees protected in accordance with ~~SDC 3.2.200~~ this Chapter may be credited toward meeting the minimum landscape area standards per Fee Schedule in Section 3.6.190. ~~Credit may be granted for trees at a ratio of one caliper inch per inch of tree(s) protected, except that Parking lot landscaping requirements per Chapter 3.2 shall not be eligible for tree credits provided as required by subsection (E)(3) of this section. The street tree standards of SDC 3.2.400~~ Section 3.6.160 may be waived by the City when existing significant trees protected within the front yard provide the same or better shading and visual quality as would otherwise be provided by street trees.

13. ~~"Nonnative, invasive" trees plants, as per SDC 3.2.200(B), shall be removed during site development and the planting of new invasive species is prohibited.~~

14. Trees Requiring Approval. It is unlawful to plant ~~willow, cottonwood or poplar trees~~ anywhere in the city unless the Public Works Director approves the site as one where the tree roots will not be likely to interfere with public sewers.

15. Prohibited in Right-of-Way. Because of their potential negative impact on public infrastructure, it is unlawful to plant any of the following trees in or on a public right-of-way: ~~box elder, tree of heaven, golden chain, holly, silver maple, bamboo, poplar, willow, conifer, cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and ailanthus.~~

C. Trees in Hillside Protection Overlay District ~~conservation, protection and removal.~~

All development on hillside lands shall conform to the following ~~additional~~ requirements:

Commented [148]: I feel like there needs to be an additional layer of oversight.

Commented [149]: from State Invasive species list or Silverton's Invasive and potential nuisance trees 3.6.150.02

Commented [150]: should read: unlawful to plant native or nonnative willow, cottonwood, or poplar trees outside of riparian restoration projects anywhere in the city

it is lawful within the city to allow to grow wild, naturally sown and growing native Salix and Populus species.

Commented [151]: should just say: trees from Silverton invasive and potential nuisance trees or...

Commented [152]: citation? How/where is this located?

- ~~1. Inventory of Existing Trees. A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six inches in caliper measured at four 4.5 feet above ground level (d.b.h.), identified by d.b.h., species, and approximate extent of tree canopy. In addition, for areas proposed to be disturbed, the existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity (i.e., those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have a location accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey. Portions of the lot or project area not proposed to be disturbed by development need not be included in the inventory.~~
- ~~2. Evaluations of Suitability for Conservation. All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. Factors included in this determination shall include:
 - ~~a. Tree Health. Healthy trees can better withstand the rigors of development than non-vigorous trees.~~
 - ~~b. Tree Structure. Trees with severe decay or substantial defects are more likely to result in damage to people and property.~~
 - ~~c. Species. Species vary in their ability to tolerate impacts and damage to their environment.~~
 - ~~d. Potential longevity.~~
 - ~~e. Variety. A variety of native tree species and ages.~~
 - ~~f. Size. Large trees provide greater protection from erosion and shade than smaller trees.~~~~
- ~~3. Tree Conservation in Project Design. Significant trees (24-inch caliper or greater conifers measured at four 4.5 feet above ground level and 12-inch caliper or greater broadleaf measured at four 4.5 feet above ground level) shall be protected and incorporated into the project design whenever possible.
 - a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in wildfire lands.
 - b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the standards for fuel reduction if the development is located in wildfire lands.
 - c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.~~

- d. Trees shall be retained in significantly large areas and dense stands so as to ensure against windthrow.
 - e. Wooded areas associated with natural drainage ways and water areas will be maintained to preserve riparian habitat and minimize erosion. [The wooded area to be retained shall be at least 10 feet in width or as recommended by the landscape professional.]
 - f. Wooded areas along ridges and hilltops will be retained for their scenic and wildlife value.
4. ~~Tree Protection. On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:~~
- a. ~~All trees designated for conservation shall be clearly marked on the project site plan. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install fencing at the drip line of all trees to be preserved adjacent to or in the area to be altered. Temporary fencing shall be established at the perimeter of the drip line. Prior to grading or issuance of any permits, the fences may be inspected and their location approved by the Community Development Department.~~
 - b. ~~Construction site activities, including but not limited to parking, material storage, soil compaction and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.~~
 - c. ~~No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City and landscape professional. If grading or construction is approved within the drip line, a licensed landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.~~
 - d. ~~Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site runoff shall be directed to appropriate storm drain facilities and away from trees designated for conservation.~~
 - e. ~~Should encroachment into a tree protection area occur which causes irreparable damage to trees, as determined by a licensed landscape professional, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this section.~~
5. ~~Tree Removal. Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in wildfire lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions:~~
- a. ~~The tree is located within the building envelope.~~
 - b. ~~The tree is located within a proposed street, driveway, or parking area.~~
 - c. ~~The tree is located within a water, sewer, or other public utility easement.~~

Commented [153]: see my note above re riparian buffers

Commented [154]: I'm not sure this is sufficient.

- d. ~~The tree is determined by a licensed landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by a licensed landscape professional.~~
 - e. ~~The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a licensed landscape professional.~~
6. ~~Tree Replacement. Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, or a hazard, shall be replaced in compliance with the following standards:~~
- a. ~~Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.~~
 - b. ~~Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. The canopy shall be designed to mitigate the impact of paved and developed areas, reduce surface erosion and increase slope stability. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.~~
 - c. ~~Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting shall be replaced in kind, after which a new five-year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.~~

7. ~~Enforcement.~~

- a. ~~All tree removal shall be done in accordance with the approved tree removal and replacement plan. No trees designated for conservation shall be removed without prior approval of the City of Silverton.~~
- b. ~~Should the developer or developer's agent remove or destroy any tree that has been designated for conservation, the developer may be fined up to three times the current appraised value of the replacement trees and cost of replacement or up to three times the current market value, as established by a professional arborist, whichever is greater.~~
- c. ~~Should the developer or developer's agent damage any tree that has been designated for protection and conservation, the developer shall be penalized as prescribed in Chapter 1.08 SMC. If necessary, a professional arborist's report, prepared at the developer's expense, may be required to determine the extent of the damage. Should the damage result in loss of appraised value greater than determined above, the higher of the two values will be used. (Ord. 08-06 § 3, 2008)~~

Commented [155]: replacement is great. What is the enforcement mechanism? What about after 5 years? Is it assumed then the trees are large enough to meet the removal restrictions elucidated elsewhere in the code?

3.6.160 Street Trees

A. Street Tree Planting Requirements.

Street trees shall be planted in all new subdivisions and any project classified as a major project, except where specifically exempt under this code or where the reviewing body approves an adjustment to the

street design standards under SDC 3.4.100, Transportation standards. Planting of street trees shall generally follow construction of curbs and sidewalks; however, the City may defer tree planting until final inspection of completed dwellings to avoid damage to trees during construction. The planting and maintenance of street trees shall conform to the following standards and guidelines and any applicable road authority requirements:

Commented [156]: tree planting in the PNW is best after rains have started, thus add: construction, or until October to minimize tree water stress and irrigation demand.

1. Growth Characteristics. Trees shall be selected based on climate zone, growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. Drought-resistant trees should be chosen where they suit the specific soil type.
2. Caliper Size. The minimum diameter or caliper size at planting, as measured four 4.5 feet above grade, is two inches.
3. Spacing and Location. The intent of this section is to provide a procession of trees for shade, buffering, pedestrian comfort and aesthetics on all city streets. Street trees shall be spaced so that there is at least one tree planted for every 35 feet of street frontage, except where existing utilities, vision clearance requirements or similar factors preclude such spacing. Actual spacing of trees may vary based on the growth habits of selected trees. See the City of Silverton street trees and tree crown area reference list in section 3.6.170 .
4. Soil Preparation, Planting and Care. The developer shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for one year after planting. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first two years after planting, after which the adjacent property owners shall maintain the trees. See Section 3.6.200 for further requirements.
5. Assurances. The City shall require the developer to provide a performance and maintenance bond or cash deposit in an amount determined by an estimate provided by the developer or by the Community Development Director, to ensure the planting of the tree(s) and care during the first year after planting.
6. Prohibited in Right-of-Way. Because of their potential negative impact on public infrastructure, it is unlawful to plant any of the following trees in or on a public right-of-way: box elder, tree of heaven, golden chain, holly, silver maple, bamboo, poplar, willow, conifer, cottonwood, fruit trees (other than ornamental fruit trees), nut trees (other than ornamental nut trees), and ailanthus.
7. Street Tree and Tree Crown Area Reference List. See Section 3.6.170 for a list of approved trees. ~~A list of approved street trees is available at Silverton City Hall.~~ (Ord. 08-06 § 3, 2008)
8. Street trees shall not conflict with sight distance standards in Division 2, section 2.22 of the Public Works Design Standards.
9. Street trees shall maintain the following minimum clearances form existing or new facilities:
 - a. Five feet minimum from any sanitary sewer, storm or water service pipe.
 - b. Ten feet minimum clear from fire hydrants.

Commented [157]: better to reference the Silverton invasive and potential nuisance tree list AND add trees here which aren't there: nut trees, bamboo. I do not understand why conifers are prohibited. Reviewing approved tree lists from around the West and PNW, they are not wholesale prohibited. On the approved street tree list they should be careful designated as to the space they require to grow, as with all trees listed. Thus they become the 'right tree for the right place' and lack problem causing abilities.

- c. Twenty feet minimum from catch basins/gutter inlets.
- d. Twenty feet minimum from street lights.
- e. Forty feet minimum from near curbline of intersecting streets.

