

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 14-90D) IN THE MATTER OF AMENDING CHAPTER 9
) OF LANE CODE TO REPEAL ORDINANCE
) 4-90 ("TREE CUTTING") (LC 9.900 -
) 9.960), AS AMENDED BY ORDINANCE
) 8-90, ENACT A "TREE CONSERVATION AND
) PROTECTION ORDINANCE" (LC 9.900 -
) 9.940), ESTABLISH FEES, DECLARE AN
) EMERGENCY AND SET A SUNSET DATE OF
) NOVEMBER 30, 1991

The Board of County Commissioners of Lane County ordains as follows:

Chapter 9 of Lane Code is hereby amended by removing and adding the following pages:

REMOVE THESE PAGES

9.900 - 9.930(2) to
9.960(1) - 9.960(4),
i.e. 9-50a to 9-50c
(a total of three pages)

INSERT THESE PAGES

9.900 - 9.905 to
9.940(2) - 9.940(3),
plus Exhibits "A" and "B",
i.e. 9-50a to 9-50h-dd
(a total of 11 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to repeal interim regulations and enact new tree removal regulations effective within the Urban Growth Boundary and outside the city limits of Eugene.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

Unless further amended by the Board, this ordinance shall expire and be of no legal effect on November 30, 1991.

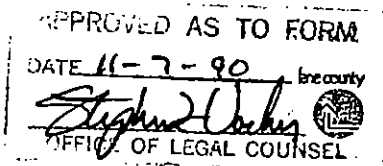
Enacted this 21st day of November, 1990.

Bill Rogers

Chair, Lane County Board of Commissioners

Judy Waldman

Recording Secretary for this Meeting of the Board



1 - IN THE MATTER OF AMENDING CHAPTER 9 OF LANE CODE TO REPEAL ORDINANCE 4-90 ("TREE CUTTING") (LC 9.900 - 9.960), AS AMENDED BY ORDINANCE 8-90, ENACT A "TREE CONSERVATION AND PROTECTION ORDINANCE" (LC 9.900 - 9.940), ESTABLISH FEES, DECLARE AN EMERGENCY, AND SET A SUNSET DATE OF NOVEMBER 30, 1991 bcj/4392

Tree Cutting

9.900 Purpose. The purpose of this regulation is to treat tree-covered parcels between the City Limits of Eugene and the urban growth boundary in a manner consistent with the policies within the Metropolitan Area General Plan.

Definitions. As used in section of this Code, the following definitions apply:

Fell. To remove 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. Fell does not apply in any context to include normal trimming, pruning, or topping of trees.

Occupied Parcel. Real property within the boundaries of an ad valorem tax lot descriptions found in the Lane County ad valorem tax records with one or more dwellings, thereon, or a parcel which has been approved for a dwelling, which lies between the city limits of Eugene and the Metropolitan Area General Plan Urban Growth Boundary.

Parcel. Real property within the boundaries of an ad valorem tax lot description as found in the Lane county, Oregon, ad valorem tax records, lying between the city limits of Eugene and the Metropolitan General Plan urban grown boundary.

Parks, Recreation and Cultural Services Department. The Parks, Recreation and Cultural Services Department of the City of Eugene and any successor department with responsibility for administrating the city's tree preservation ordinance.

Tree. A living, standing, woody plant having a trunk 25 inches in circumference (or approximately eight inches in diameter) at a point 4-1/2 feet above mean ground level at the base of the trunk.

Tree Appeal Board. That government appeal board created by Eugene Code Section 6.315.

9.920 Tree Felling Prohibition.

(1) Except as provided in LC 9.960, no person may fell more than five trees within a single calendar year from a parcel of private property consisting of 20,000 or more square feet of area without a permit.

(2) Except as provided in LC 9.960, no person may fell a tree from a parcel of private property consisting of less than 20,000 square feet of area without a permit.

9.930 Procedure for Obtaining Tree Felling Permit.

(1) Application for a permit to fell a tree or trees shall be filed with the Department on a form prescribed by and available in that department containing:

(a) Date, name, address and telephone number of the applicant; species or other description of the tree(s), their location on the property, and the reason for felling; and plot plan showing trees to be removed and sizes; and

TREE CONSERVATION AND PROTECTION

9.900 Description and Purpose. It has been found necessary to adopt an ordinance regulating the cutting of trees in the area between the Eugene city limits and the Urban Growth Boundary. Provisions in this ordinance shall apply until such time as the area is annexed into the City of Eugene.

9.905 Definitions. As used in LC 9.910 to LC 9.940 below, the following definitions apply:

Basal Area. The cross-sectional area of a tree, measured at diameter breast height, and expressed in square feet per acre.

City Manager. The city manager of the City of Eugene.

Caliper. The trunk diameter of young trees, usually measured at 6 inches above ground level.

Critical Root Zone. A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point 12 times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone. The critical root zone shall extend to a depth of five (5) feet below surface ground level.

Crown Closure or Canopy. An estimated area or space made up of the living limbs and branches of an individual tree. Crown closure is usually expressed as a percentage of the space occupied by the crown or canopy of a tree or trees and is usually stated in terms of crown or canopy density.

Crown Ratio. The estimated ratio of live limbs of a tree to its total height.

Developed Property. A lot or parcel of land upon which a building or other improvements subject to local construction regulations are located or a primary use is established.

Diameter Breast Height (DBH). The cross-sectional diameter of the trunk of a tree when measured at a point 4-1/2 feet above the base of the trunk on the uphill side.

Forester. A professional person having a minimum of a four-year degree in forestry from an accredited school and having experience in forest land management.

