

16.08.140 Violation – Penalty.

A violation of any of the provisions of this chapter is a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed \$500.00. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted. (Ord. 277 § 9, 1981)

Chapter 16.14**TREE PROTECTION AND REPLACEMENT***

Sections:

- 16.14.010 Findings.
- 16.14.020 Purpose and intent.
- 16.14.030 Definitions.
- 16.14.040 Tree removal – Permits and posting required.
- 16.14.050 Exemptions.
- 16.14.060 City forestry account.
- 16.14.070 Tree plan required.
- 16.14.080 Tree retention standards.
- 16.14.090 Tree replacement standards.
- 16.14.100 Variances.
- 16.14.110 Protection measures.
- 16.14.120 Maintenance.
- 16.14.130 Enforcement.

* Code reviser's note: Section 3 of Ordinance 990 provides that the provisions of Section 1 of the ordinance codified in this chapter shall be repealed, and the provisions of Chapter 16.14 LFPMC in effect prior to the passage of this ordinance codified in this chapter shall be revived and in force, effective midnight on June 30, 2009.

16.14.010 Findings.

The city council makes the following findings:

A. The trees of Lake Forest Park, a reminder of the city's namesake, offer historic, aesthetic, ecological, economic, health, safety and welfare values to the community. These values include:

1. Enhancing the economic value of properties;
2. Reducing soil erosion and runoff from precipitation;
3. Stabilizing and enriching the soil;
4. Improving water quality;
5. Improving air quality;
6. Moderating the effects of wind and temperature;
7. Buffering unwanted sound;
8. Providing and protecting varied and rich habitats for wildlife;
9. Providing visual relief and screening buffers; and
10. Providing a valuable asset to the community as a whole.

B. Removal of trees from urban areas such as Lake Forest Park has resulted in the loss to the public of these beneficial functions of trees, and it has

16.14.020

resulted in an environmental degradation that may threaten the public health, safety, and welfare. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.020 Purpose and intent.

The purpose and intent of this chapter is to:

A. Maintain the existing tree canopy by encouraging the protection of existing trees and stands of trees.

B. Mitigate the economic, environmental, and aesthetic consequences of tree removal through tree replacement to achieve a goal of no net reduction in significant tree inventory.

C. Protect trees from adverse impacts during construction.

D. Encourage tree protection by providing mechanisms designed to allow appropriate flexibility with regard to other site improvement and building requirements of the city.

E. Maintain and protect the public health, safety, and general welfare. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.030 Definitions.

For the purposes of this chapter, the following terms are defined as follows:

“Administrator” means the city planner or the city planner’s designee.

“Best management practices (BMPs)” means conservation practices and management measures designed to protect trees, including:

1. Avoidance of physical damage to tree trunk, branches, foliage and roots;
2. Restriction of the movement, operation, and location of construction materials and equipment to avoid the area under a tree canopy;
3. Minimization of adverse changes in drainage conditions around tree roots;
4. Minimization of adverse changes to the chemical, physical, structural, and organic characteristics of soil around tree roots;
5. Conservation practices which the State of Washington Department of Agriculture and Washington State Department of Ecology identify as intended to protect trees.

“Caliper” means the American Nursery and Landscape Association standard for measurement of trunk size of nursery stock. Caliper of the trunk shall be taken six inches above the ground.

“Diameter” or “diameter-breast-height (dbh)” means the diameter of any tree trunk, measured at four and one-half feet above average grade. For species of trees whose normal growth habit is characterized by multiple stems (e.g., hazelnut, vine

maple) diameter shall mean the average diameter of all stems of the tree, measured at a point six inches from the point where the stems digress from the main trunk. In no case shall a branch more than six inches above average grade be considered a stem. For the purposes of code enforcement, if a tree has been removed and only the stump remains, the size of the tree shall be the diameter of the top of the stump.

“Dripline” means an area encircling the base of a tree delineated by a vertical line descending from the outer limit of a tree’s branch tips to the ground.

“Hazard tree” means a tree that has a combination of structural defects and/or disease which makes it subject to a high probability of failure and is in proximity to moderate-high frequency of persons or property and the hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

“Impact” means a condition or activity that affects a part of a tree including the trunk, branches, and roots within the dripline.

“Landmark tree” means a tree that is at least 28 inches in diameter.