10. ~~Maintenance and Tree Removal.~~ **Technical Specifications.** See Section 3.6.200 for ~~maintenance and tree removal requirements.~~ **required maintenance, removal and installation specifications.**

B. Downtown Commercial District Street Tree Planting Requirements

1. For those areas not included in subsection (B)(2) of this section there shall be one street tree for every 30 to 50 feet of frontage, depending on the crown width of the tree, chosen from the street tree **and tree crown area reference list**, permitted on that portion of the development paralleling the street, unless it is determined that street trees will interfere with ingress/egress, utility lines or other factors would prevent a tree from growing to healthy maturity. Tree species and size are to be consistent with the approved City of Silverton street tree **and tree crown area reference list** (Section 3.6.170).

2. The area of downtown bounded north and south between High Street and Lewis Street and bounded east and west by Water Street and First Street shall provide alternative landscape features in lieu of street trees to include one of the following for every 30 feet of frontage: plazas, planter boxes, hanging baskets, decorative sidewalk treatments or benches.

3. Installation, Maintenance and Tree Removal. See subsection (A) for installation, maintenance and tree removal requirements.

3.6.170 Street Tree and Tree Crown Area Reference List

Scientific Name	Common Name	Size (Height x Width)	3' -4' planting strip	4. 5' - 6' planting strip	6. 5' - 8' planting strip	8. 5' + planting strip	Mature Crown Area (sq ft)	75% Crown Area (sq ft)	Potential Native Species
<i>Abies fraseri</i>	Fraser Fir	40 x 20					314	235.5	
<i>Abies grandis</i>	Grand Fir	80 x 25				X	491	368.25	
<i>Abies pinsapo</i>	Spanish Fir	50 x 30		X		X	707	530.25	

<i>Acer Buergeranum</i>	Trident Maple	25 x 20	X				314	235.5	
<i>Acer comestres</i> 'Queen Elizabeth'	Queen Elizabeth Hedge Maple	35 x 30		X			707	530.25	
<i>Acer circinatum</i>	Vine Maple	25 x 10	X				79	59.25	
<i>Acer ginnala</i>	Amur Maple	20 x 20	X				314	235.5	
<i>Acer grandidentatum</i>	Rocky Mountain Glow Maple	25 x 15	X				177	11.25	
<i>Acer griseum</i>	Paperbark Maple	30 x 20	X	X			314	235.5	
<i>Acer macrophyllum</i>	Bigleaf Maple	75 x 30					707	530.25	
<i>Acer negundo</i>	Boxelder	40 x 30					707	530.25	
<i>Acer palmatum</i>	Japanese Maple	25 x 30					707	530.25	
<i>Acer platanoides</i>	Norway Maple	50 x 40					125 7	942.75	Ye s
<i>Acer pseudoplatanus</i>	Sycamore Maple	40 x 25					491	368.25	Ye s
<i>Acer rubrum</i>	Red Maple	60 x 50				X	196 3	1472.2 5	
<i>Acer rubrum</i> 'Armstrong'	Armstrong Red Maple	45 x 15		X			177	11.25	
<i>Acer rubrum</i> 'Gerling'	Gerling Red Maple	35 x 20		X			314	235.5	
<i>Acer rubrum</i> 'October Glory'	October Glory Maple	40 x 35			X		962	721.5	
<i>Acer saccharinum</i>	Silver Maple	100 x 40					125 7	942.75	Ye s
<i>Acer saccharum</i>	Sugar Maple	60 x 45			X	X	159 0	1192.5	
<i>Acer saccharum</i> 'Commemoration'	Commemoration Sugar Maple	50 x 35			X	X	962	721.5	
<i>Acer saccharum</i> 'Green Mountain'	Green Mountain Sugar Maple	40 x 35			X	X	962	721.5	
<i>Acer saccharum</i> 'Legacy'	Legacy Sugar Maple	50 x 35			X	X	962	721.5	
<i>Acer truncatum</i> x <i>A. platanoides</i> 'Warrenred'	Pacific Sunset Maple	30 x 25		X			491	368.25	
<i>Aesculus</i> x <i>carnea</i> 'Briotii'	Red Horsechestnut	60 x 40				X	125 7	942.75	
<i>Aesculus hippocastanum</i>	Common Horsechestnut	50 x 50					196 3	1472.2 5	
<i>Amelanchier</i> x <i>grandiflora</i>	Apple Serviceberry	25 x 20	X				314	235.5	

Commented [158]: Remove *Acer comestres* for invasive seedling issues.

<i>Amelanchier canadensis oblongifolia</i>	Globe Serviceberry	20 x 20				X	314	235.5	
<i>Amelanchier canadensis pyramidalis</i>	Pyramidal Serviceberry	30 x 20	X				314	235.5	
<i>Amelanchier laevis</i>	Allegheny Serviceberry	25 x 15	X				177	11.25	
<i>Betula nigra</i> 'BNMTF'	Dura-Heat® River Birch	45 x 35	X				962	721.5	
<i>Betula nigra</i> 'Cully'	Heritage® River Birch	45 x 35	X				962	721.5	
<i>Betula papyrifera</i>	Paper Birch	65 x 25					491	368.25	
<i>Betula pendula</i>	European White Birch	50 x 20					314	235.5	Yes
<i>Calocedrus decurrens</i>	Incense Cedar	60 x 20		X		X	314	235.5	
<i>Carpinus betulus</i>	European Hornbeam	40 x 25	X	X			491	368.25	
<i>Carpinus betulus</i> 'Fastigiata'	Pyramidal European Hornbeam	40 x 25	X	X			491	368.25	
<i>Carpinus caroliniana</i> 'CCSQU'	Palisade® American Hornbeam	30 x 15	X				177	11.25	
<i>Carpinus caroliniana</i> 'J.N. Upright'	Firespire® American Hornbeam	30 x 25	X	X			491	368.25	
<i>Carpinus caroliniana</i> 'JFS-KW6'	Native Flame® American Hornbeam	30 x 25	X	X			491	368.25	
<i>Carpinus caroliniana</i> 'Uxbridge'	Rising Fire American Hornbeam	30 x 15	X				177	11.25	
<i>Castanea dentata</i>	American Chestnut	100 x 50					1963	1472.25	
<i>Castanea sativa</i>	Spanish Chestnut	70 x 50		X		X	1963	1472.25	
<i>Catalpa ovata</i>	Chinese Catalpa	25 x 25	X	X			491	368.25	
<i>Catalpa speciosa</i>	Northern Catalpa	50 x 30		X		X	707	530.25	
<i>Catalpa xerubescens</i> 'Purpurea'	Hybrid Catalpa	45 x 45		X			1590	1192.5	
<i>Cedrus deodara</i>	Deodar Cedar	70 x 40					1257	942.75	
<i>Celtis occidentalis</i>	Hackberry	50 x 45		X		X	1590	1192.5	
<i>Cercidiphyllum japonicum</i>	Katsura	50 x 30		X		X	707	530.25	

<i>Cercis canadensis</i>	Eastern Redbud	30 x 30	X	X			707	530.25	
<i>Chionanthus retusus</i>	Chinese Fringetree	20 x 25	X	X			491	368.25	
<i>Chionanthus virginicus</i>	White Fringetree	20 x 15	X				177	11.25	
<i>Cladrastis kentukea</i>	American Yellowwood	40 x 40	X	X			125 7	942.75	
<i>Cladrastis lutea</i>	Yellowwood	40 x 35			X	X	962	721.5	
<i>Cornus controversa</i> 'June Snow-JFS'	June Snow® Giant Dogwood	40 x 30		X			707	530.25	
<i>Cornus</i> 'Eddie's White Wonder'	Eddie's White Wonder Dogwood	35 x 20	X	X			314	235.5	
<i>Cornus elwinortonii</i> 'KN30-8'	Venus® Dogwood	25 x 20	X	X			314	235.5	
<i>Cornus elwinortonii</i> 'KN4-43'	Starlight® Dogwood	30 x 20	X	X			314	235.5	
<i>Cornus florida</i>	Flowering Dogwood	25 x 30					707	530.25	
<i>Cornus kousa</i>	Kousa dogwood	25 x 15	X				177	11.25	
<i>Cornus x 'Rutgan'</i>	Stellar Pink Dogwood	15 x 15					177	11.25	
<i>Corylus colurna</i>	Turkish Filbert	50 x 30	X	X			707	530.25	
<i>Crataegus X lavalleyi</i>	Lavalle Hawthorn	25 x 20	X	X			314	235.5	
<i>Crataegus laevigata</i> 'Crimson Cloud'	Crimson Cloud English Hawthorn	25 x 18	X				254	190.5	
<i>Crataegus monogyna</i> 'Stricta'	Columnar Hawthorn	30 x 10	X				79	59.25	
<i>Cryptomeria japonica</i>	Japanese Cedar	50 x 20		X	X		314	235.5	
<i>Cryptomeria japonica</i> 'Sekkan Sugi'	Sekkan Sugi Japanese Cedar	50 x 15	X	X			177	11.25	
<i>Cupressus bakeri</i>	Baker Cypress	50 x 35		X			962	721.5	
<i>Davidia involucrata</i>	Dove-Tree	50 x 30		X		X	707	530.25	

