

COUNCIL ORDINANCE No. 2197

Notice of Clerical or Typographical Error

On June 14, 2021, the City Recorder noted clerical or typographical errors within the text of Ordinance No. 2197, which was originally adopted by the Milwaukie City Council on November 17, 2020 as signed by Mayor Mark Gamba.

The authority to make the corrections noted below is found in Milwaukie Municipal Code (MMC) 1.01.080 Editing the Code:

In preparing adopted ordinances for codification and distribution, the City Recorder shall not alter the sense, meaning, effect, or substance of any ordinance, but, with such limitations, may correct manifest clerical or typographical errors. (Ordinance No. 1902 § 2, 2002)

These corrections are as follows:

In ordinance Exhibit A, the amended code language, under Chapter 16.32.026, Section A., the word “true” was accidentally used in the phrase that was meant to be “major tree pruning.” The intended word was “tree” and has been corrected to reflect the intention.



Scott Stauffer, City Recorder

June 14, 2021

Date

COUNCIL ORDINANCE No. 2197

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE CHAPTER 16.32 TREE CUTTING.

WHEREAS, on October 2, 2018, the City Council adopted the Milwaukie Climate Action Plan, 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 2019 Urban Forest Management Plan, 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, trees are considered valuable urban infrastructure that should be nurtured and protected as a community asset because of their ability to mitigate energy usage, reduce urban heat island effects, improve water quality, reduce infiltration and inflow, offer food and shading, improve public health and wellness, and support urban biodiversity.

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

Section 1. The Milwaukie Municipal Code Chapter 16.32 Tree Cutting is amended to read as shown on the attached Exhibit A.

Section 2. This ordinance will take effect immediately.

Read the first time on 11/17/2020 and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 11/17/2020.

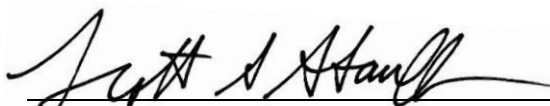
Signed by the Mayor on 11/17/2020.



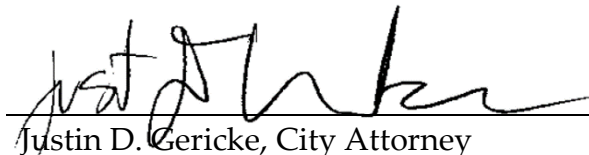
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:



Scott S. Stauffer, City Recorder



Justin D. Gericke, City Attorney

EXHIBIT A

CHAPTER 16.32 TREE CODE

16.32.005 PURPOSE

The purpose of this chapter is to establish processes and standards that ensure the City maximizes the benefits provided by its urban forest. It is the intent of this code to establish, maintain, and increase the quantity and quality of tree cover on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

This code is designed to:

1. Foster urban forest growth to achieve 40% canopy coverage by 2040.
2. Maintain trees in a healthy condition through best management practices.
3. Manage the urban forest for a diversity of tree ages and species.
4. Manage street trees appropriately to maximize benefits and minimize hazards and conflicts with infrastructure.

16.32.010 DEFINITIONS

As used in this chapter:

“Arbor Day/Week” means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

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

“City” means the City of Milwaukie.

“City Engineer” means the city engineer of the City of Milwaukie or designee.

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

“Crown” means the area of the tree above the ground measured in mass or volume and including the trunk and branches.

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

“DBH” means the diameter at breast height.

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

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits

into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Drip line” means the perimeter measured on the ground at the outermost crown by drawing an imaginary vertical line from the circumference of the crown, straight down to the ground below.

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

“Hazardous tree” means a tree or tree part the condition or location of which presents a public safety hazard or an imminent danger of property damage as determined by an ISA Qualified Tree Risk Assessor, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“Invasive species” means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or listed on the City of Milwaukie Invasive Tree List in the Public Works Standards.

“ISA” means the International Society of Arboriculture.

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

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

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

“Minor tree pruning” means the trimming or removal of less than 20% of any part of the branching structure of a tree in either the crown or trunk, or less than 10% of the root area during a 12-month period.

“NDA” means Neighborhood District Association.

“Noxious weed” means a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615.

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

“Park tree” means a tree, shrub, or other woody vegetation within a City park.

“Person” means any individual, firm, association, corporation, agency, or organization of any kind.