“Limits of disturbance” means the boundary between the area of minimum protection around a tree and the allowable site disturbance as determined by a qualified tree professional.

“Native” means native to western Washington in relation to a species of tree, shrub, or ground-cover plant.

“Nuisance tree” means a tree that is causing obvious physical damage to structures, including but not limited to sidewalk, curb, road, driveway, parking lot, building foundation, or roof, and the problems associated with the tree must be such that they cannot be corrected by any other reasonable practice.

“Person” means an individual, corporation, municipal corporation, association, LLC, or any legal entity.

“Protected tree” means a tree and associated understory vegetation identified for retention and protection on an approved tree protection and replacement plan and/or permanently protected by easement, tract, or covenant restriction.

“Qualified tree professional” means an individual with relevant education and training in arboriculture or urban forestry. The individual must be an arborist certified by the International Society of Arboriculture or a registered consulting arborist from the American Society of Consulting Arborists. A qualified tree professional must pos-

assess the ability to perform tree risk assessments and prescribe appropriate measures necessary for the preservation of trees during land development.

“Significant tree” means any healthy tree six inches or greater in diameter (dbh).

“Street tree” means any tree on public rights-of-way.

“Tree” means a self-supporting woody plant characterized by one main trunk or, for certain species, multiple trunks, that is recognized as a tree in the nursery and arboricultural industries.

“Tree removal” means the direct or indirect removal of a tree(s) or vegetation through actions including, but not limited to: clearing, cutting, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity of trees or vegetation; filling, excavating, grading, or trenching in the dripline; or relocating an existing tree to a new planting location; or the removal through any of these processes of greater than 30 percent of the height, size or bulk of a significant tree.

“Understory vegetation” means small trees, shrubs, and groundcover plants, growing beneath and shaded by a significant tree.

“Viable tree” means a significant tree that a qualified tree professional has determined to be in good health, with a low risk of failure due to structural defects, is relatively windfirm if isolated or exposed, and is a species that is suitable for its location.

“Wildlife snag” means the remaining trunk of a dead, dying, diseased, or hazard tree that is reduced in height and stripped of all live branches.

“Windfirm” means a condition of a tree in which it can withstand moderate storm winds. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.040 Tree removal – Permits and posting required.

A. No person shall remove any significant tree located within the city without first obtaining a tree permit in accordance with this chapter.

1. A Level I permit shall be required to remove up to two significant trees in a 12-month period.

2. A Level II permit shall be required to remove more than two significant trees in a 12-month period; provided, that no more than five significant trees per lot in a 12-month period may be removed for the purposes of thinning a heavily wooded area to benefit remaining trees provided the site’s forested look, value, or function is maintained.

3. A Level II permit shall be required:

a. To conduct grading activities when there will be impact to a significant tree(s) by activity on a developed site; or

b. For any new development, including single-family subdivisions.

B. Posting Requirements.

1. For Level I tree permits, tree removal may commence immediately upon posting of an approved Level I tree permit on the subject site at a conspicuous location. The notice shall be posted for two days prior to removal and remain posted at least one week after the approved activity has been completed.

2. For Level II tree permits, the notice of application shall be posted as required by Chapter 16.26 LFPMC prior to permit approval. Tree removal may commence immediately upon posting of an approved Level II tree permit on the subject site at a conspicuous location. The notice shall remain posted at least one week after the approved activity has been completed. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.050 Exemptions.

The following are exempt from the requirements of this chapter:

A. Emergency activities necessary to remedy an immediate threat to public health, safety or welfare;

B. Trees may be removed by the city or utility provider in situations involving immediate danger to life or property, including impeding safe traffic vision or flow, or interruption of services provided by a utility;

C. Sensitive Areas and Sensitive Area Buffers. A tree located within a sensitive area or a sensitive area buffer shall only be removed subject to the provisions of Chapter 16.16 LFPMC. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.060 City forestry account.

A. The city council shall establish in the budget ordinance a city forestry account in the general fund.

B. The city shall credit to the city forestry account:

1. All money paid to the city under LFPMC 16.14.090; and

2. Other monies allocated by the city council.

C. The city shall use the city forestry account funds for the following purposes:

16.14.070

1. Acquiring, maintaining, and preserving wooded areas within the city;
2. Planting and maintaining trees within the city; or
3. Other purposes relating to trees as determined by the city council. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.070 Tree plan required.