<i>Eucommia ulmoides</i>	Hardy Rubber Tree	40 x 40	X	X			125 7	942.75	
<i>Fagus grandiflora</i>	American Beech	80 x 70					384 8	2886	
<i>Fagus sylvatica</i>	Tricolor Beech	40x 30				X	707	530.25	
<i>Fagus sylvatica</i> 'Asplenifolia'	Fernleaf Beech	60 x 50		X		X	196 3	1472.2 5	
<i>Fagus sylvatica</i> 'Atropurpurea'	Copper Beech	60 x 50		X		X	196 3	1472.2 5	
<i>Fagus sylvatica</i> 'Riversii'	Rivers Purple Beech	60 x 50		X		X	196 3	1472.2 5	
<i>Frangula purshiana</i>	Cascara	30 x 25	X	X			491	368.25	
<i>Fraxinus americana</i>	White Ash	80 x 50					196 3	1472.2 5	
<i>Fraxinus latifolia</i>	Oregon Ash	80 x 70					384 8	2886	
<i>Fraxinus ornus</i>	Flowering Ash	30 x 25	X	X			491	368.25	
<i>Fraxinus oxycarpa</i> <i>aureopolia</i>	Golden Desert Ash	20 x 18	X				254	190.5	
<i>Fraxinus oxycarpa</i> 'Flame'	Flame Ash	35 x 30				X	707	530.25	
<i>Ginkgo Biloba</i> 'Autumn Gold'	Autumn Gold Ginkgo Biloba	45 x 35	X	X			962	721.5	
<i>Ginkgo biloba</i> 'Emperor'	Emperor Ginkgo biloba	50 x 40				X	125 7	942.75	
<i>Ginkgo biloba</i> 'Fairmount'	Fairmount Ginkgo Biloba	45 x 25	X				491	368.25	
<i>Ginkgo Biloba</i> 'Halka'	Halka Ginkgo Biloba	40 x 35	X				962	721.5	
<i>Ginkgo Biloba</i> 'JFS-UGA2'	Golden Colonade® Ginkgo Biloba	40 x 25	X				491	368.25	
<i>Ginkgo Biloba</i> 'Maygar'	Maygar Ginkgo Biloba	45 x 35	X	X			962	721.5	
<i>Ginkgo Biloba</i> 'Saratoga'	Saratoga Ginkgo Biloba	35 x 25	X	X			491	368.25	
<i>Ginkgo Biloba</i> 'Shangri-La'	Shangri-La Ginkgo Biloba	45 x 35	X	X			962	721.5	
<i>Ginkgo biloba</i> 'The President'	44	50 x 40				X	125 7	942.75	
<i>Gleditsia triacanthos</i> 'Christie'	Halka® Honeylocust	45 x 40	X	X			125 7	942.75	

<i>Gleditsia triacanthos</i> 'Shademaster'	Shademaster Honeylocust	45 x 40	X	X			125 7	942.75	
<i>Gleditsia triacanthos</i> 'Skyline'	Skyline® Honeylocust	45 x 40	X	X			125 7	942.75	
<i>Gymnocladus dioicus</i>	Kentucky Coffeetree	60 x 40		X		X	125 7	942.75	
<i>Gymnocladus dioicus</i> 'Espresso-JFS'	Espresso™ Kentucky Coffeetree	60 x 40		X		X	125 7	942.75	
<i>Gymnocladus dioicus</i> 'UMNSynergy'	True North™ Kentucky Coffeetree	60 x 40		X		X	125 7	942.75	
<i>Halesia carolina</i>	Carolina Silverbell	40 x 35	X	X			962	721.5	
<i>Hovenia dulcis</i>	Japanese Raisintree	35 x 25	X	X			491	368.25	
<i>Ilex aquifolium</i>	English Holly	25 x 10					79	59.25	Ye s
<i>Juglans nigra</i>	Black Walnut	75 x 50					196 3	1472.2 5	
<i>Juglans regia</i>	English Walnut	60 x 40					125 7	942.75	
<i>Juglans regia</i> 'Carpathian'	Carpathian English Walnut	50 x 50					196 3	1472.2 5	
<i>Koelreuteria paniculata</i>	Goldenrain Tree	30 x 25	X	X			491	368.25	
<i>Laburnum watereri</i>	Goldenchain Tree	15 x 12					113	84.75	Ye s
<i>Lagerstroemia</i> 'Muskogee'	Muskogee Crape Myrtle	20 x 20	X				314	235.5	
<i>Lagerstroemia</i> 'Natchez'	Natchez Crape Myrtle	20 x 20	X				314	235.5	
<i>Lagerstroemia</i> 'Tuscarora'	Tuscarora Crape Myrtle	20 x 20	X				314	235.5	
<i>Larix occidentalis</i>	Western Larch	150 x 30					707	530.25	
<i>Liquidambar styraciflua</i>	American Sweetgum	80 x 40					125 7	942.75	Ye s
<i>Liriodendron tulipifera</i>	Tulip Tree	70 x 40				X	125 7	942.75	
<i>Maackia amurensis</i>	Amur Maackia	30 x 25	X	X			491	368.25	
<i>Maclura pomifera</i> 'White Shield'	White Shield Osage-orange	35 x 35	X	X			962	721.5	
<i>Magnolia acuminata</i>	Cucumber Magnolia	50 x 40				X	125 7	942.75	

Commented [159]: Please remove English Holly from tree list for invasive purposes.

<i>Magnolia</i> 'Elizabeth'	Elizabeth Magnolia	30 x 20	X	X			314	235.5	
<i>Magnolia</i> 'Galaxy'	Galaxy Magnolia	30 x 20	X	X			314	235.5	
<i>Magnolia grandiflora</i> 'Bracken's Brown Beauty'	Bracken's Brown Beauty Southern Magnolia	30 x 25		X	X	X	491	368.25	
<i>Magnolia grandiflora</i> 'Little Gem'	Little Gem Magnolia	20 x 10	X				79	59.25	
<i>Magnolia grandiflora</i> 'Victoria'	Victoria Southern Magnolia	30 x 20	X	X			314	235.5	
<i>Magnolia kobus</i>	Magnolia Kobus	40 x 30			X		707	530.25	
<i>Magnolia virginiana</i>	Sweetbay Magnolia	30 x 20	X				314	235.5	
<i>Magnolia virginiana</i> 'Jim Wilson'	Moonglow Sweetbay Magnolia	25 x 15	X	X			177	11.25	
<i>Malus</i> 'Centurion'	Centurion Crab	25 x 15	X				177	11.25	
<i>Malus tschonoskii</i>	Tschonoskii Crabapple	30 x 15	X				177	11.25	
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	75 x 30		X		X	707	530.25	
<i>Notholithocarpus densiflorus</i>	Tanoak	40 x 30	X	X			707	530.25	
<i>Nyssa sylvatica</i>	Black Tupelo	35 x 20	X	X			314	235.5	
<i>Nyssa sylvatica</i> 'David Odom'	Afterburner® Black Tupelo	40 x 25	X	X			491	368.25	
<i>Nyssa sylvatica</i> 'Firestarter'	Black Tupelo	40 x 25	X	X			491	368.25	
<i>Nyssa sylvatica</i> 'Haymanred'	Red Rage® Black Tupelo	40 x 25	X	X			491	368.25	
<i>Nyssa sylvatica</i> 'JFS-PN Legacy1'	Gum Drop® Tupelo	30 x 20	X	X			314	235.5	
<i>Nyssa sylvatica</i> 'Sheri's Cloud'	Sheri's Cloud Black Tupelo	40 x 25	X	X			491	368.25	
<i>Nyssa sylvatica</i> 'Wildfire'	Wildfire Black Tupelo	40 x 25	X	X			491	368.25	
<i>Ostrya virginiana</i>	American Hophornbeam	30 x 25	X	X			491	368.25	
<i>Osydendrum arboreum</i>	Sourwood	50 x 25			X	X	491	368.25	

<i>Parrotia persica</i>	Persian Ironwood	50 x 30			X				
<i>Parrotia persica</i> 'Inge'	Ruby Vase® Persian Ironwood	35 x 20	X	X			314	235.5	
<i>Parrotia persica</i> 'Vanessa'	Vanessa Persian Ironwood	35 x 20	X	X			314	235.5	
<i>Phellodendron amurense</i> 'His Majesty'	His Majesty Cork Tree	40 x 35	X	X			962	721.5	
<i>Phellodendron amurense</i> 'Longenecker'	Eyestopper® Cork Tree	40 x 35	X	X			962	721.5	
<i>Phellodendron amurense</i> 'Macho'	Macho Cork Tree	40 x 30			X		707	530.25	
<i>Picea abies</i>	Norway Spruce	50 x 25					491	368.25	
<i>Pinus flexilis</i> 'Vanderwolf's Pyramid'	Limber Pine	35 x 15	X				177	11.25	
<i>Pinus heldreichii</i> (<i>Pinus leucodermis</i>)	Bosnian Pine	65 x 30				X	707	530.25	
<i>Pinus palustris</i>	Longleaf Pine	60 x 30					707	530.25	
<i>Pinus ponderosa</i>	Ponderosa Pine	100 x 40					125 7	942.75	
<i>Pinus strobus</i>	Eastern White Pine	60 x 40					125 7	942.75	
<i>Pinus sylvestris</i>	Scots Pine	60 x 20					314	235.5	
<i>Pistachia chinensis</i>	Chinese Pistache	30 x 25	X	X			491	368.25	
<i>Populus alba</i>	White Poplar	50 x 50					196 3	1472.2 5	Yes
<i>Populus tremuloides</i>	Quaking Aspen	50 x 25					491	368.25	
<i>Platanus X acerifolia</i>	London Planetree	65 x 70					384 8	2886	
<i>Platanus X acerifolia</i> 'Bloodgood'	Bloodgood London Planetree	55 x 40		X		X	125 7	942.75	
<i>Platanus X acerifolia</i> 'Columbia'	Columbia London Planetree	55 x 40		X		X	125 7	942.75	
<i>Platanus X acerifolia</i> 'Yarwood'	Yarwood London Planetree	55 x 40		X		X	125 7	942.75	
<i>Platanus xacerifolia</i> 'Liberty'	Liberty London Planetree	55 x 40		X		X	125 7	942.75	

Commented [160]: Please remove White Poplar from tree list for invasive aspects and root invasion issues.

