

COUNCIL ORDINANCE No. 2261

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE (MMC) CHAPTER 16.32 TREE CODE FOR THE PURPOSE OF STRENGTHENING TREE PRESERVATION DURING DEVELOPMENT, AND DECLARING AN EMERGENCY.

WHEREAS on October 2, 2018, the City Council adopted the Milwaukie Climate Action Plan (CAP), which included two relevant urban forest strategies that will significantly contribute to Milwaukie's ability to adapt to the changing climate; and

WHEREAS on March 19, 2019, the City Council adopted the Urban Forest Management Plan (UFMP), which set goals and policies and identified actions that are crucial to maximizing the benefits of Milwaukie's trees and meeting Milwaukie's climate goals; and

WHEREAS it is the city's intent to increase Milwaukie's tree canopy and preserve existing trees to support efforts to achieve a 40% city-wide tree canopy; and

WHEREAS the city adopted a tree code in the Milwaukie Municipal Code ("MMC") Chapter 16.32 to establish processes and standards that ensure the city maximizes environmental, economic, health, community and aesthetic benefits provided by its urban forest located in Milwaukie, Oregon; and

WHEREAS the proposed tree code amendments implement several goals and policies of the city's CAP and UFMP related to tree preservation.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Amendments. The MMC is amended as described in Exhibit A Chapter 16.32 Tree Code (strikeout/clean versions).

Section 2. Effective Date. This ordinance will become effective immediately.

Read the first time on 1/20/26 and moved to second reading by 3:1 vote of the City Council.

Read the second time and adopted by the City Council on 2/3/26.

Signed by the Mayor on 2/3/26.



Lisa Batey, Mayor

ATTEST:



Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:



Justin D. Gericke, City Attorney

EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

Strikeout Version

16.32.042 TREE PRESERVATION AND PLANTING WITH DEVELOPMENT IN RESIDENTIAL ZONES.

A. Applicability

The tree preservation and planting standards in this subsection apply in residential zones to the construction of a new residential dwelling unit(s) that results in an increase of building footprint.

B. Tree Preservation Standards

1. Healthy trees at least six-inch DBH are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts.

2. ~~When a development application includes the removal of a healthy tree 30 inches DBH or greater, a Significant Tree Removal Fee shall be assessed in accordance with the consolidated fee schedule. This fee does not relieve the applicant of any other requirements of this chapter, including replacement trees, tree protection measures, or required arborist reports.~~

~~2.3.~~ Preservation of at least ~~40%~~30% on-site healthy private tree canopy coverage is required unless mitigation is provided according to Subsection 16.32.042.E. See Figures 16.32.042.B.2-a and B.2-b for examples of when mitigation is or is not required. (See Subsection 16.32.042.D.3 for information on calculating tree canopy coverage.)

~~3.4.~~ For development sites with ~~40%~~30% or less on-site healthy private tree canopy coverage, the removal of healthy private tree canopy is not allowed unless mitigation is provided according to Subsection 16.32.042.E.

~~4.5.~~ Trees of any size that are listed on the Milwaukie Rare or Threatened Tree List must be prioritized for preservation; if removed, healthy trees from this list will incur an additional fee as listed on the Consolidated Fee Schedule.

~~5.6.~~ Unhealthy trees and tree species on the Oregon State Noxious Weed List or Milwaukie Invasive Tree List, as well as trees within designated natural resource areas (as per Section 19.402) that are listed as nuisance species on the Milwaukie Plant List,

EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

are not required to be preserved in conjunction with applicable development as established in Subsection 16.32.042.A.

6-7. The applicant must provide a performance bond for existing trees that are preserved for purposes of addressing the ~~40~~30% canopy coverage standard, to ensure their survival for such period of time as identified in the Consolidated Fee Schedule. On-site trees may be exempt from the performance bond requirements if the Urban Forester or an ISA Certified Arborist determine that construction activities do not present a significant impact to tree health. Existing trees used for canopy credit do not qualify for removal based on the criteria outlined in Subsection **16.32.044** D.2.(11).