Groundcover. Small herbaceous and woody plants such as low-growing shrubs, ferns, mosses, wild flowers, grasses or other types of vegetation which normally cover the ground, provide root stabilization on slopes, slow surface runoff and absorb precipitation.

Land Clearance. The act of removing trees and groundcover in the course of preparing land for development. Land clearance is involved, for example, in road and driveway construction, utility excavation and building pad excavation.

Nonwoodland Area. Land in the urbanizing area composed of a parcel or a group of contiguous parcels less than 10 acres in total area and under one ownership or joint management.

Remove, Removal. Activities which include the cutting of trees and the injury and/or destruction of trees, by whatever method, on any lands subject to these provisions. Removal does not in any context include normal trimming or pruning of trees.

Person. Any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including governmental agencies conducting operations within the city and all tree removal companies and persons removing trees on behalf of others.

Slash. Any unutilized woody material created by tree removal, pruning, tree thinning, and/or land clearing.

Stocking. An expression of the number of trees per acre of any size at any given time.

Tree Removal Plan. An approved plan for tree removal which satisfies the requirements of LC 9.910-9.935 below.

Tree. Any woody perennial plant which, when mature, shall have the following characteristics: a main axis or stem commonly achieving 10 feet in height, and capable of being shaped and pruned to develop a branch-free trunk at least 9 feet in height or capable of being pruned in such a manner that the branching will grow parallel with the sidewalk or street.

Urbanizing Area. The area located between the legal city limits of the City of Eugene and the Urban Growth Boundary of the city as adopted by the Eugene-Springfield Metropolitan Area General Plan, as amended.

Woodland. Land in the urbanizing area composed of parcel or group of contiguous parcels covering 10 or more acres in total area, and under one ownership or joint management.

9.910 Permit Required.

(1) Except for those activities specifically permitted by LC 9.115 below, no person shall engage in or cause land clearance or tree removal within the urbanizing areas of the City of Eugene without having first obtained a Tree Removal Permit.

(2) All Tree Removal Permits issued under the provisions of this Code shall be available for inspection at the site.

(3) Permits shall fall into one of two categories:

(a) Urbanizing Area (Nonwoodland) Tree Removal Permits: permits issued for the removal of trees on Nonwoodlands in the urbanizing area.

(b) Urbanizing Area (Woodland) Tree Removal Permits: permits issued for the removal of trees on Woodlands in the urbanizing area.

9.915 Exemptions. The requirements and provisions of LC 9.920 to LC 9.940 below do not apply to the following activities:

(1) In urbanizing areas, the following tree removal activities are exempt from the requirement to obtain a permit:

(a) On Woodland parcels, the selective removal of five or fewer trees within any 12-month period on any single acre, as measured by standard forestry practices.

(b) On Nonwoodland parcels, the removal of five or fewer trees within any 12-month period on any single acre, as measured by standard forestry practices. Parcels of less than one acre shall be considered one acre in area for purposes of this exemption.

(2) Removal of trees having a trunk diameter of less than 8 inches DBH.

(3) Any action necessary to remove or alleviate an immediate danger to life or property; to restore utility service; or to reopen a public thoroughfare to traffic.

(4) Removal of trees and groundcover that are deemed nuisances under LC 5.720.

(5) Removal of trees or other vegetation necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly-owned and dedicated rights-of-way or public utility easements.

(6) Tree removal within portions of a planned unit development, subdivision, or Site Review for which final approval has been obtained and in accordance with the review criteria contained in LC 9.920 below. Such removal shall be allowable only for property development directly authorized by the planned unit development, subdivision or site review approval action.

9.920 Application Review Criteria. The approval, conditional approval, or denial of a request for all tree removal permits shall be based on findings by the city manager or designee which indicate evaluation of the following criteria and standards. In addition, specific standards shall be applied to each type of permit as provided for in LC 9.935 below:

(1) The relationship of the tree removal proposal to accepted forestry practices including commercial thinning and commercial harvesting. Said forestry practice includes such considerations as the number of healthy trees in a given parcel of land will support.

(2) The condition of the trees proposed for removal, as measured by one or more of the following factors, warrants their removal:

- (a) Evidence of damage and/or disease.
- (b) Danger of falling.
- (c) General health and vigor.
- (d) Roots or crown interface with existing or proposed structures including necessary construction staging areas.
- (e) Interference with utility services.
- (f) Interference with solar access.
- (g) Pedestrian safety and/or vehicular traffic safety.
- (h) Establishment of scenic views from the property, in association with approved development activities.

(3) Tree removal shall not adversely affect the environment of the area. Factors to be reviewed include, but are not limited to, the effects on:

- (a) Scenic qualities of the area with special consideration for ridgeline and hilltop views.
 - (b) The stability of nearby trees and windbreaks.
 - (c) Wildlife habitat.
 - (d) Soil stability.
 - (e) Surface runoff volumes.
 - (f) Water quality of receiving waters in the area.
 - (g) Potential for fire hazard.
 - (h) Noise.
 - (i) Windblock.
 - (j) Other environmental qualities found by the city manager or designee to be of relevance to the proposal.
- (4) The tree removal is necessary in order to construct proposed improvements in accordance with an approved development plan.
- (5) The activity will comply with tree removal standards as defined in LC 9.935 below.

9.925 Permit Process.

(1) Permit Required. Except for activities exempted from the requirements and provisions of this ordinance by LC 9.915 above, a tree removal permit shall be required to remove trees from any parcel of land within the urbanizing area.

(2) Decision Authority. Tree removal permits shall be approved, approved with modifications, or denied by the city manager or his designee.

(3) Site Plan Review Procedure.

(a) Preapplication Conference. Prior to submission of an application, the applicant shall confer with the city manager or his designee to review the application requirements.