<i>Platanus xacerifolia</i> 'Morton Circle'	Exclamation™ London Planetree	55 x 40		X		X	125 7	942.75	
<i>Prunus avium</i>	Sweet Cherry	50 x 50					196 3	1472.2 5	Yes
<i>Prunus sargentii</i>	Sargent Cherry	50 x 50					196 3	1472.2 5	
<i>Prunus serrulata</i> 'Kwanzan'	Kwanzan Cherry (on 6' graft)	30 x 20			X	X	314	235.5	
<i>Prunus x yedoensis</i>	Yoshino Cherry	30 x 30			X	X	707	530.25	
<i>Pseudotsuga menziesii</i>	Douglas-Fir	100 x 30				X	707	530.25	
<i>Quercus accerifolia</i>	Maple-Leaf Oak	40 x 25					491	368.25	
<i>Quercus acutissima</i>	Sawtooth Oak	50 x 40	X	X		X	125 7	942.75	
<i>Quercus alba</i>	White Oak	60 x 50					196 3	1472.2 5	
<i>Quercus bicolor</i>	Swamp White Oak	60 x 50		X		X	196 3	1472.2 5	
<i>Quercus canbyi</i>	Canby Oak	45 x 40		X			125 7	942.75	
<i>Quercus chrysolepis</i>	Canyon Live Oak	55 x 30		X		X	707	530.25	
<i>Quercus coccinea</i>	Scarlet Oak	60 x 45		X		X	159 0	1192.5	
<i>Quercus frainetto</i> 'Schmidt'	Forest Green® Oak	55 x 30	X	X			707	530.25	
<i>Quercus garryana</i>	Oregon White Oak	65 x 45		X		X	159 0	1192.5	
<i>Quercus hypoleucoides</i>	Silverleaf Oak	50 x 35	X	X			962	721.5	
<i>Quercus ilex</i>	Holly Oak	50 x 50		X		X	196 3	1472.2 5	
<i>Quercus kelloggii</i>	California Black Oak	60 x 45		X		X	159 0	1192.5	
<i>Quercus lobata</i>	Valley Oak	50 x 40		X		X	125 7	942.75	
<i>Quercus macrocarpa</i>	Bur Oak	70 x 45				X	159 0	1192.5	
<i>Quercus muehlenbergii</i>	Chinkapin Oak	50 x 45		X			159 0	1192.5	
<i>Quercus myrsinifolia</i>	Bambooleaf Oak	35 x 25	X				491	368.25	
<i>Quercus palustris</i>	Pin Oak	60 x 30					707	530.25	
<i>Quercus phellos</i>	Willow Oak	50 x 40		X		X	125 7	942.75	

Commented [161]: Remove grafted fruit trees from tree list for graft fails and reversions to root stalk.

<i>Quercus polymorpha</i>	Monterrey Oak	55 x 50		X			196 3	1472.2 5	
<i>Quercus robur</i>	English Oak	120 x 30					707	530.25	
<i>Quercus robur</i> 'Fastigiata'	Skyrocket Oak	45 x 15		X			177	11.25	
<i>Quercus robur</i> 'Pyramich'	Skymaster Oak	50 x 25			X		491	368.25	
<i>Quercus rubra</i>	Red Oak	50 x 45				X	159 0	1192.5	
<i>Quercus shumardii</i>	Shumard Oak	75 x 55		X		X	237 6	1782	
<i>Quercus suber</i>	Cork Oak	60 x 60		X		X	282 7	2120.2 5	
<i>Quercus virginiana</i>	Southern Live Oak	70 x 70		X		X	384 8	2886	
<i>Quercus wislizenii</i>	Interior Live Oak	50 x 40		X		X	125 7	942.75	
<i>Robinia pseudoacacia</i>	Black Locust	40 x 25					491	368.25	Ye s
<i>Sassafras albidum</i>	Sassafras	30 x 30					707	530.25	
<i>Sciadopitys verticillata</i>	Japanese Umbrella Pine	70 x 20					314	235.5	
<i>Sequoia sempervirens</i>	Coast Redwood	100 x 30				X	707	530.25	
<i>Sequoiadendron giganteum</i>	Giant Sequoia	80 x 50				X	196 3	1472.2 5	
<i>Sorbus aucuparia</i>	European Mountain Ash	40 x 25					491	368.25	Ye s
<i>Stewartia pseudocamellia</i>	Japanese Stewartia	40 x 20		X			314	235.5	
<i>Styphnolobium japonicum</i>	Japanese Pagodatree	65 x 40	X	X		X	125 7	942.75	
<i>Styrax japonicus</i> 'Emerald Pagoda'	Emerald Pagoda Japanese Snowbell	25 x 20	X				314	235.5	
<i>Styrax japonicus</i> 'JFS- E'	Snow Charm® Japanese Snowbell	25 x 20	X				314	235.5	
<i>Styrax japonicus</i> 'Pink Chimes'	Pink Chimes Japanese Snowbell	25 x 20	X				314	235.5	
<i>Styrax obassia</i>	Bigleaf Snowbell	25 x 20	X				314	235.5	
<i>Syringa pekinensis</i> 'DTR 124'	Summer Charm® Tree Lilac	20 x 20	X				314	235.5	

Commented [162]: Remove black locust for invasive reasons.

<i>Syringa pekinensis</i> 'Morton'	China Snow® Tree Lilac	20 x 20	X				314	235.5	
<i>Syringa pekinensis</i> 'WFH2'	Great Wall® Tree Lilac	20 x 20	X				314	235.5	
<i>Syringa pekinensis</i> 'Zhang Zhiming'	Beijing Gold® Tree Lilac	20 x 20	X				314	235.5	
<i>Syringa reticulata</i> 'Ivory Silk'	Ivory Silk Japanese Tree Lilac	20 x 15	X				177	11.25	
<i>Taxodium distichum</i>	Bald Cypress	65 x 30		X		X	707	530.25	
<i>Taxodium distichum</i> 'Mickelson'	Shawnee Brave® Bald Cypress	50 x 20	X				314	235.5	
<i>Thuja 'Green Giant'</i>	Green Giant Arborvitae	50 x 15					177	11.25	
<i>Thuja occidentalis</i> 'Fastigiata'	Columnar American Arborvitae	25 x 10					79	59.25	
<i>Thuja plicata</i>	Western Redcedar	70 x 25				X	491	368.25	
<i>Tilia americana</i> 'Redmond'	Redmond American Linden	45 x 35	X	X			962	721.5	
<i>Tilia cordata</i> 'PNI 6025'	Greenspire® Littleleaf Linden	50 x 40	X	X			125 7	942.75	
<i>Tilia cordata</i> 'Halka'	Summer Sprite® Linden	20 x 15	X				177	11.25	
<i>Tilia 'Harvest Gold'</i>	Harvest Gold Littleleaf Linden	35 x 25	X				491	368.25	
<i>Tilia tomentosa</i> 'Sterling'	Silver Linden	45 x 35	X	X			962	721.5	
<i>Tsuga canadensis</i>	Canadian Hemlock	70 x 30					707	530.25	
<i>Tsuga heterophylla</i>	Western Hemlock	80 x 30				X	707	530.25	
<i>Ulmus americana</i> 'Jefferson'	Jefferson American Elm	65 x 55		X		X	237 6	1782	
<i>Ulmus americana</i> 'Princeton'	Princeton American Elm	65 x 55				X	237 6	1782	
<i>Ulmus americana</i> 'Valley Forge'	Valley Forge American Elm	65 x 55		X			237 6	1782	
<i>Ulmus 'Frontier'</i>	Frontier Elm	40 x 30	X				707	530.25	
<i>Ulmus 'Morton'</i>	Accolade® Elm	60 x 50		X		X	196 3	1472.2 5	
<i>Ulmus 'Morton Glossy'</i>	Triumph Elm	55 x 45		X		X	159 0	1192.5	

<i>Ulmus</i> 'Patriot'	Patriot Elm	50 x 40		X		X	125 7	942.75	
<i>Ulmus propinqua</i> 'JFS-Bierbach'	Emerald Sunshine® Elm	35 x 25	X				491	368.25	
<i>Ulmus pumila</i>	Siberian Elm	50 x 40					125 7	942.75	Yes
<i>Umbellularia californica</i>	Oregon Myrtle	60 x 60		X		X	282 7	2120.2 5	
<i>X Chitalpa tashkentensis</i> 'Pink Dawn'	Chitalpa	30 x 30	X	X			707	530.25	
<i>Zelkova serrata</i> 'Green Vase'	Green Vase® Japanese Zelkova	40 x 30	X	X			707	530.25	
<i>Zelkova serrata</i> 'JFS-KW1'	City Sprite® Japanese Zelkova	25 x 20	X	X			314	235.5	
<i>Zelkova serrata</i> 'Schmidtlow'	Wireless® Japanese Zelkova	25 x 30		X			707	530.25	
<i>Zelkova serrata</i> 'Village Green'	Village Green® Japanese Zelkova	40 x 30	X				707	530.25	

3.6.180 Tree Permit Procedure & Requirements

A. Non-development Tree Permits

1. Applicability - A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:
 - a. Trees that are at least 6-inch DBH.
 - b. Trees that are less than 6-inch DBH as specified on the City of Silverton Rare or Threatened Tree List.
 - c. Trees that were planted to meet any requirements in this Chapter.
 - d. Permits are not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Types of Non-development Permits

a. Type 1 Tree Removal Permit

- 1) Approval Standards - A type 1 permit will be issued only if the proposed tree removal will be performed according to current ISA Best Management Practices and one or more of the following criteria are met as determined by the City:

Commented [163]: shouldn't this match up with the old (per my suggested change) significant tree definition?