Figure 16.32.042.B.2-a

Tree Removal with mitigation

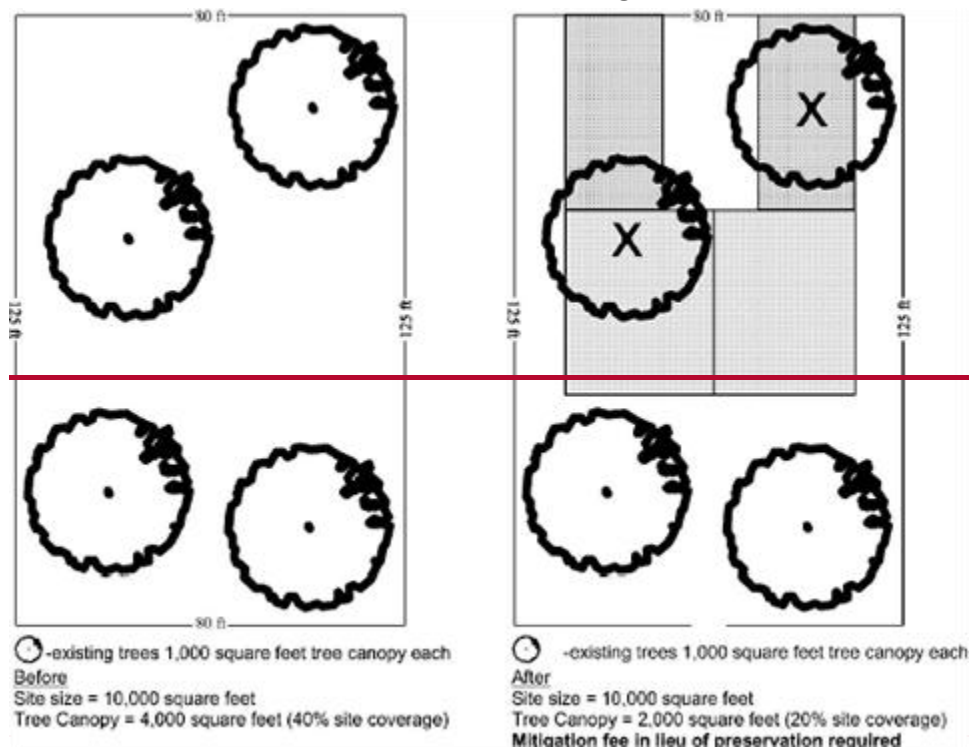


EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

Figure 16.32.042.B.2-a
Tree removal with mitigation