(b) Professional Services. Prior to making a decision, the city manager or his designee may require an applicant to employ a licensed landscape architect, forester or other specialist if one or more of those professional services is required for compliance with LC 9.920 criteria or LC 9.935 standards.

(c) Documentation of Approved Plans. After tree removal permit approval, the applicant shall provide the city manager or his designee with three copies of the approved plan. The city shall mark them "Approved" with the date of the action. The city shall also attach the conditions of approval to the plans.

(4) Decision and Appeal.

(a) Unless the applicant agrees to a longer time period, within 10 working days of receipt of a complete and accurate application, the city manager or designee shall approve, conditionally approve, or deny an application for a tree removal permit. The city manager's decision shall be based on the criteria specified in LC 9.920 above.

(b) If the permit includes conditions regarding restoration or replacement of trees, the time within which the restoration or replacement work is to occur shall be set forth on the permit.

(c) Within 10 calendar days of a decision, it may be appealed by the applicant to the permitting agency. The appeal shall be filed with the City manager on a form to be provided by the City, shall be accompanied by a fee of \$100 and must state specifically how the city manager or his designee failed to properly evaluate the proposed tree removal or make a decision consistent with the applicable criteria.

(5) Appeal Notice and Action.

(a) Appeals from the decision of the City Manager shall be heard by the City Hearings Official.

(b) The Hearings Official shall hold a hearing within 20 calendar days of the receipt of an application to appeal the City Manager's decision.

(c) At least 10 calendar days prior to the hearing, the City shall mail notice of the hearing to the applicant.

(d) Within 10 calendar days after the hearing, the Hearings Official shall render a decision and mail a copy to the applicant.

(e) Appeals from the decision of the Hearings Official may be heard by the Board of County Commissioners, provided the Board reviews the appeal application and decides to accept it for hearing. The Board is not required to accept an appeal.

(f) An appeal accepted by the Board shall be heard within 30 calendar days of the date the appeal is received by the County, provided that if a Board meeting is not scheduled within the final week of that time period, the appeal shall be heard at the next regularly scheduled Board meeting.

(g) At least 10 calendar days prior to the hearing, the County shall mail notice of the hearing to the applicant.

(h) Within 10 calendar days after the hearing, the Board of County Commissioners shall render a decision and mail a copy to the applicant. The Board of County Commissioners' decision is final.

9.930

Permit Requirements.

(1) General Tree Removal Permit Requirements.

(a) A Tree Removal Permit Application and related information shall be submitted by the applicant on forms required by the County. Failure of the applicant to submit a complete application may be cause for denial of the permit request. If not the property owner, the applicant shall provide a signed form by the property owner consenting to the permit request.

(b) The application shall be accompanied by a fee of \$70.

(c) In all cases, the burden of demonstrating that applicable criteria and standards have been or can be satisfied is upon the applicant.

(d) Permit approval shall be valid for a period of 12 months from the date of final approval, unless otherwise provided for by the city manager or designee.

(e) Conditions of approval may be made a part of the approval action by the city manager or designee.

9.935 Tree Removal Standards. All tree removal activities shall comply with the following standards, and with the General Guidelines as stated in Exhibit "A." Woodland tree removal activities only shall also comply with Woodland Forest Management Guidelines contained in Exhibit "B."

(1) General Tree Removal Standards.

(a) Wooded areas within 25 feet of the high-water mark of riparian zones, natural drainageways, wetlands, and other water features shall remain undisturbed.

(b) Unless otherwise provided for by an approved site development plan, wooded areas within 100 feet of ridgelines and hilltops shall be protected consistent with the purposes of this ordinance. Hazard trees within ridgeline and hilltop areas shall be removed as they are identified.

(c) All remaining trunks and branches shall be disposed of in a manner approved of by the appropriate fire protection authority.

(d) Burning of slash materials shall be allowed in the area lying between the city limits and the Urban Growth Boundary subject to approval by those regulatory agencies currently governing such burning (Lane Regional Air Pollution Authority, Oregon Department of Forestry, and local rural fire protection districts), and based on an assessment of criteria including but not limited to:

(i) Air quality.

(ii) Proximity of the proposed burn to developed areas.

(e) During tree removal operations, adequate fire suppression equipment, as required by the applicable fire protection authority, shall be maintained on the site. Specific fire protection may be required by the fire protection authority as a condition of approval.

(2) Urbanizing Area (Nonwoodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.935(1) above and the following specific standards:

(a) For undeveloped parcels or for developed lots which have further potential for being partitioned or subdivided, land clearing shall be limited to designed street rights-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as provided by LC 9.920(2)(h) above, as depicted on an approved development plan.

(b) All areas disturbed by the tree removal operation shall be restored to their original condition to the extent practicable and consistent with the purposes of LC 9.900-9.940. Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.

(c) Where appropriate, a diversity of tree species shall be encouraged on the site.

(d) Removal operations involving the use of any mechanized or motorized equipment shall be considered equivalent to construction site sounds and shall occur pursuant to Section 9.644(e)(6) of the Eugene Code.

(3) Urbanizing Area (Woodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.935(1) above and the following specific standards:

(a) For woodland areas intended for conversion to urban uses, land clearing shall be limited to designated street right-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as provided by LC 9.920(2)(h) above, as depicted on an approved development plan.

(b) For woodland areas intended for continued use as commercial forestland, maintenance of a basal area which provides sufficient canopy cover, reproductive capacity, understory structure and wildlife habitat, in accordance with the provisions of Exhibit "B," shall be maintained within the woodland after harvesting.

(c) Temporary culverts necessary to bridge drainageways shall be removed and the drainageway restored to a reasonably natural condition following the completion of tree removal.

(d) All areas disturbed as a result of tree removal will be restored to their original condition to the extent practicable and consistent with the purposes of LC 9.900-9.940. Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.