Commented [164]: aagh, this is ridiculous! A 6 inch sequoia is a baby plant. Remove Sequoia from the Significant tree list. omg

- i. The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.
 - ii. The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.
 - iii. The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.
 - iv. The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA tree risk assessment standards.
 - v. The tree is on the Oregon State Noxious Weed List or the Silverton Invasive Tree List.
 - vi. The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.
 - vii. Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.
 - viii. The tree is recommended for removal by a designated fire chief because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that results in tree retention.
 - ix. An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80% canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.
 - x. Three healthy trees less than 12 inches DBH may be removed per tax lot per 12-month period if the trees are not required to be preserved by a condition of a land use review or a provision of this chapter.
- 2) Replacement and Mitigation - Unless removed for thinning purposes or invasive species status the City will condition the removal of each tree upon the planting of a replacement tree as follows:
- i. The minimum quantity and size of replacement unless otherwise approved by the City shall follow Figure 3.6.180-01. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.
 - ii. Replacement trees must be planted in a manner consistent with ISA best management practices.

Commented [165]: who defines 'adverse effect on adjacent infrastructure or buildings'? What is a building or infrastructure? What about these examples: a temporary polyethylene shelter, a chicken shed, gravel walkway, paver walkway ...

Commented [166]: This is a great example of bringing clarity to what is considered "reasonable/unreasonable"

Commented [167]: exempt from permitting: their removal is required elsewhere in the code.

Commented [168]: Fire Chief ?

Commented [169]: umm, don't all trees in a forest represent fire risk? They are all combustible. What is the goal of this paragraph? I need example from the 'fire chief' of what this might mean.

Commented [170]: note: there are other references within this Chapter to fire risk, so let's just make sure that all are addressed as needed.

Commented [171]: So on my lot I have 12 trees. This year I apply and remove 3. Next the same thing, etc., and in four years I don't have any trees. Yay, I can sunbathe naked. How can the removal of all trees over time be prevented? if it doesn't mean this, it needs to specifically say what it means.

Commented [172]: Here is a good example of why I think we need to address groves as well. Down a ways further, the code states: "When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow."

- iii. The replacement tree must substantively replace the function and values of the tree that was removed wherever practicable.
- iv. If planting a replacement tree is not practicable, the City may allow a tree replacement fee in lieu according to the Fee Schedule.

b. Type 2 Tree Removal Permit

A type 2 tree removal permit may be approved by the City if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options for approving, approving with conditions, or denying a tree removal permit application.

1) Review Criteria

The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the City. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the City will consider:

- i. Whether the species of tree is appropriate for its location;
- ii. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
- iii. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
- iv. Whether the removal will significantly affect public safety or neighborhood character based on the following:
 - (i) The age, size, form, species, general condition, pruning history and any unique qualities or attributes of the trees;
 - (ii) The cumulative impacts of current and prior tree removals in the area; and
 - (iii) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

2) Approval Standards

The City will at a minimum condition the removal of trees based on Subsection 3.6.180.A.2.a.1) and the Type 2 replacement criteria in Figure 3.6.180-01 below.

Commented [173]: same thing stated below. consolidate.

Commented [174]: repetitive

Commented [175]: what is unreasonable? Who defines this? The cost of raking leaves for a impoverished retiree? Periodic pruning of mature or aged (formerly significant) trees because the cost is significant?

Commented [176]: In the introductory paragraph, it states that maintenance (even to the extent of replacing concrete) is not considered extraordinary. This bullet point is far too vague - it needs to be measurable/objective. At first I thought perhaps if the annual cost of maintaining the tree or the property due to the tree's impact exceeds x% of a person's annual income, with different brackets for different income levels, but it would be better to use the tree fund to provide grants in these circumstances.

Commented [177]: this needs definition. it is used repeatedly with semi-protected class.

We should declare ALL of Silverton's Oregon White Oaks as part of the Silverton Oak Grove and extend expansive protection to them.

Commented [178]: What adverse impact would be considered "significant"? What is to prevent gradual whittling down of a grove?

3) Replacement and Mitigation - Unless removed for thinning purposes or invasive species status the City will condition the removal of each tree upon the planting of a replacement tree as follows:

- i. The minimum size of replacement trees is 2-inch caliper for deciduous trees and 5-foot tall for evergreens unless otherwise approved by the City. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.
- ii. The number of replacement trees shall follow the requirements in Figure 3.6.180-01.
- iii. Replacement trees must be planted in a manner consistent with ISA best management practices.
- iv. The replacement trees must substantively replace the function and values of the tree that was removed wherever practicable.
- v. If planting replacement trees is not practicable, the City may allow a tree replacement fee in lieu according to the Fee Schedule.

Commented [179]: removal of invasive tree canopy should not preclude a requirement to replace that canopy with appropriate noninvasive species.

Commented [180]: what is "practicable"?

**Figure 3.6.180-01
Type 2 Tree Replacement
Requirements**

4.5' DBH (Diameter at Breast Height)	Number of Replacement 2" DBH Trees Required Per Each Tree Removed
6" - 11"	1 Tree
12" - 23"	2 Trees
24" - 35"	3 Trees
36" or greater	4 Trees

3. Applications - An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:
 - a. Photograph(s) that clearly identify the tree(s) proposed for removal.
 - b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.
 - c. Information as to whether the tree is within a Hillside Protection Overlay District or is part of an approved landscape or mitigation plan.
 - d. Any additional information required by the City, the city will send notice to submit:
 - 1) The applicant will have a maximum of 30 days from the date of the City's notice to submit the additional information.
 - 2) If the additional information is not received by the City within 30 days from the date of the City's notice, the application will be voided on the 31st day. The City will not refund the filing fee.
 - e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Fee Schedule.
4. Application Procedures
 - a. Type 1 Tree Removal Permit

Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the City without public notice, and the decision may be appealed to the **City Manager** by the applicant.

 - 1) Applications for a type 1 tree removal permit must meet the requirements of Subsection 3.6.180.A.3.
 - 2) Decision
 - i. The decision will be based on an evaluation of the facts and applicable standards and review criteria in Subsection 3.6.180.A.2.a.
 - ii. The City may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.
 - iii. Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.
 - iv. The City must notify the applicant of the decision in writing.

- v. If no appeal is filed as specified in subsection 3.6.180.A.5, the decision of the City is final.

b. Type 2 Tree Removal Permit

Type 2 tree removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the City, and the decision may be appealed to the City Manager by the applicant.

- 1) Applications for a Type 2 Tree Removal Permit must meet the requirements of Subsection 3.6.180.A.3. Public notice is required if the tree is healthy and larger than 12 inches in diameter at breast height.

Commented [181]: good

2) Decision

- i. The decision must be based on an evaluation of the facts and applicable standards and review factors in Subsection 3.6.180.A.4.b.
- ii. The City may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.
- iii. Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.
- iv. The City must notify the applicant of the decision in writing.
- v. If no appeal is filed as specified in Subsection 3.6.180.A.5 below, the decision of the City is final.

5. Appeal - The applicant may appeal the City's decision. Appeals must be:

- a. Filed with the forms prescribed by the City;
- b. Filed within 14 days from the date of the City's decision;
- c. Specifically identify how the City erred in applying the standards or review criteria;
- d. Appeals are heard by the City Manager;
- e. The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff;
- f. The City Manager may affirm or reverse the decision or remand the decision to the Planning Department to determine appropriate mitigation; and
- g. The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

B. Public Tree Permits

1. Applicability - No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.
 - a. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
 - b. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the [Street Tree and Tree Crown Area Reference List](#) or a requirement to pay to the City a fee as provided in the Fee Schedule (Section 3.6.190).

Commented [182]: what defines 'major tree pruning'? needs a specific measurable definition to avoid problems.

2. Review Criteria
The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one year after issuance unless a different time period is specified in the permit. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The City will not permit the major pruning or removal of a healthy, functioning street tree or city tree without a demonstration by the applicant that extraordinary circumstances exist. Decisions regarding major pruning or removal of healthy, functioning street trees or city trees are fact-specific and are made on a case-by-case basis by the City.

The City shall not permit the removal of a street tree or city tree for any other reason, including, but not limited to, the following, unless the criteria for a variance has been approved:

- a. Dropping of leaves, flowers, seeds, bark, sap, stems, pests, or other matter.
- b. Improvement or maintenance of views.
- c. Competition with turf or impact on non-plant landscaping (e.g., mulch or gravel).
- d. Common allergies.
- e. Damage to items that have been placed too close to the trunk such as pavers, bricks, blocks and concrete.

Commented [183]: this addresses earlier comments I've made which raises frustration with how code is written. Make it plain and for normal people; that will create good-will with citizens. Lawyers are not our constituency.