“Planning Director” means the planning director of the City of Milwaukie or designee.

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

"Public tree" means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.

"Public Works Director" means the public works director of the City of Milwaukie or designee.

"Right-of-way" means the area between boundary lines of a public way.

"Shrub" means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

"Street tree" means a tree, shrub, or other woody vegetation on land within the right-of-way.

"Street Tree List" is the list of tree and shrub species approved by the City for planting within the right-of-way.

"Topping" means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

"Tree Board" means the city of Milwaukie Tree Board.

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

"Tree removal" means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

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

"Urban Forester" means the Urban Forester of the City of Milwaukie, or designee.

"Urban Forest Management Plan" is the management plan adopted by City Council for the management of the City's urban forest.

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

- A. The City Manager is authorized to administer and enforce the provisions of this chapter.
- B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.
- C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning Director, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

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

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;
2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;

3. Provide outreach and education to the community on tree-related issues and concerns;
4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;
5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;
6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and
7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

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

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth in this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;
2. Payments received in lieu of required and/or supplemental plantings;
3. Civil penalties collected pursuant to this chapter;
4. Agreed upon restoration payments or settlements in lieu of penalties;
5. Sale of trees or wood from City property;

6. Donations and grants for tree purposes;
7. Sale of seedlings by the City; and
8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size, and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain, and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section as determined by the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC 12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or any extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases

where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester while they are engaged in work activities including, but not limited to, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The certified arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

NOTE: On 6/14/21 Chapter 16.32.026 A. was revised to fix a typographical error. See notice of error (page 1).

A. Applicability

1. No person will perform major tree pruning or remove any tree in the right-of-way or on land owned or maintained by the City without first obtaining a permit issued by the City.
 - a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
 - b. For street trees, the applicant must be the owner of the adjacent property or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
 - c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement

of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the Master Fee Schedule.

2. For trees on land owned or maintained by the City, this chapter will be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting.

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked with orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

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

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

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

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one year after issuance unless a different time period is specified in the permit. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning street tree or public tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning street trees or public trees are fact specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

- a. Whether the species of tree is appropriate for its location,
- b. Whether the species of tree is an invasive species;
- c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
- d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
- e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

- a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
- b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:
 - (1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.
 - (2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.
 - (3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.
 - (4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
 - (5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on land owned or maintained by the City, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.
 - (6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.
 - (7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.
- c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

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

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

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

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and within the right-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.
2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.
3. If the applicant does not provide the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.
2. The applicant's proposed outreach and notification program provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;
2. Geographic area covered by the permit;
3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;
4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;
5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and
6. Traffic control requirements.
7. Annual Report. On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.
8. Tree Size Limits
 - a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
 - b. If an applicant requests removal of a healthy tree 6 or more inches in diameter during the period in which the programmatic permit is in effect, an opportunity for public comment will be provided in accordance with MMC 16.32.026 B.2
 - c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028 F.
9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA Best Management Practices.

H. Revocation

The Urban Forester may revoke a programmatic permit upon a determination that the applicant has not followed the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS

A. Hazardous Tree

If a tree is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal will be in accordance with ISA Best Management Practices and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

A permit is not required for regular maintenance or minor tree pruning that does not require removal of over 20% of the crown, tree topping, or disturbance of more than 10% of the root system during any 12 month period.

C. Public Infrastructure Improvements

Any tree on land owned or maintained by the City which requires removal or pruning to accommodate a city public infrastructure improvement project will require a permit and must meet replanting requirements imposed by this chapter. If it is demonstrated that tree planting, establishment, and tree care-related project costs exceed the tree removal fee costs, the permit will not be subject to a removal fee.

D. Private Utility Services and Dwelling Units

If the Urban Forester determines that a tree, shrub, or other woody vegetation proposed for removal has an adverse effect on adjacent private utility services or threatens the structural integrity of a dwelling unit that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices, the permit will not be subject to a removal fee.

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within in the right

of way. Eligibility and extent of assistance will be based on a percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of fee reductions and exemptions will be determined by the City Manager.

16.32.040 PENALTY

A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Master Fee Schedule. Any fine imposed under this section must not be less than the cost of the permit and the associated removal fee for which a permit should have been obtained.