(e) Where appropriate, a diversity of tree species shall be encouraged on the site.

(f) Tree removal operations occurring within 1000 feet of any dwelling shall be considered the equivalent of construction site sounds and shall occur pursuant to Section 9.644(e)(6) of the Eugene Code.

9.940 Enforcement.

(1) Any person who removes or destroys any trees in violation of this ordinance shall be subject to a civil penalty in an amount equal to 1.5 times the value of those trees, as computed from the International Society of Arboriculture tree value formula, or a similar method in common use, as determined by the city manager or designee.

(2) Willful violation of any provision of this code may be grounds for revocation or denial of any building, occupancy, or other permit issued to or applied for by the violator for the subject property, such grounds for revocation or denial not to extend beyond one year from the date of the violation.

(3) In addition to any other remedy or penalty available for enforcing the provisions of this code, the city manager may institute appropriate administrative or judicial action to enjoin the violation of any provision of this code.

(4) Any person aggrieved by a penalty imposed or decision rendered under LC 9.940(1), (2) and (3) above may appeal the same within the time and manner as set forth in LC 9.925(4)(c) and LC 9.925(5) above.

General Tree Removal Guidelines

- (1) The proposed tree removal activity should include provisions for the conservation and protection of trees which are to remain, in accordance with the following:
 - (a) Prior to any development, or alteration of grade on a site for which a tree removal permit is required, trees which are not identified for removal should be protected from damage which could result from tree removal or construction activity. This standard shall not apply to commercial thinning or logging activities.
 - (b) On parcels for which an Urbanizing (Woodland) Tree Removal Permit is required, ribbon enclosures shall be utilized to mark groups of trees within critical root zones, drainage corridors, property line buffers, ridgeline or hilltop leave areas, or other large areas into which tree removal activities or heavy equipment will not encroach.
 - (c) All land disturbing activity, storage of equipment, building materials, fill soil, and all other materials should be kept within the development area and outside of the protective enclosure.
- (2) Shallow-rooted trees which are to remain should be retained in sufficiently large areas and dense stands, and their critical root zone areas protected in such a manner as to protect against windthrow.
- (3) Unless waived by written consent of the adjacent property owner(s), the edges of wooded areas along property lines should be maintained as buffers, except where prior development as occurred or future development is approved, including necessary ingress and egress points. Based on the environmental characteristics of the property as measured by the site evaluation factors in LC 9.920(3)(a)-(i), these buffers should be 20 feet or more in depth from the property line measuring into the subject property. Within these buffers, existing trees as defined in LC 9.905 should be maintained, except for hazard trees which may be removed as they are identified.

Lane Code

Woodland Forest Management Guidelines

- A. Purpose. These guidelines are intended to maintain and encourage the growing of trees for future production and to provide for landowners to realize a return on investments in the property and resource. These standards are considered acceptable, provided the landowner uses good judgment; they may be altered provided sound and objective information is supplied to the city manager or designee clearly leading to the conclusion that alternative approaches or outputs are more appropriate.
- B. Guidelines.
1. Retain all healthy deciduous trees.
 2. Retain all healthy Ponderosa pine trees.
 3. Retain all healthy conifers of 36" or greater DBH.
 4. Remove all hazard trees.
 5. In no case shall the naturally occurring density of tree areas be reduced below 80 square feet per acre or below 50 percent crown closure, unless the naturally occurring stand is determined to have 100 percent crown closure, in which case reduction to less than 80 square feet per acre may be considered on a case by case basis. Trees shall be well dispersed over the site.
 6. Table I (Minimum Stocking) and II (Crown spacing) shall be used to achieve compliance with these guidelines.
 7. Final harvesting or clearcutting shall not exceed five percent of the acreage of any single ownership within the Urbanizing Area in any one year. For purposes of this calculation, ownerships through which the Urban Growth Boundary passes shall not include lands outside the UGB.
 8. Buffers and thinning shall be used to protect offsite views of the property.
 9. In circumstances of natural calamity or disaster (e.g., windstorm causing blowdown), the above guidelines may be waived or exceeded in order to provide for salvage operations.

EXHIBIT "B" TO CHAPTER
9 OF LANE CODE - 9.935
Page 1

TABLE I

| <u>Tree Diameter (DBH) (in ")</u> | <u>Basal Area/Tree</u> | <u># Trees/Acre to Maintain 80 sq.ft./Acre</u> | <u>Approximate Spacing Required*</u> |
|-----------------------------------|------------------------|--|--------------------------------------|
| 6 | .196 | 400 | 10 x 10 |
| 8 | .349 | 230 | 14 x 14 |
| 10 | .545 | 145 | 17 x 17 |
| 12 | .785 | 100 | 20 x 20 |
| 14 | 1.064 | 75 | 24 x 24 |
| 16 | 1.396 | 60 | 27 x 27 |
| 18 | 1.767 | 45 | 31 x 31 |
| 20 | 2.182 | Recommended that a minimum of 45 trees per acre be left unless applicant provides sufficient information that would allow fewer trees while maintaining the 80 sq. ft. basal area. | |
| 22 | 2.640 | | |
| 24 | 3.140 | | |
| 26 | 3.690 | | |
| 28 | 4.280 | | |
| 30 | 4.910 | | |
| 32 | 5.580 | | |
| 34 | 6.300 | An example would be complete crown closure and/or a suppressed understory. | |
| 36** | 7.070 | | |
| 38 | 7.880 | | |
| 40 | 8.730 | | |

** All trees 36-inch DBH will remain. However, landowner may make a case to be considered.

* This shall be interpreted to mean Conifers only; all Deciduous trees are excluded.