Commented [184]: excellent

3. Approval Standards
The Public Works Director shall approve or conditionally approve permits when it has been demonstrated that one or more of the following criteria in ~~SMC 12.60.120 or 12.60.140~~ have been met. (Ord. 19-14 § 1 (Exh. A), 2019):

- a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices.
- b. Any approval for the removal of a healthy tree must require the applicant to pay a fee as established in the Fee Schedule (Section 3.6.190).
- c. The tree is a dangerous tree and the risk cannot be mitigated or the tree cannot be made sound by accepted arboricultural practices. When street trees or city trees pose an

Commented [185]: earlier comment about 'major pruning'

Commented [186]: I would also add the actual name not acronym for folks that don't know what ISA is.

immediate hazard to public safety, the City Manager or Public Works Director may approve removal. (Ord. 19-14 § 1 (Exh. A), 2019)

- d. Trimming of tree limbs with a caliper of two inches or less is exempt from permit requirements.
- e. A street tree or city tree is encroaching onto private property and causing injury to privately owned trees or shrubs.
- f. A street tree or city tree is creating an adverse effect on adjacent infrastructure or buildings that may be resolved by trimming or treatment.
- g. A branch or branches of a street tree or city tree poses a threat to utility lines, cables, or other overhead structures.
- h. Adjacent street trees or city trees are unlikely to be harmed by trimming or treatment.
- i. A street tree or city tree is obstructing clearance areas/zones as established in applicable administrative rules, public works design standards, or Silverton Development Code standards. (Ord. 19-14 § 1 (Exh. A), 2019)
- j. The tree is dead.
- k. The tree is in an advanced state of decline.
- l. The tree is 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).
- m. The tree is 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).
- n. The street tree or city tree has been planted too close to another tree based on Silverton Development Code standards and the spacing causes an adverse effect on the neighboring tree. The tree with the greatest vigor will remain unless it meets other criteria for removal.
- o. The natural shape of the tree has been destroyed or the tree has gone into decline due to past trimming and other tree maintenance practices, other than required electrical line clearance, prior to the adoption of this code.
- p. The street tree or city tree requires removal 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 according to this Chapter SDC 3.2.200.
- q. The tree is having an adverse effect on adjacent infrastructure, including sidewalks, and that effect cannot be mitigated by trimming, reasonable alternative construction techniques, or accepted arboricultural practices.

Commented [187]: an immediate hazard removal has to wait for PW approval? that seems dangerous. Personally, I would remove and worry about approval later.....

Commented [188]: okay, this works

Commented [189]: who defines this injury? if my rose is shaded by a city tree, can I remove it? This is way too vague.

Commented [190]: How do we define this? If tree is encroaching on personal property? Touching homeowners tree?

Commented [191]: As a tree guy, I have issues with this. It is too permissive. Proximity is not an exclusive definition of health or long term viability; many trees form a grove and work cohesively as a single unit, cutting one will actually diminish the health of the whole.

Commented [192]: this defines nearly all public trees because most pruning is very poorly executed and it ruins tree structure and form.

Commented [193]: according to whom?

4. Replacement and Mitigation

If a tree is removed pursuant to this section, the tree will be replaced in conformance with the applicable administrative rules, public works design standards and Silverton Development Code standards.

- a. The replanted tree must be a species included on the **Street Tree and Tree Crown Area Reference List** unless otherwise approved by the City.
- b. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.
 - 1) For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the City and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.
 - 2) In lieu of replanting, the City shall require the owner to pay a fee as established in the Fee Schedule (Section 3.6.190).
- c. The optimal time of year for planting is from October through April. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

5. Applications

A permit application must be submitted on a form provided by the City and be accompanied by the correct fee as established in the Fee Schedule (Section 3.6.190). Fees for removal permits shall be established by City Council resolution. (Ord. 19-14 § 1 (Exh. A), 2019)

Upon receipt of a complete permit application for street tree or city tree removal, the Public Works 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. The notice 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. A statement that interested persons may appeal the decision pursuant to this chapter SMC 12.60.170; and
- e. The effective date of the decision if no appeal is filed.

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

A decision to approve a permit application for street tree or 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. (Ord. 19-14 § 1 (Exh. A), 2019)

The Public Works Director or designee may specify conditions to the approval of tree removal. Such conditions may include, but not necessarily be limited to, a requirement for certified arborist oversight during construction activities, specific construction methods such as critical root zone protection and protective fencing, post-removal site cleanup, maintenance of replacement trees, and/or post-construction evaluation of tree health. (Ord. 19-14 § 1 (Exh. A), 2019)

Commented [194]: the Public Works Director in this code has an inordinate amount of power. What prescribes that power? What tree-expertise, etc, do they possess that empowers them to make these decisions?

6. Application Procedures

a. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The notice must include what criteria they are seeking removal or pruning under. The applicant must mark each tree proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the tree. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the trees marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 7 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit. If a meeting is requested, it must be held within 7 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

b. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the trees proposed for major pruning or removal has been marked.

c. Exemptions from Public Notice

The following trees may be removed without public notice subject to the City's review of the application:

- 1) A tree that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
- 2) A tree that is an invasive species and that is less than 8 inches in diameter at breast height.
- 3) A street tree or city tree that is less than 2 inches in diameter at breast height.

Commented [195]: on page 40 of this code we finally get to the exception for dangerous trees, meanwhile the dead tree has fallen on granny.

'as determined by an ISA certified arborist' - YES

Commented [196]: drop the dbh requirement and replace with 'always remove' the invasive species tree and must replace if it is greater than 8" dbh.

d. All work performed pursuant to a permit issued by the City must be completed within the time period specified in the permit unless a different time period is authorized in writing by the City.

Commented [197]: so if I plant a tree at 2" dbh, a normal nursery size, meet code, and then remove it - that is okay?

7. Private utility tree policy

A private utility maintaining its utility system in a public right-of-way or utility easement may trim or cause to be trimmed, using proper arboricultural practices as set forth by the ISA, any portion of a tree located in a public right-of-way, utility easement or overhanging the street that interferes with any light, pole, wire, cable, appliance or apparatus used in connection with or as a part of the utility system. Private utilities are exempted from permit requirements set forth in this chapter; however, the Public Works Director must be notified in writing before any work proceeds. In

cases of emergency, notification of any work completed must be reported to the Public Works Director. (Ord. 19-14 § 1 (Exh. A), 2019)

8. Appeal

Any person who is denied a permit or is granted a permit with conditions may appeal the denial or imposition of conditions by filing a written notice of appeal to the Public Works Director. The notice must be received within 15 calendar days of the date of denial or the date of issuance of the permit with conditions imposed. The appeal must describe in writing the specific basis upon which the appellant asserts that the decision was in error. The City Tree Commission will review all appeals filed with the Public Works Director. Decisions made by the City Tree Commission are final. (Ord. 19-14 § 1 (Exh. A), 2019)

Commented [198]: is that the EMC or the Planning commission?

C. Land Division Tree Permits

The regulations of this chapter require trees be considered early in the design process with the goal of preserving trees and mitigating for the loss of trees. The land division process provides the flexibility and opportunity to promote creative site design that considers multiple objectives, including integration of trees. It is preferred that trees remain on site to be considered as part of the land division review. Tree removal prior to land division application submittal are subject to requirements in subsection A.

1. Applicability – The requirements apply to all proposals for land divisions that have at least one tree that is at least 6" DBH. Where a tree trunk is partially on the land division site, it is considered part of the site.

Trees removed as part of the land division application require a permit for the following:

- a. Trees that are at least 6-inch DBH.
- b. Trees that are less than 6-inch DBH as specified on the City of Silverton Rare or Threatened Tree List.
- c. Trees that were planted to meet any requirements in this Chapter.

2. Review Criteria

The applicant must demonstrate how existing trees will be preserved. Criteria in section 3.6.150 must be met.

3. Approval Standards

Applicants must demonstrate that the tree preservation approval criteria listed below are met.

- a. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance trees that are 24 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;

Commented [199]: is this a new instance of this term? I think it would be better to use the invasive species term

Commented [200]: why the jump to 24" dbh? shouldn't it be 6 or 12 as mentioned earlier?

- b. Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;
 - c. Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:
 - 1) The specific development proposed;
 - 2) The uses and intensity of development expected in the zone and the area in which the site is located;
 - 3) Requirements to provide services to the site including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;
 - 4) Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.
 - d. The review body may consider modifications to site related development standards as part of the land division review. In order to approve modifications, the review body must find that the modification will result in improved tree preservation, considering the tree preservation priorities for the site, and will, on balance, be consistent with the purpose of the regulation being modified.
4. Replacement and Mitigation - Where removal of or impact to significant trees vegetation is proposed, or it is reasonable to expect it will be unavoidable during development, the City shall require mitigation through development review. Mitigation shall be proportionate to the loss of significant trees per chart below vegetation. Where complete mitigation on site is not practical due to limitations of the site overall canopy coverage, the City may accept an in-lieu fee for mitigation which will occur off site (see Section 3.6.190).

Commented [201]: is this the planning commission?

Figure 3.6.150-04

Tree Replacement Requirements

4.5' DBH (Diameter at Breast Height)	Number of Replacement 2" DBH Trees Required Per Each Tree Removed
6" - 11"	3 Tree
12" - 23"	6 Trees
24" to 35"	12 Trees
36" or greater	18 Trees

5. Applications
An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:
- a. Photograph(s) that clearly identify the tree(s) proposed for removal.

- b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.
 - c. Information as to whether the tree is within a Hillside Protection Overlay District or is part of an approved landscape or mitigation plan.
 - d. Any additional information required by the City, the city will send notice to submit:
 - 1) The applicant will have a maximum of 30 days from the date of the City's notice to submit the additional information.
 - 2) If the additional information is not received by the City within 30 days from the date of the City's notice, the application will be voided on the 31st day. The City will not refund the filing fee.
 - e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Fee Schedule.
6. Application Procedures - A permit application must be submitted on a form provided by the City and be accompanied by the correct fee as established in the Fee Schedule (Section 3.6.190).

Land division tree permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Permits are reviewed administratively by the City.

- a. Applications for a land division tree removal permit must meet the requirements of Section 3.6.150.
- b. Decision
 - 1) The decision will be based on an evaluation of the facts and applicable standards.
 - 2) The City may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.
 - 3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.
 - 4) The City must notify the applicant of the decision in writing.