A. An applicant for a tree permit must submit a tree plan that complies with this section.

B. Level I Tree Permit. A Level I tree permit shall be approved based on the following:

1. The completed permit application supplemented by a general site plan showing the tree(s) to be removed and nearby structures and significant trees.

2. The applicant shall be required to replace the removed significant tree(s) on a one-for-one basis according to the standards set in LFPMC 16.14.090. A replacement tree plan showing the location(s) and species of the new tree(s) shall be submitted with the permit application.

3. The administrator shall provide detailed written requirements for residents requesting permits. The purpose of such requirements is to provide a simple and user-friendly Level I tree permit procedure.

C. Level II Tree Permit. A Level II tree permit shall be approved based on the following:

1. A site map depicting accurate location of significant trees and their driplines measured relative to visible site features (a survey may be required) and approximate location of significant trees on adjacent property with driplines extending over the subject property.

2. A tree inventory prepared by a qualified tree professional including a numbering system of existing significant trees (with corresponding tags on trees), measured driplines, diameter, species and tree status (remove or retain) based on criteria in LFPMC 16.14.080 for all significant trees. The inventory shall include species, approximate diameter, and measured dripline of significant trees that are on adjacent property with driplines extending over the subject property line.

3. A report from a qualified tree professional detailing:

a. An indication, for each tree, of whether it is proposed to be retained or removed, based on health, hazard, nuisance, or suitability of species;

b. Limits of disturbance around viable trees impacted by the development;

c. Special instruction for work within their dripline; and

d. Location and type of protection measures for these trees.

4. A description and location of tree protection measures during construction for trees to be retained must be shown on demolition and grading plans. Protection measures must be in accordance with LFPMC 16.14.110.

5. The above tree information shall be required only for trees potentially impacted on developed lots.

6. The administrator may specify conditions for work, at any stage of the application or project, as it deems necessary to ensure the proposal's compliance with requirements of this section, as well as the sensitive areas regulations, clearing, grading, and stormwater management regulations, or to protect public or private property. These conditions may include, but are not limited to, hours or seasons within which work may be conducted, or specific work methods.

7. The applicant shall be required to replace each removed significant tree(s) on a one-for-one basis according to the standards set in LFPMC 16.14.090. The removal of a landmark tree requires a two-for-one replacement. A replacement tree plan showing the location(s) and species of the new tree(s) shall be submitted with the permit application.

D. Tree selection shall be consistent with the Lake Forest Park tree list, which is maintained by the city. Trees listed as prohibited in the Lake Forest Park tree list are not acceptable for replacement or mitigation trees.

E. For all permits in this section, a minimum of 35 percent of all significant trees shall be retained. The enforcement of this requirement shall take into consideration all tree permits issued and executed since January 1, 2004.

F. Permits shall only be issued after the administrator has verified that trees replaced under tree permits issued after January 1, 2004, are still viable. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001)

16.14.080 Tree retention standards.

A. Grading and Proximity to Structures, Utilities, and Roadways.

1. Structures, utilities, and roadways shall be set back at least five feet from the dripline of a protected tree, except where such structure is a raised deck, bay window, or cantilevered or otherwise raised above the ground's surface so as not to disrupt the tree's roots.

2. Sidewalks, driveways, structures and utilities may be located within the dripline of a protected tree; provided, that construction methods and materials used will result in minimal disruption of the tree's roots, and that tree protection measures are proposed and approved.

3. The administrator may allow activities such as trenching, construction or an alteration of grades inside the five-foot setback from the dripline of a protected tree; provided, that the applicant submits, at applicant's expense, an evaluation by a qualified tree professional which demonstrates that the proposed activity will not adversely affect the long-term viability of the tree.

B. Site Development and Modification Guidelines. Site improvements shall be designed and constructed to:

1. Incorporate trees as a site amenity and to reflect a strong emphasis on tree protection.

2. Retain a forested look, value, and function after development or modification. Trees should be protected within vegetated islands and stands rather than as individual, isolated trees scattered throughout the site.

3. Give priority to protection of:

- a. Existing stands of healthy trees;
- b. Healthy trees that have a reasonable chance of survival once the site is developed or modified or will not pose a threat to life or property;
- c. Trees that have a screening function or provide relief from glare, noise, or commercial harshness;
- d. Trees providing habitat value, such as riparian habitat;
- e. Trees within the required yard setbacks or around the site perimeter;
- f. Trees having a significant land stability function; and
- g. Trees adjacent to public parks and open space.

