

TIGARD MUNICIPAL CODE

Chapter 8.02 DEFINITIONS, PENALTIES AND ADMINISTRATIVE RULES

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8.02.010 Purpose

The purpose of this chapter is to:

A. Enable administrative rulemaking pursuant to Chapter 2.04 to adopt and amend urban forestry related administrative rules called the Urban Forestry Manual;

B. Provide standard definitions of words for Title 8 of the Tigard Municipal Code and corresponding administrative rules in the Urban Forestry Manual;

C. Provide general rules for reading and applying the language in this title and the Urban Forestry Manual; and

D. Establish penalties for urban forestry violations. (Ord. 12-11 §1)

8.02.020 General Provisions

A. Reading and Applying the Code. When a conflict arises as a result of a particular tree situation spanning multiple chapters and administrative rules, the more restrictive provisions shall apply. When it cannot be determined which provisions are more restrictive, the more specific provisions shall apply.

B. When tree planting, removal and/or replacement is approved through a Title 18 land use permit, no Title 8 tree permit is required.

C. Defining Words. Words used in this title and the Urban Forestry Manual have their normal dictionary meaning unless they are listed in Section 8.02.050. Words listed in Section 8.02.050 have the specific meaning stated, unless the context clearly indicates another meaning.

D. Standards for Tenses and Usage.

1. Words in the singular include the plural. The reverse is also true.

2. Words in the present tense include the future tense. The reverse is also true.

3. The words “shall,” “will” and “may not” are mandatory.

4. “May” is permissive.

5. “Prohibited” means that a particular activity is in violation of this title.

6. When used with numbers, “At least x,” “Up to x,” “Not more than x” and “a maximum of x” all include x.

7. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:

a. “And” indicates that all connected items or provisions apply;

b. “Either...or” indicates that the connected items or provisions apply singularly, but not in combination.

8. Lists of items that state “including the following,” “such as” or similar language are not limited to just those items. The lists are

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intended to provide examples, but not to be exhaustive of all possibilities. (Ord. 12-11 §1)

8.02.030 Penalties for Urban Forestry Violations

A. The following shall constitute urban forestry violations of this code:

1. Noncompliance with the requirements of Title 8.
2. Noncompliance with administrative rules in the Urban Forestry Manual that implement the requirements of Title 8.
3. Noncompliance with the requirements of Chapter 18.790.
4. Noncompliance with administrative rules in the Urban Forestry Manual that implement the requirements of Chapter 18.790.

B. An urban forestry violation shall constitute a Class 1 civil infraction, which shall be processed according to procedures established in Chapter 1.16.

C. Each urban forestry violation shall constitute a separate infraction, and each day that an urban forestry violation is committed or permitted to continue shall constitute a separate infraction.

D. A finding of an urban forestry violation shall not relieve the responsible party of the duty to abate the violation. Penalties imposed by this chapter are in addition to and not in lieu of any remedies available to the city.

E. Each urban forestry violation is subject to the penalty or administrative fee established in Chapter 1.16 of this code.

F. The following specific urban forestry violations are associated with specific penalties in Section 1.16.640.A.3:

1. Unlawful tree removal in violation of Title 8, Chapter 18.790 or the Urban Forestry Manual;
2. Damaging, moving or removing a tree protection fence in violation of Chapter 18.790 or administrative rules in the Urban Forestry Manual that implement the requirements of Chapter 18.790;
3. Failure to provide inspection reports by the project arborist or landscape architect in noncompliance with Section 18.790.060.B or administrative rules in the Urban Forestry Manual that implement the requirements of Chapter 18.790.

G. In addition to the procedures of Chapter 1.16, any party found to be in violation of Section 8.08.050 (Street Tree Removal), 8.08.080 (Median Tree Removal), 8.10.040 (Sensitive Lands Tree Removal), 8.12.040 (Removal of Trees That Were Required with Development), 8.14.040 (Removal of Trees That Were Planted Using the Urban Forestry Fund) or 8.16.070 (Removal of Heritage Tree Designation) shall complete the process for a retroactive city manager tree permit through the City Manager Decision Making Procedures detailed in Section 8.04.020.