TABLE II

Crown Spacing - Trees Per Acre

$$\frac{43,560 \text{ Sq. Ft./Acre}}{100 \text{ trees}} = 435.6 \text{ Sq. Ft./Tree (22'-Diameter Crown)}$$

| <u>Diameter Crown (in Feet)</u> | <u>Sq. Ft./Tree</u> | <u>Trees/Acre</u> | (Closed Canopy) |
|---------------------------------|---------------------|-------------------|-----------------|
| 10 | 78.75 | 553 | |
| 15 | 176.63 | 247 | |
| 20 | 314.00 | 139 | |
| 25 | 490.63 | 89 | |
| 30 | 706.50 | 62 | |
| 35 | 961.63 | 45 | |
| 40 | 1,256.00 | 35 | |

(b) A brief description of any plan to replace, landscape, or otherwise reduce the effect of the felling if one is proposed.

(2) Within ten business days after an application is filed, the parks department shall:

(a) Issue the permit if the criteria of LC 9.320 above have been met; or

(b) Deny the permit and provide the applicant a written statement containing the basis of the denial.

(3) If issuance of the permit is conditioned upon the applicant's proposed plan to replace the trees, landscape, or otherwise reduce the effects of felling, the time within which the plan is to be completed shall be set forth on the permit.

(4) Failure to comply with a condition of a permit within the designated time is a violation of this section.

9.940 Criteria. In determining whether a proposed felling is consistent with sections 9.900-9.960, the Parks Department and the Tree Appeal Board, as the case may be, shall base their decision on one or more of the following:

(a) The condition of the trees with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular traffic safety.

(b) The topography of the land and the effect of felling on erosion, soil retention, stability of earth, flow and character of surface waters and streams, protection of nearby trees and windbreaks.

(c) The necessity to remove trees in order to construct proposed improvements, or to otherwise utilize the applicant's property in a reasonable manner.

(d) The effect the trees' removal has on the environmental quality of the area.

(e) The adequacy of the applicant's proposals, if any, to plant new trees or vegetation as a substitute for the trees to be felled.

(f) That the felling would be compatible with generally accepted practices of horticulture, silvaculture or landscape architecture.

(g) The felling is within the guidelines set forth in the Field Guide to Oregon Forestry Practices Rules published by the State of Oregon, Department of Forestry, as they apply to the northwest Oregon region, or the corresponding future publication of the State of Oregon Department of Forestry.

(h) The felling is consistent with the Metropolitan Area General Plan.

9.950 Appeal from Parks Department Denial.

(1) An applicant may appeal a Parks Department permit denial to the Hearings Official pursuant to Chapter 14 of the Lane Code by filing a written notice of appeal with the parks department within 30 business days from the date of the denial.

9.950(2)

Lane Code

9.960(4)

(2) The appellant shall carry the burden of proving the proposed felling is consistent with the criteria of LC 9.940 of the Code and wherein the Parks Department erred in the denial.

9.960 Trees, Felling - Exceptions. The requirements and restrictions of LC 9.900-9.960 of this code do not apply to:

(1) The action of any County or city officer or employee or of any public utility necessary to remove or alleviate an immediate danger to life or property; to restore utility service; or to reopen a public thoroughfare to traffic.

(2) An occupied parcel of private property consisting of less than 20,000 square feet of area.

(3) Felling of trees that are nuisances which threaten persons or property.

(4) Any felling necessary to install or maintain improvements such as streets and sewers within publicly owned and accepted rights-of-way or utility easements.

4-90; 4.25.90 (Sunset 8-1-90) 9-50c
Amended by 8-90; 8.1.90 [Sunset 12.1.90]

WP 1/co/00021/C

9.900

Lane Code

9.905

TREE CONSERVATION AND PROTECTION

9.900 Description and Purpose. It has been found necessary to adopt an ordinance regulating the cutting of trees in the area between the Eugene city limits and the Urban Growth Boundary. Provisions in this ordinance shall apply until such time as the area is annexed into the City of Eugene.

9.905 Definitions. As used in LC 9.910 to LC 9.940 below, the following definitions apply:

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City Manager. The city manager of the City of Eugene.

Caliper. The trunk diameter of young trees, usually measured at 6 inches above ground level.

Critical Root Zone. A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point 12 times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone. The critical root zone shall extend to a depth of five (5) feet below surface ground level.

Crown Closure or Canopy. An estimated area or space made up of the living limbs and branches of an individual tree. Crown closure is usually expressed as a percentage of the space occupied by the crown or canopy of a tree or trees and is usually stated in terms of crown or canopy density.

Crown Ratio. The estimated ratio of live limbs of a tree to its total height.

Developed Property. A lot or parcel of land upon which a building or other improvements subject to local construction regulations are located or a primary use is established.

Diameter Breast Height (DBH). The cross-sectional diameter of the trunk of a tree when measured at a point 4-1/2 feet above the base of the trunk on the uphill side.

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Groundcover. Small herbaceous and woody plants such as low-growing shrubs, ferns, mosses, wild flowers, grasses or other types of vegetation which normally cover the ground, provide root stabilization on slopes, slow surface runoff and absorb precipitation.

Land Clearance. The act of removing trees and groundcover in the course of preparing land for development. Land clearance is involved, for example, in road and driveway construction, utility excavation and building pad excavation.

Nonwoodland Area. Land in the urbanizing area composed of a parcel or a group of contiguous parcels less than 10 acres in total area and under one ownership or joint management.

Remove, Removal. Activities which include the cutting of trees and the injury and/or destruction of trees, by whatever method, on any lands subject to these provisions. Removal does not in any context include normal trimming or pruning of trees.

Person. Any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including governmental agencies conducting operations within the city and all tree removal companies and persons removing trees on behalf of others.