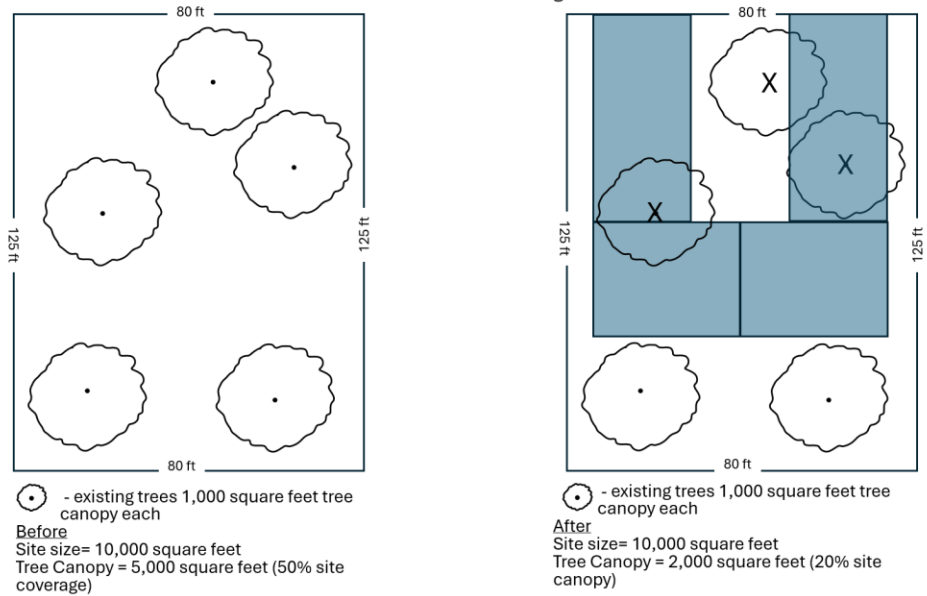


Figure 16.32.042.B.2-b

Tree Removal without mitigation

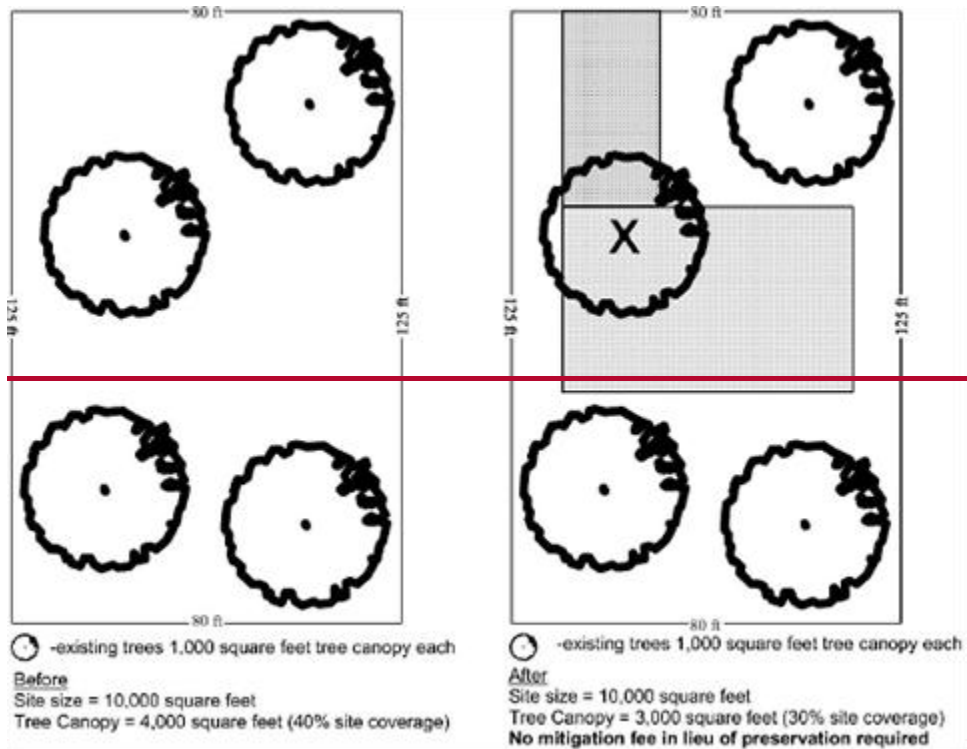
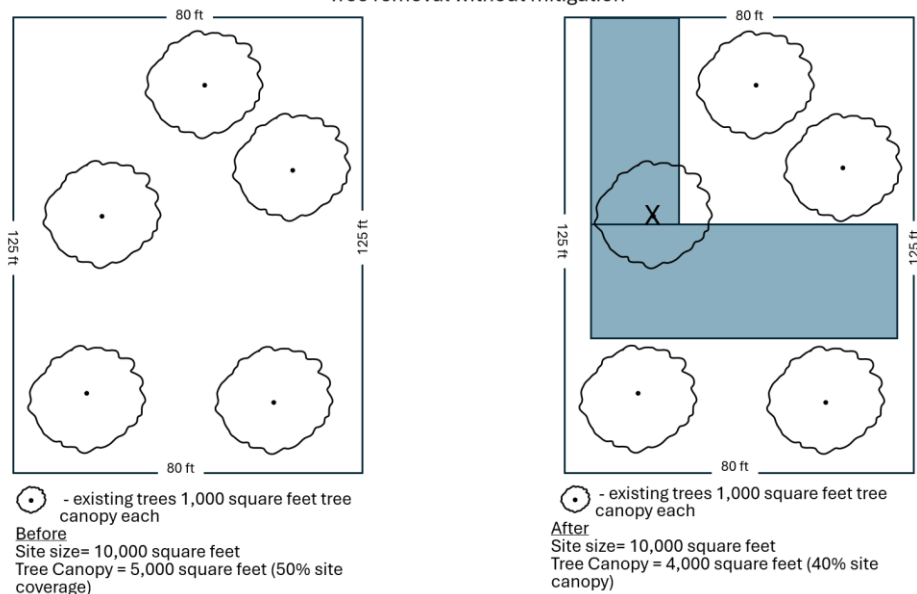


EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

Figure 16.32.042.B.2-b
Tree removal without mitigation



16.32.044 NON-DEVELOPMENT PRIVATE TREE REMOVAL IN RESIDENTIAL ZONES.

Amend MMC 16.32.044 D.2.b(3)

(3) The tree is having an adverse effect on existing adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices- or the tree is located within 10 feet of a dwelling unit and presents a significant ongoing or unavoidable conflict with the structure as determined by the Urban Forester.

EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

Clean Version

16.32.042 TREE PRESERVATION AND PLANTING WITH DEVELOPMENT IN RESIDENTIAL ZONES.

A. Applicability

The tree preservation and planting standards in this subsection apply in residential zones to the construction of a new residential dwelling unit(s) that results in an increase of building footprint.

B. Tree Preservation Standards

1. Healthy trees at least six-inch DBH are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts.
2. When a development application includes the removal of a healthy tree 30 inches DBH or greater, a Significant Tree Removal Fee shall be assessed in accordance with the consolidated fee schedule. This fee does not relieve the applicant of any other requirements of this chapter, including replacement trees, tree protection measures, or required arborist reports.
3. Preservation of at least 40% on-site healthy private tree canopy coverage is required unless mitigation is provided according to Subsection 16.32.042.E. See Figures 16.32.042.B.2-a and B.2-b for examples of when mitigation is or is not required. (See Subsection 16.32.042.D.3 for information on calculating tree canopy coverage.)
4. For development sites with 40% or less on-site healthy private tree canopy coverage, the removal of healthy private tree canopy is not allowed unless mitigation is provided according to Subsection 16.32.042.E.
5. Trees of any size that are listed on the Milwaukie Rare or Threatened Tree List must be prioritized for preservation; if removed, healthy trees from this list will incur an additional fee as listed on the Consolidated Fee Schedule.
6. Unhealthy trees and tree species on the Oregon State Noxious Weed List or Milwaukie Invasive Tree List, as well as trees within designated natural resource areas (as per Section 19.402) that are listed as nuisance species on the Milwaukie Plant List,

EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

are not required to be preserved in conjunction with applicable development as established in Subsection 16.32.042.A.

7. The applicant must provide a performance bond for existing trees that are preserved for purposes of addressing the 40% canopy coverage standard, to ensure their survival for such period of time as identified in the Consolidated Fee Schedule. On-site trees may be exempt from the performance bond requirements if the Urban Forester or an ISA Certified Arborist determine that construction activities do not present a significant impact to tree health. Existing trees used for canopy credit do not qualify for removal based on the criteria outlined in Subsection 16.32.044 D.2.(11).