H. When any work is being done contrary to the provisions of this title or administrative rule that implements the provisions of this title, the city manager or designee may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith make the necessary corrections or stop work until authorized by the city manager or

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designee to proceed with the work. (Ord. 12-11 §1)

8.02.040 Administrative Rules—Urban Forestry Manual

The city manager is authorized to adopt and amend administrative rules to implement the technical details of the urban forestry related code provisions in Title 8, Title 18 and other applicable titles in the Tigard Municipal Code. These administrative rules shall be adopted pursuant to the provisions of Chapter 2.04, be consistent with Title 8, Title 18 and other applicable titles in the Tigard Municipal Code and be known collectively as the Urban Forestry Manual.

The Urban Forestry Manual shall include the following:

A. Hazard tree evaluation and abatement procedures to ensure an objective and efficient process for identifying and resolving hazard tree issues.

B. Tree planting, maintenance and removal standards for trees that require a permit to plant or remove by Title 8 or Title 18 so that approval criteria are clear, consistent and based on sound scientific principles.

C. Urban forestry plan standards for development so that submittal requirements, measurements, calculations and other requirements are clearly outlined for:

1. Tree preservation and removal site plans;
2. Tree canopy site plans;
3. Supplemental arborist or landscape architect reports;
4. Tree canopy fee calculations; and

5. Significant tree grove preservation considerations.

D. Urban forestry plan implementation standards for development to ensure urban forestry plans are successfully implemented and trees are appropriately preserved, planted and inventoried as part of the development process.

E. Street tree soil volume standards for development to ensure street trees are provided adequate soil volumes, and to ensure soil volume calculation, plan submittal and implementation requirements are clearly outlined.

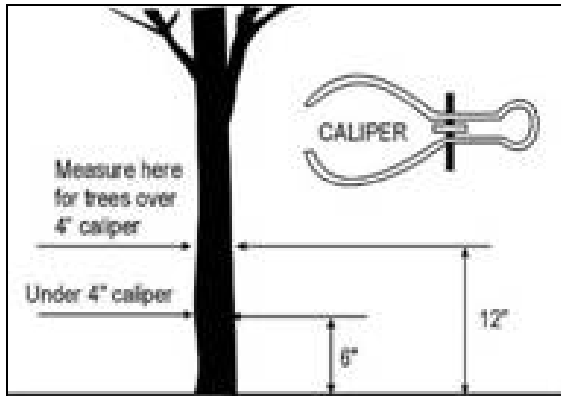
F. Parking lot tree canopy standards for development to ensure parking lot trees are appropriately planted and provided adequate soil volumes, and to ensure soil volume calculation, plan submittal and implementation requirements are clearly outlined. (Ord. 12-11 §1)

8.02.050 Definitions of Specific Words

The definition of words with specific meaning in Title 8 and the Urban Forestry Manual are as follows:

A. “Caliper” means the tree care industry standard for measuring the trunk diameter of nursery stock. Caliper is the average diameter of the trunk of a nursery tree measured six inches above the ground for trunks less than or equal to an average of four inches in diameter (when measured six inches above ground). When the trunk of a nursery tree is greater than an average of four inches in diameter (when measured six inches above ground), caliper is the average diameter at 12 inches above ground (see Figure 8.02.1).

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**Figure 8.02.1
Caliper**

B. “Certified arborist” means an individual certified by the International Society of Arboriculture as a certified arborist.

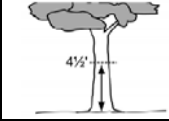
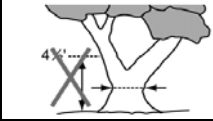
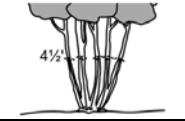
C. “Certified forester” means an individual certified by the Society of American Foresters as a certified forester.