Slash. Any unutilized woody material created by tree removal, pruning, tree thinning, and/or land clearing.

Stocking. An expression of the number of trees per acre of any size at any given time.

Tree Removal Plan. An approved plan for tree removal which satisfies the requirements of LC 9.910-9.935 below.

Tree. Any woody perennial plant which, when mature, shall have the following characteristics: a main axis or stem commonly achieving 10 feet in height, and capable of being shaped and pruned to develop a branch-free trunk at least 9 feet in height or capable of being pruned in such a manner that the branching will grow parallel with the sidewalk or street.

Urbanizing Area. The area located between the legal city limits of the City of Eugene and the Urban Growth Boundary of the city as adopted by the Eugene-Springfield Metropolitan Area General Plan, as amended.

Woodland. Land in the urbanizing area composed of parcel or group of contiguous parcels covering 10 or more acres in total area, and under one ownership or joint management.

9.910 Permit Required.

(1) Except for those activities specifically permitted by LC 9.115 below, no person shall engage in or cause land clearance or tree removal within the urbanizing areas of the City of Eugene without having first obtained a Tree Removal Permit.

(2) All Tree Removal Permits issued under the provisions of this Code shall be available for inspection at the site.

(3) Permits shall fall into one of two categories:

(a) Urbanizing Area (Nonwoodland) Tree Removal Permits: permits issued for the removal of trees on Nonwoodlands in the urbanizing area.

(b) Urbanizing Area (Woodland) Tree Removal Permits: permits issued for the removal of trees on Woodlands in the urbanizing area.

9.915 Exemptions. The requirements and provisions of LC 9.920 to LC 9.940 below do not apply to the following activities:

(1) In urbanizing areas, the following tree removal activities are exempt from the requirement to obtain a permit:

(a) On Woodland parcels, the selective removal of five or fewer trees within any 12-month period on any single acre, as measured by standard forestry practices.

(b) On Nonwoodland parcels, the removal of five or fewer trees within any 12-month period on any single acre, as measured by standard forestry practices. Parcels of less than one acre shall be considered one acre in area for purposes of this exemption.

(2) Removal of trees having a trunk diameter of less than 8 inches DBH.

(3) Any action necessary to remove or alleviate an immediate danger to life or property; to restore utility service; or to reopen a public thoroughfare to traffic.

(4) Removal of trees and groundcover that are deemed nuisances under LC 5.720.

(5) Removal of trees or other vegetation necessary to install or maintain improvements on parklands, streets, sewers, or utilities within publicly-owned and dedicated rights-of-way or public utility easements.

(6) Tree removal within portions of a planned unit development, subdivision, or Site Review for which final approval has been obtained and in accordance with the review criteria contained in LC 9.920 below. Such removal shall be allowable only for property development directly authorized by the planned unit development, subdivision or site review approval action.

9.920 Application Review Criteria. The approval, conditional approval, or denial of a request for all tree removal permits shall be based on findings by the city manager or designee which indicate evaluation of the following criteria and standards. In addition, specific standards shall be applied to each type of permit as provided for in LC 9.935 below:

(1) The relationship of the tree removal proposal to accepted forestry practices including commercial thinning and commercial harvesting. Said forestry practice includes such considerations as the number of healthy trees in a given parcel of land will support.

(2) The condition of the trees proposed for removal, as measured by one or more of the following factors, warrants their removal:

(a) Evidence of damage and/or disease.

(b) Danger of falling.

(c) General health and vigor.

(d) Roots or crown interface with existing or proposed structures including necessary construction staging areas.

(e) Interference with utility services.

(f) Interference with solar access.

(g) Pedestrian safety and/or vehicular traffic safety.

(h) Establishment of scenic views from the property, in association with approved development activities.

(3) Tree removal shall not adversely affect the environment of the area. Factors to be reviewed include, but are not limited to, the effects on:

- (a) Scenic qualities of the area with special consideration for ridgeline and hilltop views.
- (b) The stability of nearby trees and windbreaks.
- (c) Wildlife habitat.
- (d) Soil stability.
- (e) Surface runoff volumes.
- (f) Water quality of receiving waters in the area.
- (g) Potential for fire hazard.
- (h) Noise.
- (i) Windblock.
- (j) Other environmental qualities found by the city manager or designee to be of relevance to the proposal.
- (4) The tree removal is necessary in order to construct proposed improvements in accordance with an approved development plan.
- (5) The activity will comply with tree removal standards as defined in LC 9.935 below.

9.925 Permit Process.

(1) Permit Required. Except for activities exempted from the requirements and provisions of this ordinance by LC 9.915 above, a tree removal permit shall be required to remove trees from any parcel of land within the urbanizing area.

(2) Decision Authority. Tree removal permits shall be approved, approved with modifications, or denied by the city manager or his designee.

(3) Site Plan Review Procedure.

(a) Preapplication Conference. Prior to submission of an application, the applicant shall confer with the city manager or his designee to review the application requirements.

(b) Professional Services. Prior to making a decision, the city manager or his designee may require an applicant to employ a licensed landscape architect, forester or other specialist if one or more of those professional services is required for compliance with LC 9.920 criteria or LC 9.935 standards.

(c) Documentation of Approved Plans. After tree removal permit approval, the applicant shall provide the city manager or his designee with three copies of the approved plan. The city shall mark them "Approved" with the date of the action. The city shall also attach the conditions of approval to the plans.

(4) Decision and Appeal.

(a) Unless the applicant agrees to a longer time period, within 10 working days of receipt of a complete and accurate application, the city manager or designee shall approve, conditionally approve, or deny an application for a tree removal permit. The city manager's decision shall be based on the criteria specified in LC 9.920 above.