4. Building footprints, parking areas, roadways, utility corridors and other structures shall be designed and located taking into consideration tree protection opportunities.

5. The project grading plans shall accommodate existing trees and avoid alteration to grades around existing significant trees, and they shall incorporate open space and recreational space designed and located to protect existing stands of trees.

6. The site design and landscape plans shall provide suitable locations and adequate area for replacement trees as required by this chapter.

C. Incentives for Higher Levels of Tree Retention for New Development. The city may grant reductions or adjustments to other site development standards if retention of 35 percent of the existing, healthy significant trees is exceeded. On a case by case review, the administrator shall determine the balance between tree protection that exceeds the established minimum percentage and variations to site development requirements. Authorized adjustments include:

1. Reductions or variations of the area or width of required open space and/or landscaping;
2. Variations in parking lot design and/or access requirements; or
3. Reduction in the width of certain easements. (Ord. 990 § 1, 2008)

16.14.090 Tree replacement standards.

Each Level II tree removal permit shall be conditioned to require a tree protection and replacement plan providing for tree replacement that will meet the minimum standards of this section.

A. Replacement Required. Except for trees relocated in compliance with this chapter, each significant tree removed pursuant to a Level II tree removal permit shall be replaced by one new tree.

B. Replacement Trees. Replacement trees shall:

1. Equal or exceed two-inch caliper for deciduous trees, or six to eight feet in height for evergreen trees;
2. Meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock;
3. Be planted to re-establish tree clusters where they previously existed, or to enhance protected tree clusters;
4. Be planted in locations appropriate to the species' growth habit and horticultural requirements;
5. Be located away from areas where damage is likely; and
6. Be selected with consideration of the tree's maturation and maintenance requirements when they are to be planted adjacent to or under power lines, sidewalks, public rights-of-way, or in view corridors.

C. Installation.

1. Replacement trees shall be planted in accordance with best management practices for landscaping.

2. All required tree replacement and other required mitigation shall be completed prior to issuance of the certificate of occupancy, or, in

16.14.100

other cases, at a time determined at the issuance of the permit; unless the administrator determines that seasonal or weather conditions at the time of installation would jeopardize plant survival and the applicant has submitted an alternate planting schedule for approval.

D. On-Site Replacement. Replacement trees shall be planted on the site from which significant trees are removed.

E. Alternatives to On-Site Replacement. When the administrator determines that on-site replacement is not practicable, the city may authorize:

1. Off-site replacement at the applicant's expense on city-owned property, sensitive areas and their buffers, or stream corridors in the city, or permanently protected private open space; or

2. The administrator may waive on-site and off-site tree replacement; provided, that the applicant pays an amount approximating the current market value of the purchase, installation and five-year maintenance for every outstanding replacement tree into the city forestry account.

3. The administrator may consider other measures designed to mitigate the loss of trees by restoring all or parts of the forest landscape and its associated benefits, including but not limited to:

a. Creation of wildlife snags from trees which would otherwise be removed;

b. Replacement of ornamental trees with native shrubs and groundcover;

c. Replacement of hazardous or short-lived trees with healthy new trees more likely to survive;

d. Daylighting and restoration of stream corridors with native vegetation; or

e. Protection of nonsignificant trees to provide for the successional stages of forest development. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001. Formerly 16.14.080)

16.14.100 Variances.

Where exceptional conditions exist that prevent full compliance with this chapter, the applicant may submit a written request for a variance which shall accompany the application for a tree removal permit. The written request shall fully state all substantiating facts and evidence pertinent to the variance request, and include supporting maps or plans. The administrator may also require the recommendation of a qualified tree professional, at the applicant's expense, in reviewing a variance request. The administrator shall submit the request for variance and a written recommendation to the hearing examiner. The hearing examiner shall only

grant the variance if all of the following criteria are satisfied:

A. The variance is necessary because:

1. There are special circumstances related to the size, shape, topography, location or surroundings of the subject property; or

2. Strict compliance with the provisions of this code may jeopardize reasonable use of property; and

B. The granting of the variance or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity; and

C. Proposed tree removal, replacement, and any mitigation proposed are consistent with the purpose and intent of this section; and

D. A variance to the required minimum protection standards shall be conditioned upon required tree replacement at a minimum of three trees for each significant tree removed. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001. Formerly 16.14.090)

16.14.110 Protection measures.

A. Tree Protection Measures. To ensure long-term viability of trees identified for protection:

1. All required tree protection measures shall be shown on the tree protection and replacement plan.

2. All construction activities, including staging and traffic areas, shall be prohibited within five feet of the dripline of protected trees.