D. “Covered soil volume” means a volume of soil that is under pavement and specially designed to support the growth of a tree. Covered soil volumes contain existing, new or amended soil with the physical, chemical and biological properties necessary to support the growth of a tree, while at the same time supporting the load-bearing requirements and engineering standards of the overlying pavement. Covered soil volumes would not be considered tree growth limiting by a project arborist or landscape architect in an urban forestry plan developed per the standards in Chapter 18.790 and corresponding administrative procedures.

E. “Development impact area” means the area on a site or right-of-way associated with a site affected by any and all site or right-of-way improvements, including, but not limited to, buildings, structures, walls, parking and loading areas, street improvements, paved and graveled

areas, utilities, irrigation, equipment storage, construction parking and landscaping. The impact area also refers to areas of grading, filling, stockpiling, demolition, tree removal, trenching, boring and any other activities that require excavation or soil disturbance.

F. “Diameter at breast height (DBH)” means the average diameter of the trunk of a tree measured 4½ feet above mean ground level at the base of the trunk (see Figure 8.02.2). If the tree splits into multiple trunks above ground, but below 4½ feet, the DBH is the average diameter of the most narrow point beneath the split (see Figure 8.02.3). If the tree has excessive swelling at 4½ feet, the DBH is the average diameter of the most narrow point beneath the swelling. If the tree splits into multiple trunks at or directly below ground, it shall be considered one tree, and the DBH shall be the square root of the sum of the cross-sectional area of each trunk at 4½ feet above mean ground level multiplied by 1.1284 (see Figure 8.02.4).

		
Figure 8.02.2	Figure 8.02.3	Figure 8.02.4
Standard DBH	DBH for Split Trunk	DBH for Multiple Trunks

G. “Dripline” means the outer limit of a tree canopy projected to the ground.

H. Hazard Tree Related Definitions.

1. “Claimant” means any person that believes in good faith there is a hazard tree on a property, can demonstrate that their life, limb or property has the potential to be impacted by said tree and seeks resolution through the Hazard Tree Evaluation and Abatement Procedure specified in the Urban Forestry Manual.

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2. “Hazard tree” means any tree or tree part that has been or could be determined by an independent tree risk assessor to constitute a high level hazard requiring hazard tree abatement with an overall minimum risk rating of 8 for trees or tree parts up to four-inch DBH, 9 for trees or tree parts greater than four-inch and up to 20-inch DBH, or 10 for trees or tree parts greater than 20-inch DBH using the tree risk assessment methodology in Appendix 1 of the Urban Forestry Manual.

3. “Hazard tree abatement” means the process of reducing or eliminating a hazard to an overall risk rating of less than 8 for trees or tree parts up to four-inch DBH, 9 for trees or tree parts greater than four-inch and up to 20-inch DBH, or 10 for trees or tree parts greater than 20-inch DBH using the tree risk assessment methodology in Appendix 1 of the Urban Forestry Manual through pruning, tree removal, or other means in a manner that complies with all applicable rules and regulations.

4. “Hazard tree owner or responsible party” means the property owner or responsible party with the largest percentage of a hazard tree trunk immediately above the trunk flare or root buttresses. In cases where the hazard tree consists of a branch instead of an entire tree, the hazard tree owner or responsible party is the person who owns or is responsible for the property from where the branch originates. The hazard tree owner or responsible party:

a. Owns the hazard tree;

b. Is the entity or person acting as an agent for the owner of the hazard tree by agreement that has authority over the hazard tree, is responsible for the hazard tree’s maintenance or management, or is responsible for hazard tree abatement;

c. Is any person occupying the property with the hazard tree, including bailee, lessee, tenant or other having possession; or

d. Is the person who is alleged to have committed the acts or omissions resulting in the hazard tree or allowed the hazard tree to exist on the property.