Figure 16.32.042.B.2-a
Tree removal with mitigation

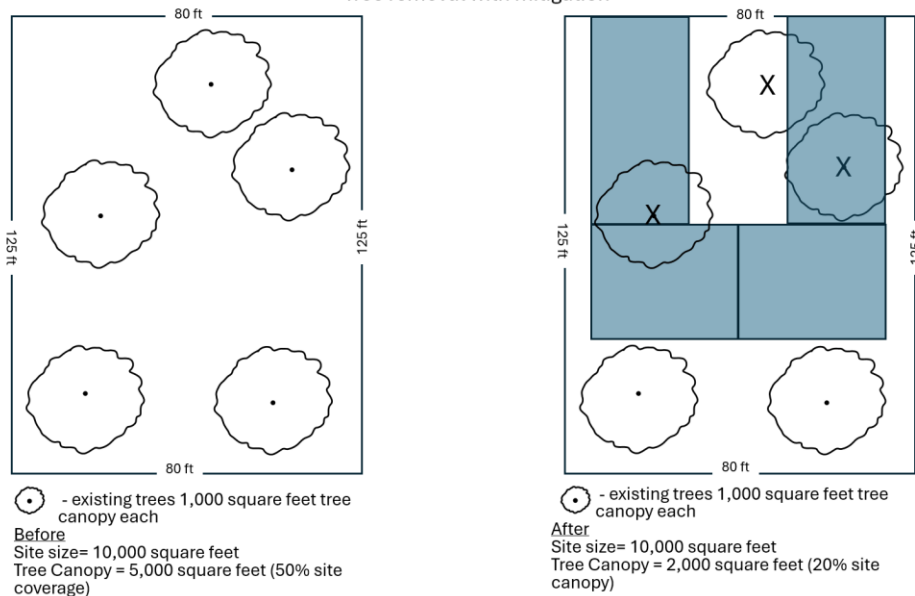
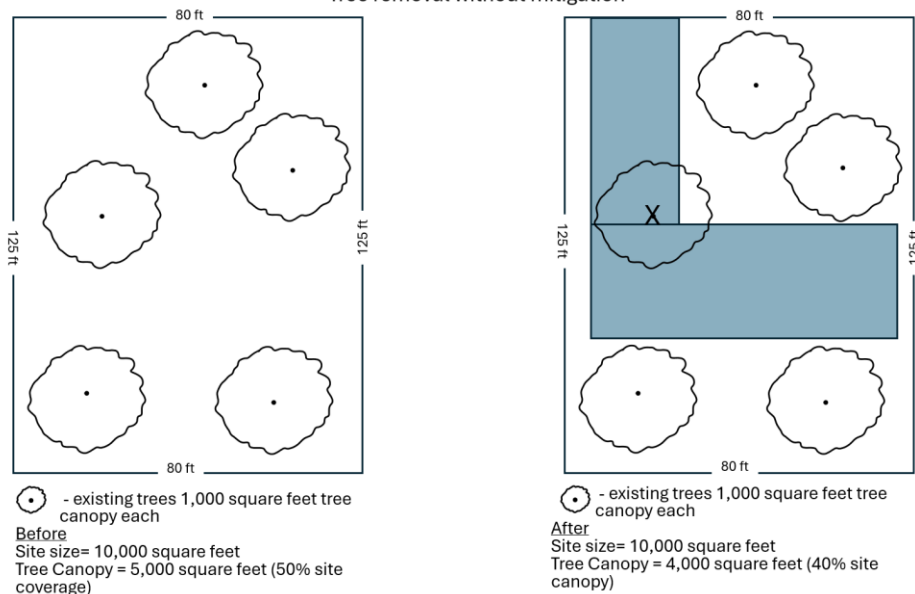


EXHIBIT A – DRAFT MILWAUKIE TREE CODE

Suggested Revisions Winter 2026

Figure 16.32.042.B.2-b
Tree removal without mitigation



16.32.044 NON-DEVELOPMENT PRIVATE TREE REMOVAL IN RESIDENTIAL ZONES.

Amend MMC 16.32.044 D.2.b(3)

(3) The tree is having an adverse effect on existing adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices or the tree is located within 10 feet of a dwelling unit and presents a significant ongoing or unavoidable conflict with the structure as determined by the Urban Forester.