3. Tree protective fencing shall be installed at the limits of disturbance and completely around trees to be protected prior to any land disturbance.

4. Tree protective fencing shall be a minimum of four feet high, constructed of chain link, or polyethylene laminar safety fencing or similar material, subject to approval by the city. "Tree Protection Area" signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the city may also require that signs requesting subcontractor cooperation and compliance with tree protection measures be posted at site entrances.

5. Where tree protection areas are remote from areas of land disturbance, and where approved by the city, alternative forms of tree protection may be used in lieu of tree protective fencing; provided, that protected trees are completely surrounded with continuous rope or flagging and are accompanied by "Tree Protection Area – Keep Out" signs.

B. Preventative Measures. In addition, the applicant shall support tree protection efforts by

employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

1. Pruning of visible deadwood on trees to be protected or relocated;
2. Application of fertilizer to enhance the vigor of stressed trees;
3. Use of soil amendments and soil aeration in tree protection and planting areas;
4. Mulching over tree dripline areas; and
5. Ensuring proper water availability during and immediately after construction.

C. Alternative Methods. The city may approve the use of alternative tree protection techniques if a protected tree will be protected to an equal or greater degree than through the techniques listed above, as determined by a qualified tree professional at the applicant's expense. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001. Formerly 16.14.100)

16.14.120 Maintenance.

A. All required replacement trees, and relocated trees shown on an approved permit, shall be maintained in healthy condition by the property owner throughout the duration of the construction project or activity and for a reasonable period thereafter as may be provided for in the tree protection and replacement plan, unless otherwise approved by the city in a subsequent permit.

B. Pruning.

1. Protected trees, as defined in this chapter, shall not be topped.
2. Street trees shall be pruned only under the supervision of the Lake Forest Park public works department.
3. Pruning and maintenance of protected trees shall be consistent with best management practices in the field of arboriculture, unless necessary to protect life and property. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001. Formerly 16.14.110)

16.14.130 Enforcement.

A. Increased Permit Fees. In addition to or in place of any other remedy or penalty authorized by the LFPMC, the administrator may charge a fee equivalent to triple the fee associated with a Level II tree permit to any person who conducts unpermitted activity requiring a Level I or Level II tree permit, or who fails to provide sufficient evidence that the such activity met the requirements of LFPMC 16.14.050, Exemptions.

B. Stop Work Order. If a violation of this chapter or an approved tree permit occurs on property on which work is taking place pursuant to a city of

Lake Forest Park development or building permit, the building official may suspend some or all of the work as appropriate through issuance of a stop work order. The building official shall remove the stop work order when the city determines that the violation has been corrected or when the city has reached an agreement with the violator regarding rectification of the violation.

C. Any person who removes a tree in violation of the conditions of a tree removal permit or in violation of this chapter shall be subject to remedial measures. The following provisions shall apply in instances where such remedial measures are required:

1. All work shall be performed in accordance with permits obtained pursuant to this chapter.
2. Remedial measures must conform to the purposes and intent of this chapter and meet all requirements and standards of this chapter, except that the number of mitigation trees for significant trees damaged, destroyed or removed shall be:

Size of Removed Tree (dbh)	Number of Mitigation Trees Required
6"	2
Greater than 6" – 9"	3
Greater than 9" – 12"	4
Greater than 12" – 16"	5
Greater than 16"	6

3. Deciduous mitigation trees shall be a minimum of two inches in diameter (dbh) and evergreen replacement trees shall be a minimum of eight feet in height.

4. Remedial measures must be completed within the time frame specified by the administrator.

5. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant.

D. Penalties. The administrator shall impose a penalty of up to \$3,000 per tree for removal of or damage to significant trees in violation of this chapter. (Ord. 990 § 1, 2008; Ord. 800 § 1, 2001. Formerly 16.14.120)

This page left intentionally blank.