5. “Respondent” means any person that receives notice from a claimant seeking resolution through the Hazard Tree Evaluation and Abatement Procedure specified in the Urban Forestry Manual.

I. “Heritage tree” means any tree or stand of trees of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a heritage tree by the Tigard City Council.

J. “Median tree” means any tree within the public right-of-way under City of Tigard jurisdiction between opposing lanes of vehicular traffic. Trees in the centers of cul-de-sacs and roundabouts within the public right-of-way under City of Tigard jurisdiction shall also be considered median trees.

K. “Nuisance tree” means any tree included on the Nuisance Tree List in the Urban Forestry Manual.

L. “Open grown tree” means any tree that has grown and established in an isolated manner without significant competition for light, space and nutrients from other trees. Open grown trees generally retain more foliage, develop greater trunk tapers, have more extensive root systems and are more resistant to windthrow than stand grown trees.

M. “Open soil volume” means an unpaved volume of soil, which contains existing, new or amended soil with the physical, chemical and

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biological properties necessary to support the growth of a tree.

N. “Parking lot tree” means any tree used to meet the requirements in Section 18.745.050.E.

O. “Person” means an individual, corporation, governmental agency, official advisory committee of the City of Tigard, business trust, estate, trust, partnership, association or two or more people having a joint or common interest or any other legal entity.

P. “Significant tree” means any tree or stand of trees of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a significant tree by the Tigard City Council or the designated city board or committee and which status has been accepted by the tree owner or responsible party.

Q. “Significant tree grove” means a stand of trees that has been identified as significant through the Statewide Land Use Planning Goal 5 process. A Significant Tree Grove Map is maintained by the director of community development for the City of Tigard, or designee.

R. “Stand (of trees)” means a distinct area of stand grown trees, often predominantly native and with contiguous canopies, which form a visual and/or biological unit.

S. “Stand grown tree” means any tree that has grown and established in close association with other trees and, as a result, has experienced significant competition for light, space and nutrients from other trees. Stand grown trees generally retain less foliage, develop less trunk taper, have less extensive root systems and are less resistant to windthrow than open grown trees.

T. “Street tree” means any tree equal to or greater than 1½ inch caliper or DBH within a public right-of-way under City of Tigard

jurisdiction or easement for public access under City of Tigard jurisdiction, or any tree equal to or greater than 1½ inch caliper or DBH outside of a public right-of-way or easement for public access that the city can demonstrate was planted or preserved as a street tree to meet the requirements for a city permit or project. Median trees shall not be considered street trees.

U. “Thinning” means a tree removal practice that reduces tree density and competition between trees in a stand. Thinning concentrates growth on fewer, high-quality trees and generally enhances tree health.

V. “Tree” means a woody perennial plant, often with one dominant trunk, the capacity to achieve a mature height greater than 16 feet and primarily referred to as a tree in scientific literature.

W. “Tree canopy” means the area above ground which is covered by the trunk, branches and foliage of a tree or group of trees’ crowns.

X. “Tree canopy cover, effective” means a formula detailed in Chapter 18.790 and corresponding administrative procedures used to calculate the amount of tree canopy that will be provided for a given lot or tract through any combination of preserving existing trees and planting new trees. In general, the formula grants bonus tree canopy credit based on the existing tree canopy of trees that are preserved, and grants additional tree canopy credit based on the projected mature tree canopy of newly planted trees.

Y. “Tree care industry standards” means generally accepted industry standards for tree care practices detailed in the most current version of the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations. In addition, tree care industry standards shall include

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adherence to all applicable rules and regulations for the completion of any tree care operation.

Z. “Tree removal” means the cutting or removing of 50% or more of a crown, trunk or root system of a tree, or any action which results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling.

AA. “Tree risk assessor” means an individual deemed qualified by the International Society of Arboriculture to conduct tree risk assessments.

BB. “Understory tree” means any tree that is adapted to grow and complete its lifecycle within the shade and beneath the canopy of another tree. (Ord. 12-11 §1) ■