If no appeal is filed as specified below, the decision of the City is final

- 7. Appeal - Any person who is denied a permit or is granted a permit with conditions may appeal the denial or imposition of conditions by filing a written notice of appeal to the Community Development Director. The notice must be received within 15 calendar days of the date of denial or the date of issuance of the permit with conditions imposed. The appeal must describe in writing the specific basis upon which the appellant asserts that the decision was in error. The City Tree Commission will review all appeals filed with the Community Development Director. Decisions made by the City Tree Commission are final.

3.6.190 Fee Schedule

		4.5' DBH (Diameter at Breast Height)	Fee	*Notes
	-			
	<u>Tree Permit Fee</u>		None	
Public Trees	<u>Healthy Tree Removal Fee</u>	< 2"	\$40	
		2" - 4"	\$60 per inch	
		4" - 8"	\$80 per inch	
		8" - 14"	\$100 per inch	
		14" - 20"	\$150 per inch	
		> 20"	\$200 per inch	
	<u>Fee for in lieu of public tree planting</u>		\$675 per tree	
	<u>Public Tree Damage Enforcement Fee</u>		\$225 per inch	
	<u>Public Tree Removal Enforcement Fee</u>		\$450 per inch	
Private Non- Development	<u>Healthy Tree Removal Fee</u>	6"-30"	\$60 per inch	No Fee for three trees under 12" DBH a year
	-	30"-36"	\$150 per inch	
	-	> 36"	\$200 per inch	
	<u>Removal of Rare or Threatened Tree</u>	Any Size	\$250 per inch	
	<u>Fee for in lieu of private non- development tree planting</u>		\$675 per tree	
	<u>Unpermitted Tree Removal Fee</u>			2 x Permit Cost + \$200 Violation Review Fee
Private Development	<u>Private Tree Damage Enforcement Fee</u>		\$225 per inch	Plus \$200 Violation Review Fee
	<u>Healthy Tree Removal Fee</u>	6" - 12"	\$2,000 per tree	Plus \$200 Violation Review Fee
	-	12" - 18"	\$167 per inch	
	-	18"-24"	\$200 per inch	
	-	24" -36"	\$250 per inch	
	-	> 36"	\$300 per inch	
Significant Tree Credits	<u>Trees Retained</u>	> 6"		Count as one canopy tree per each 6" diameter.

Commented [202]: there is a large difference in what fees a individual home owner can afford verses what may discourage bad faith behavior by a developer. Implement a 5x, 10x, 15x fee for business violations.

Commented [203]: A fee that would be prohibitive for a homeowner would be pennies to a developer - no disincentive whatsoever. The fees must be designed to encourage tree protection, NOT to bolster revenue.

Performance Bond Requirements	-	4" - 6"	\$1,000	
		6" - 10"	\$1,500	
		10" - 16"	\$3,000	
		> 16"	\$5,000	

3.6.200 Technical Specifications

A. Tree Protection Specifications

1. Intent. Tree protection during development helps to reduce the negative impacts of construction. The tree protection regulations keep the foliage crown, branch structure and trunk clear from direct contact and injury by equipment, materials or disturbances; preserve roots and soil in an intact and non-compacted state; and visibly identify the root protection zone in which no soil disturbance is permitted and other activities are restricted. Maintaining these protections through development will lessen undesirable consequences that may result from uninformed or careless acts, preserve both trees and property values, and reduce risks associated with damaged or destabilized trees.

2. Applicability. These standards apply to any tree that is required to be retained on site or in the street during a development activity. Proposed tree protection shall meet the requirements below, except that the City may approve or require alternate protection methods for Street or City Trees.

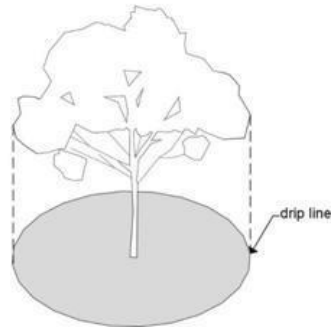
3. Protection methods. The Tree Preservation Plan shall show that trees retained are adequately protected during construction using the method described below:

a. Establish a critical root zone by using the greater of the two following methods:

- 1) Calculate by multiplying the diameter of the tree, in inches, measured at four and one-half feet above the mean ground level, by 18. For example, a tree with a diameter of two inches would have a critical root zone of 36 (two times 18) inches all around the tree.
- 2) Determine the tree dripline which is an imaginary line around a tree at a distance from the trunk equivalent to the canopy (leaf and branch) spread as illustrated in Figure 3.6.200-01.

b. Install protection fencing at the critical root zone perimeter consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

**Figure 3.6.200-01:
Tree Dripline Location**



- 1) Street Trees – the City may prescribe greater or lesser protection than required for on-site trees.
- 2) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain.

c. Signage designating the protection zone and penalties for violations shall be secured in a prominent location on each protection fence;

d. Installation of landscaping is allowed within the root protection zone and is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree or outside the limits of the development impact area: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities; and

f. The fence shall be installed before any ground disturbing activities including clearing and grading, or construction starts; and shall remain in place until final inspection.

4. Changes to tree protection. Changes to the tree protection measures during the course of the development may be approved as a revision to a permit provided that the change is not the result of an unauthorized encroachment into a root protection zone, and the applicant demonstrates that the tree protection standards of this Section continue to be met. When an unauthorized encroachment has occurred, the City may pursue an enforcement action or other remedy.

5. Tree protection inspections. The City may conduct inspections during the course of project activity to determine compliance with this Chapter and confirm that tree protection zones are being maintained and root protection methods are effective. No person may refuse entry or access to a permitted development site to any authorized representative of the City who provides proper credentials and requests entry for the purpose of conducting a Tree Protection inspection. In addition, no person may obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

6. **Performance Bond.** To ensure that the significant trees identified through the development review process will be retained and protected, the Review Authority **may require** the developer to

post a performance bond in an amount determined by the size of the trees being preserved as shown in the Fee Schedule (Section 3.6.190). **The amount of the required performance bond shall be determined by totaling the number of trees being preserved based on size and bonding value in the Fee Schedule.** The developer may utilize one of the methods in **Section 4.3.180** to assure full and faithful performance.

B. Installation and Maintenance.

1. Installation. Plant materials shall be installed to current nursery industry standards and proper arboricultural practices. Plant materials shall be labeled for the inspector and properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement.

2. Timing. All trees required or approved to be planted shall be planted or payment in lieu of planting made prior to the expiration of the permit or City's final acceptance of the project, as applicable. However, it is encouraged that planting occur during the wet months. Planting of trees may be deferred between May 1 and September 30 upon filing a performance guarantee or other assurance deemed acceptable by the City.

3. Maintenance. ~~If the plantings a tree(s) fails to survive, the property owner shall replace them with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) within six months of their dying or removal, whichever comes first. All manmade features required by this code shall be maintained in good condition, or otherwise replaced by the owner within six months of any such feature being removed or irreversibly damaged (whichever comes first).~~

a. Height Requirements. ~~Trees or shrubs~~ growing in the right-of-way or on private property must be trimmed to maintain a minimum canopy height of eight feet above sidewalks, or 12 feet above streets or alleys.

b. **Trimming – Specifications – Owner Responsibility.**

1). ~~Trees, shrubs or plants~~ standing in or upon any public street or alley, or on private grounds, and having branches projecting into the public street or sidewalk, shall be kept trimmed by the owner or owners of the property adjacent to or in front of such ~~trees, shrubs or plants~~, growing so that:

i. ~~The lowest branches shall not be less than a minimum of 12 feet above any surface of the street pavement, and shall not be less than 14 feet above the surface of streets designated as state highways;~~

ii. ~~The lowest branches shall not be less than a minimum of eight feet above any surface of a sidewalk;~~

iii. ~~The highest branches of any bush or shrub on private property shall comply with the clear vision area requirements.~~

2). ~~Newly planted trees may remain untrimmed; provided, that they do not interfere with street traffic or persons using the sidewalk, or obstruct the light of any street electric lamp.~~

Commented [204]: Prohibit at all times the Topping of trees. Use definition of Topping from International Society of Arboriculture.

Commented [205]: Potentially add Topping to the Definitions section.

c. Trimming – Notice to Comply. Whenever the owner or owners, lessees, occupants or persons in charge of private grounds neglect or refuse to trim any tree, ~~shrub or plant~~, as provided in this code, the City shall serve upon such owner or owners, lessees, occupants or persons in charge a written notice to trim such tree or trees, ~~shrubs or plants~~ within 10 days after giving of such notice; failure to do so will be considered in violation of this chapter and subject to the penalties provided in this code. Such notice shall be served upon the owner or owners, lessees, occupants, person in charge, or occupant of the property by posting the same upon such property or near to the trees, ~~shrubs or plants~~ to be trimmed.

d. Trimming – City to Perform Work When. If the owner or owners, lessees, occupants or persons in charge of the property fail and neglect to trim such trees, ~~shrubs or plants~~ within 10 days after receiving said notice, the City Manager or duly authorized representative may cause any vegetation in or upon any parking strip, street right-of-way or other public place in the city to be trimmed, pruned, or removed.

C. Tree Removal Specifications.

Trees shall be removed in a manner that will not jeopardize the public safety or damage structures including utility lines or services, or adjacent trees. In most cases, trees shall be entirely removed. Where appropriate, standing dead trees, or snags, may be left by cutting them to a height that will not threaten a target such as people or structures. Fire safety and preventing harmful pests should also be considered. However, well situated snags can function as important wildlife habitat providing nesting sites and a food source for foraging birds.