(b) If the permit includes conditions regarding restoration or replacement of trees, the time within which the restoration or replacement work is to occur shall be set forth on the permit.

(c) Within 10 calendar days of a decision, it may be appealed by the applicant to the permitting agency. The appeal shall be filed with the City manager on a form to be provided by the City, shall be accompanied by a fee of \$100 and must state specifically how the city manager or his designee failed to properly evaluate the proposed tree removal or make a decision consistent with the applicable criteria.

(5) Appeal Notice and Action.

(a) Appeals from the decision of the City Manager shall be heard by the City Hearings Official.

(b) The Hearings Official shall hold a hearing within 20 calendar days of the receipt of an application to appeal the City Manager's decision.

(c) At least 10 calendar days prior to the hearing, the City shall mail notice of the hearing to the applicant.

(d) Within 10 calendar days after the hearing, the Hearings Official shall render a decision and mail a copy to the applicant.

(e) Appeals from the decision of the Hearings Official may be heard by the Board of County Commissioners, provided the Board reviews the appeal application and decides to accept it for hearing. The Board is not required to accept an appeal.

(f) An appeal accepted by the Board shall be heard within 30 calendar days of the date the appeal is received by the County, provided that if a Board meeting is not scheduled within the final week of that time period, the appeal shall be heard at the next regularly scheduled Board meeting.

(g) At least 10 calendar days prior to the hearing, the County shall mail notice of the hearing to the applicant.

(h) Within 10 calendar days after the hearing, the Board of County Commissioners shall render a decision and mail a copy to the applicant. The Board of County Commissioners' decision is final.

9.930

Permit Requirements.

(1) General Tree Removal Permit Requirements.

(a) A Tree Removal Permit Application and related information shall be submitted by the applicant on forms required by the County. Failure of the applicant to submit a complete application may be cause for denial of the permit request. If not the property owner, the applicant shall provide a signed form by the property owner consenting to the permit request.

(b) The application shall be accompanied by a fee of \$70.

(c) In all cases, the burden of demonstrating that applicable criteria and standards have been or can be satisfied is upon the applicant.

(d) Permit approval shall be valid for a period of 12 months from the date of final approval, unless otherwise provided for by the city manager or designee.

(e) Conditions of approval may be made a part of the approval action by the city manager or designee.

9.935 Tree Removal Standards. All tree removal activities shall comply with the following standards, and with the General Guidelines as stated in Exhibit "A." Woodland tree removal activities only shall also comply with Woodland Forest Management Guidelines contained in Exhibit "B."

(1) General Tree Removal Standards.

(a) Wooded areas within 25 feet of the high-water mark of riparian zones, natural drainageways, wetlands, and other water features shall remain undisturbed.

(b) Unless otherwise provided for by an approved site development plan, wooded areas within 100 feet of ridgelines and hilltops shall be protected consistent with the purposes of this ordinance. Hazard trees within ridgeline and hilltop areas shall be removed as they are identified.

(c) All remaining trunks and branches shall be disposed of in a manner approved of by the appropriate fire protection authority.

(d) Burning of slash materials shall be allowed in the area lying between the city limits and the Urban Growth Boundary subject to approval by those regulatory agencies currently governing such burning (Lane Regional Air Pollution Authority, Oregon Department of Forestry, and local rural fire protection districts), and based on an assessment of criteria including but not limited to:

(i) Air quality.

(ii) Proximity of the proposed burn to developed areas.

(e) During tree removal operations, adequate fire suppression equipment, as required by the applicable fire protection authority, shall be maintained on the site. Specific fire protection may be required by the fire protection authority as a condition of approval.

(2) Urbanizing Area (Nonwoodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.935(1) above and the following specific standards:

(a) For undeveloped parcels or for developed lots which have further potential for being partitioned or subdivided, land clearing shall be limited to designed street rights-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as provided by LC 9.920(2)(h) above, as depicted on an approved development plan.

(d) Removal operations involving the use of any mechanized or motorized equipment shall be considered equivalent to construction site sounds and shall occur pursuant to Section 9.644(e)(6) of the Eugene Code.

(3) Urbanizing Area (Woodland) Permit Standards. Permit approval shall require compliance with the General Tree Removal Standards in LC 9.935(1) above and the following specific standards:

(a) For woodland areas intended for conversion to urban uses, land clearing shall be limited to designated street right-of-way, utility areas, and areas necessary to the construction of proposed buildings and structures and associated scenic views as provided by LC 9.920(2)(h) above, as depicted on an approved development plan.

(b) For woodland areas intended for continued use as commercial forestland, maintenance of a basal area which provides sufficient canopy cover, reproductive capacity, understory structure and wildlife habitat, in accordance with the provisions of Exhibit "B," shall be maintained within the woodland after harvesting.

(c) Temporary culverts necessary to bridge drainageways shall be removed and the drainageway restored to a reasonably natural condition following the completion of tree removal.

(d) All areas disturbed as a result of tree removal will be restored to their original condition to the extent practicable and consistent with the purposes of LC 9.900-9.940. Restoration may require grading, grass seeding or replanting trees and must be completed in accordance with an approved schedule.

(e) Where appropriate, a diversity of tree species shall be encouraged on the site.

(f) Tree removal operations occurring within 1000 feet of any dwelling shall be considered the equivalent of construction site sounds and shall occur pursuant to Section 9.644(e)(6) of the Eugene Code.

9.940 Enforcement.

(1) Any person who removes or destroys any trees in violation of this ordinance shall be subject to a civil penalty in an amount equal to 1.5 times the value of those trees, as computed from the International Society of Arboriculture tree value formula, or a similar method in common use, as determined by the city manager or designee.

(2) Willful violation of any provision of this code may be grounds for revocation or denial of any building, occupancy, or other permit issued to or applied for by the violator for the subject property, such grounds for revocation or denial not to extend beyond one year from the date of the violation.

(3) In addition to any other remedy or penalty available for enforcing the provisions of this code, the city manager may institute appropriate administrative or judicial action to enjoin the violation of any provision of this code.

(4) Any person aggrieved by a penalty imposed or decision rendered under LC 9.940(1), (2) and (3) above may appeal the same within the time and manner as set forth in LC 9.925(4)(c) and LC 9.925(5) above.

Lane Code

General Tree Removal Guidelines

- (1) The proposed tree removal activity should include provisions for the conservation and protection of trees which are to remain, in accordance with the following:
 - (a) Prior to any development, or alteration of grade on a site for which a tree removal permit is required, trees which are not identified for removal should be protected from damage which could result from tree removal or construction activity. This standard shall not apply to commercial thinning or logging activities.
 - (b) On parcels for which an Urbanizing (Woodland) Tree Removal Permit is required, ribbon enclosures shall be utilized to mark groups of trees within critical root zones, drainage corridors, property line buffers, ridgeline or hilltop leave areas, or other large areas into which tree removal activities or heavy equipment will not encroach.
 - (c) All land disturbing activity, storage of equipment, building materials, fill soil, and all other materials should be kept within the development area and outside of the protective enclosure.
- (2) Shallow-rooted trees which are to remain should be retained in sufficiently large areas and dense stands, and their critical root zone areas protected in such a manner as to protect against windthrow.
- (3) Unless waived by written consent of the adjacent property owner(s), the edges of wooded areas along property lines should be maintained as buffers, except where prior development has occurred or future development is approved, including necessary ingress and egress points. Based on the environmental characteristics of the property as measured by the site evaluation factors in LC 9.920(3)(a)-(i), these buffers should be 20 feet or more in depth from the property line measuring into the subject property. Within these buffers existing trees as defined in LC 9.905 should be maintained, except for hazard trees which may be removed as they are identified.

Lane Code

Woodland Forest Management Guidelines

- A. Purpose. These guidelines are intended to maintain and encourage the growing of trees for future production and to provide for landowners to realize a return on investments in the property and resource. These standards are considered acceptable, provided the landowner uses good judgment; they may be altered provided sound and objective information is supplied to the city manager or designee clearly leading to the conclusion that alternative approaches or outputs are more appropriate.
- B. Guidelines.
1. Retain all healthy deciduous trees.
 2. Retain all healthy Ponderosa pine trees.
 3. Retain all healthy conifers of 36" or greater DBH.
 4. Remove all hazard trees.
 5. In no case shall the naturally occurring density of tree areas be reduced below 80 square feet per acre or below 50 percent crown closure, unless the naturally occurring stand is determined to have 100 percent crown closure, in which case reduction to less than 80 square feet per acre may be considered on a case by case basis. Trees shall be well dispersed over the site.
 6. Table I (Minimum Stocking) and II (Crown spacing) shall be used to achieve compliance with these guidelines.
 7. Final harvesting or clearcutting shall not exceed five percent of the acreage of any single ownership within the Urbanizing Area in any one year. For purposes of this calculation, ownerships through which the Urban Growth Boundary passes shall not include lands outside the UGB.
 8. Buffers and thinning shall be used to protect offsite views of the property.
 9. In circumstances of natural calamity or disaster (e.g., windstorm causing blowdown), the above guidelines may be waived or exceeded in order to provide for salvage operations.

TABLE I

| <u>Tree Diameter (DBH) (in ")</u> | <u>Basal Area/Tree</u> | <u># Trees/Acre to Maintain 80 sq.ft./Acre</u> | <u>Approximate Spacing Required*</u> |
|---------------------------------------|----------------------------|--|--|
| 6 | .196 | 400 | 10 x 10 |
| 8 | .349 | 230 | 14 x 14 |
| 10 | .545 | 145 | 17 x 17 |
| 12 | .785 | 100 | 20 x 20 |
| 14 | 1.064 | 75 | 24 x 24 |
| 16 | 1.396 | 60 | 27 x 27 |
| 18 | 1.767 | 45 | 31 x 31 |
| 20 | 2.182 | Recommended that a minimum of 45 trees per acre be left unless applicant provides sufficient information that would allow fewer trees while maintaining the 80 sq. ft. basal area. | |
| 22 | 2.640 | | |
| 24 | 3.140 | | |
| 26 | 3.690 | | |
| 28 | 4.280 | | |
| 30 | 4.910 | | |
| 32 | 5.580 | | |
| 34 | 6.300 | | |
| 36** | 7.070 | | |
| 38 | 7.880 | | |
| 40 | 8.730 | | |

** All trees 36-inch DBH will remain. However, landowner may make a case to be considered.

* This shall be interpreted to mean Conifers only; all Deciduous trees are excluded.

TABLE II

Crown Spacing - Trees Per Acre

$$\frac{43,560 \text{ Sq. Ft./Acre}}{100 \text{ trees}} = 435.6 \text{ Sq. Ft./Tree (22'-Diameter Crown)}$$

| <u>Diameter Crown (in Feet)</u> | <u>Sq. Ft./ Tree</u> | <u>Trees/ Acre</u> | <u>(Closed Canopy)</u> |
|---|--------------------------|------------------------|------------------------|
| 10 | 78.75 | 553 | |
| 15 | 176.63 | 247 | |
| 20 | 314.00 | 139 | |
| 25 | 490.63 | 89 | |
| 30 | 706.50 | 62 | |
| 35 | 961.63 | 45 | |
| 40 | 1,256.00 | 35 | |