1. Completion. To prevent the creation of hazards from partially removed trees, once work has commenced to remove a tree, this work shall be completed in a timely manner. A tree will be considered completely removed when reduced to a stump no taller than 4.5 feet. The City may grant an exception to this specification to allow snag creation. For Street Tree removals, the City may direct that the stump be ground out up to 18 inches below grade.
2. Disposal of wood and woody debris from private trees. Disposal, use, or reuse of wood and woody debris from Private Trees is at the property owner's discretion, provided storage of wood does not constitute a public health or safety nuisance. If the City determines that the tree is affected by a pathogen or insect infestation that will likely adversely impact surrounding trees, all portions of the tree shall be removed from the site and properly disposed at the property owner's expense.
3. The City Manager may remove or cause or order to be removed any tree, ~~plant or shrubs~~, or part thereof, planted or growing in or upon any public street or alley which is in unsafe conditions, which by reason of its nature is injurious to sewers or other public improvements, or is affected with an injurious fungal disease, insect or other pest.

D. Arborist certification. A tree contractor shall have on staff a certified arborist to be qualified to trim, treat, or remove street or city trees. The certified arborist must oversee all trimming work and certify that all work meets the city's trimming specifications in SDC 3.2.300. If a certified arborist is not on the staff of the tree contractor, the Public Works Director, applying criteria developed by best practices as set forth by the ISA, must approve the tree contractor before the work begins. In cases where the professional opinion of a certified arborist differs from that of the Public Works Director, the Public Works Director may refer the matter to the City Tree Commission for a decision. Nothing in this section shall prevent the employees of public agencies with property in the city, who are not certified arborists, from trimming trees on the property of those public agencies. (Ord. 19-14 § 1 (Exh. A), 2019)

3.6.210 Enforcement

A. Purpose. This Section establishes an enforcement system to prohibit illegal tree activity in order to further the City's goals for optimizing and enhancing the urban forest.

B. Where These Regulations Apply.

1. City of Silverton. This Section applies to all trees within the City of Silverton.

C. Violations. Each specific incident and each day of non-compliance for the following may be considered a separate violation of this Chapter:

1. Any failure, refusal or neglect to comply with any provision of this Chapter;
2. Allowing or causing a tree-related condition that threatens to injure the public health or safety, or threatens to damage public or private property.
3. Any person violating any of the provisions of this code relating to the planting, trimming, or removal of trees shall be strictly liable for such violations and punished under the general penalty provided for in Chapter 1.08 SMC. Proof of a specific criminal intent shall not be required. Any violation of this chapter which affects an individual tree shall be a separate offense. (Ord. 19-14 § 1 (Exh. A), 2019)

(A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Fee Schedule.)

D. Prohibited activities. Unless authorized in writing by the Public Works Director, Community Development Director or unless otherwise allowed under this chapter:

1. It shall be unlawful for any person to remove, destroy, break, or injure any street tree or city tree.
2. It shall be unlawful for any person to attach or keep attached to any street or city tree or to the guard or stake intended for the protection of such tree any rope, wire, chain, sign, or other device whatsoever, except as a support for such tree.
3. ~~During the construction, repair, alteration or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or city tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.~~ Failure to install or maintain protection measures. It is unlawful for any person to fail to install required tree protection measures prior to commencing any development activity. Furthermore, it is unlawful for such

Commented [206]: can replacement be required after removal regardless of permit status? E.g. there is a street tree stump- that means a street tree was cut down but not replaced. Can the owner be asked/required to plant a new street tree?

person to move any required protection measures, neglect or fail to maintain such measures throughout the development activity, or allow any restricted activity or disturbance to occur within the protection area without prior City approval.

4. Excavations shall not occur within the critical root zone ~~40 feet~~ of any street tree or city tree without approval of the public works director, applying criteria developed by the Public Works Director. ~~Utility pole installations and excavations on private property are exempted from the requirements set forth in this subsection. During such excavation or construction, any such person shall guard any street tree or city tree critical root zone within 10 feet thereof.~~

5. All building material or other debris shall be kept ~~at least four feet from~~ out of the critical root zone of any street tree or city tree.

6. ~~Unless removal is expressly authorized by a land use action or approval issued by the city of Silverton, it shall be unlawful to remove any Quercus garryana (Oregon oak), on public or private property, larger than or equal to 12" DBH six and one-half feet in circumference (approximately 30 inches in diameter), within the city limits without first making application to the city and obtaining a permit or as otherwise authorized by this code. (Ord. 19-14 § 1 (Exh. A), 2019)~~

Commented [207]: This is repeat language. May be necessary, just noting.

7. It shall be unlawful for any person to top any street tree, city tree, or significant tree. "Topping" shall be defined as the cutting back of limbs to stubs larger than ~~three inches~~ in diameter within the tree's crown to such a degree so as to remove the normal top. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where normal trimming practices are impractical may be exempted at the determination of the Public Works Director. (Ord. 19-14 § 1 (Exh. A), 2019)

Commented [208]: topping doesn't have a size designation like this. Reduce this to 1.5" and add " or to remove the growing leader from a tree growing in an excurrent from." Definitions of Leader and Excurrent can from International Society for Arboriculture.

8. Failure to properly maintain trees. It is unlawful for any person to fail to comply with any of the tree maintenance specifications set forth in Section 3.6.200.

9. Conducting regulated activities without a tree permit. It is unlawful for any person to plant, place, prune, alter, remove, destroy, cut, break or injure any tree without first obtaining a tree permit for said action, except as provided in this Chapter.

10. Non-compliance with terms and conditions of a tree permit. It is unlawful for any person to violate the conditions or time limits imposed upon any tree permit.

11. Non-compliance with terms and conditions of a development permit. It is unlawful to fail to adhere to the requirements of a development permit for tree preservation, protection or planting.

12. Interference with tree grates and tree guards. It is unlawful for any person to damage, interfere or otherwise misuse any tree grate or guard set for the protection of any Street tree, City tree, or Heritage tree. Removal of such devices may only occur as authorized by the City.

13. Removal or failure to maintain required trees. It is unlawful for any person to fail to maintain in a healthy condition, trees required to be planted by virtue of a tree permit or development permit, including landscape trees and trees necessary to meet tree density standards. Any such trees that die shall be replaced.

E. Exemptions. In the event of a storm, freeze, or other environmental event resulting in damage to street and city trees, the City Manager may declare an emergency suspension of the permit requirements for the removal and trimming of trees set forth in this chapter. Such declaration shall prescribe dates during which permits are not required, but in no event may any single declaration exceed 21 days. (Ord. 19-14 § 1 (Exh. A), 2019)

F. Inspections.

1. The City may conduct inspections whenever it is necessary to enforce any provisions of this Chapter, to determine compliance with this Chapter or whenever the City has reasonable cause to believe there exists any violation of this Chapter.
2. Tree removal, topping, or other injury caused by natural causes or weather will not be deemed a violation of this Chapter, provided there is no other clear evidence to suggest that the tree was deliberately removed or injured.

G. Restoration Fees. The City may require any person to pay into the City's Tree Fund a restoration fee for the damaged or removed tree according to the City's adopted fee schedule.

H. Delayed intake of applications.

1. Development permits or land use reviews. When a violation of this Chapter has occurred on a site, the City may refuse land use or development permit applications until the violation has been satisfactorily resolved.
2. Tree permits. When a violation of this Chapter has occurred, the City may delay intake or review of applications for tree permits from the property owner or other applicant, as identified on the violated permit application, until the violation has been satisfactorily resolved.
3. Disqualification from City contracts. At their discretion, the City may refuse to consider any arborist, builder, landscaper, contractor, or tree service that has been cited for any tree activity in violation of this Chapter or submitted a falsified report for the criteria required in this Chapter, as a responsible bidder for any City contracts for a period of 2 years from the date of violation or falsified report.
4. Removal from City's list of local tree care providers. The City may remove any arborist, builder, landscaper, contractor, or tree service that refuses to correct a violation, has been fined for any tree violation of this Chapter, or submitted a falsified report for the criteria required in this Chapter, from the list of contractors providing related services for a period of 2 years from the date of violation or report.
5. Stop Work Orders. When any work is being conducted in violation of this Chapter the City may issue a stop work order.

6. Enforcement fees.

a. The City may charge enforcement fees for each property found in violation of this Chapter that meets the following conditions:

- (1) The property is a subject of a notice of violation of this Chapter;

(2) A response period of 30 days has passed since the effective date of the initial notice of violation; and

(3) The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.

b. The amount of the **fees and penalties** in the enforcement fee shall be charged as set forth in the this Chapter, as approved by the City Council.


c. Whenever the owner believes that all violations listed in the first or any subsequent notice of violation have been corrected, they shall notify the City. Upon receipt of such notice, the City will promptly schedule an inspection of the property and notify the owner if any violations remain uncorrected.

Wed 8/16/2023 8:05 AM

Eric Hammond

Re: EMC tree code

To Shauna Godlevsky

 You forwarded this message on 8/16/2023 9:25 AM.

Shauna

I forgot to include a definition we want to add to the code. We worked it out last night so it isn't in any of the docs I just sent.

Grove:

Grove - a contiguous and clearly demarcated group of eight or more trees growing closely together in a manner that creates a distinct and contiguous canopy[\[EH1\]](#) . All trees in the grove must be greater than X" DBH. They may belong to the same species or a mixture of species.

And

Grove - a contiguous and clearly demarcated grouping of three or more Oregon white oaks greater than 6" DBH growing closely together in a manner that creates a distinct and contiguous canopy[\[EH2\]](#) .

[\[EH1\]](#) Probably covering an area less than 1/8th of an acre, or 5,445sqft.

[\[EH2\]](#) Probably covering an area less than 1/8th of an acre, or 5,445sqft.

Eric Hammond