



REVISED July 19, 2022

AGENDA PLANNING COMMISSION

Don Daniels • Ryan Pearson • Paul Wagemann
Phillip Combs • Linn Larsen • Brian Parsons • Robert Estrada

Wednesday, July 20, 2022 at 6:30 pm

Hybrid Meeting: In-Person & Virtual via ZOOM

Council Chambers 6000 Main St. SW, Lakewood WA 98499

Per the Lakewood City Council, the Planning Commission will meet in a hybrid in-person and virtual format.

Residents can attend in person at the Lakewood City Council Chambers; they can also attend virtually by watching them live on the City's YouTube channel @ <https://www.youtube.com/user/cityoflakewoodwa> or by calling in to listen by telephone at +1 (253) 215-8782 and by entering meeting ID: 831 0451 3207

To Submit Public Comment and/or Public Hearing Testimony Prior to Meeting: Send comments by mail or email to Karen Devereaux, Planning Commission Clerk, at kdevereaux@cityoflakewood.us or 6000 Main Street SW Lakewood, WA 98499. Comments received by noon on the day of the meeting will be provided to the Planning Commission electronically.

Live Virtual Public Participation: To provide live virtual Public Comments or Public Hearing Testimony during the meeting, join the Zoom meeting as an attendee by calling by telephone Dial +1(253) 215- 8782 and enter participant ID: 831 0451 3207 or by going online at <https://us06web.zoom.us/j/83104513207>. Each speaker will be allowed (3) three minutes to speak during the Public Comment and during each Public Hearing. Outside of Public Comments and Public Hearings, attendees will not be acknowledged and their microphone will remain muted.

By Phone: For those participating by calling in by phone to testify, the Chair will call on you during the Public Comment and/or Public Hearings portions of the agenda. When you are unmuted, please provide your name and city of residence.

Online: For those using the ZOOM link <https://us06web.zoom.us/j/83104513207> to testify, upon entering the meeting, please enter your name or other chosen identifier. Use the "Raise Hand" feature to be called upon by the Chair during the Public Comments and/or Public Hearings portions of the agenda. When you are unmuted, please provide your name and city of residence.

1.	Call to Order
2.	Roll Call
3.	Approval of Minutes from July 13, 2022
4.	Agenda Updates
5.	Public Comments
6.	Public Hearings <ul style="list-style-type: none">• None
7.	Unfinished Business <ul style="list-style-type: none">• Action on Climate Change Implementation Plan• Action on Tree Preservation Code Update*
8.	New Business <ul style="list-style-type: none">• None
9.	Reports from Council Liaison, City Staff & Commission Members <ul style="list-style-type: none">• City Council Updates/Actions• City Staff Updates<ul style="list-style-type: none">• Next meeting = September 21, 2022• Future Agenda Topics – 2044 Growth Targets, 2024 Comprehensive Plan Periodic Update Process, Affordable Housing & Homelessness

Meeting materials will be distributed and published no later than 24 hours prior to the meeting

1. Draft Meeting Minutes from July 13, 2022
2. Staff Report: Climate Change Implementation Plan
3. *Staff Report: Tree Preservation Code Update

Members Only

Please email kdevereaux@cityoflakewood.us or call Karen Devereaux at 253.983.7767 no later than Tuesday, July 19, 2022 at noon if you are unable to attend. Thank you.



**PLANNING COMMISSION
SPECIAL MEETING MINUTES
July 13, 2022
Hybrid In-Person/Virtual Meeting via ZOOM
6000 Main Street SW, Lakewood, WA 98499**

Call to Order

Mr. Ryan Pearson, Vice-Chair called the hybrid ZOOM meeting to order at 6:30 p.m.

Roll Call

Planning Commission Members Present: Don Daniels, Chair; Ryan Pearson, Vice-Chair; Paul Wagemann, Brian Parsons, Phillip Combs, and Robert Estrada

Planning Commission Members Excused: Linn Larsen

Commission Members Absent: None

Staff Present: Tiffany Speir, Long Range & Strategic Planning Manager; Courtney Brunell, Planning Manager; and Karen Devereaux, Administrative Assistant

Council Liaison: Paul Bocchi (not present)

Approval of Minutes

The minutes of the meeting held on July 6, 2022 were approved as written by voice vote M/S/C Wagemann/Parsons. The motion carried, 5 - 0. (Phillip Combs arrived after vote.)

Agenda Updates

None.

Public Comments

No other public comments were made or received.

Public Hearings

Downtown Subarea Plan Biennial Review.

No public comments were received. Don Daniels, Chair, closed the public hearing.

Unfinished Business

Discussion re Downtown Subarea Plan Biennial Review

After discussion, the Planning Commission considered taking action on draft Resolution 2022-05 to forward its recommendation to the City Council regarding the 2022 biennial review, recommending that:

1. Issues regarding the Downtown Subarea Plan, its development regulations in LMC Title 18B, its SEPA Planned Action Ordinance, and its transportation mitigation fee be reviewed as part of the City's 2024 required Comprehensive Plan periodic update process;
2. The frequency for the periodic review of the Downtown Subarea Plan, Planned Action Ordinance and implementing development regulations be changed from at least every two years to at least every five years after the 2024 Periodic Update. If this were approved, the next periodic review of the DSAP package would occur in 2029; and
3. If urgent, time sensitive issues are identified in the future, it is recommended that they be considered within the City's annual Comprehensive Plan, development regulations, and fee schedule amendment cycles.

MOTION (Wagemann/Pearson): To adopt Resolution 2022-05 and forward it to the City Council.

SECONDED. PASSED, 6-0.

Discussion re Tree Preservation Code Update

Ms. Courtney Brunell and Alex Hancock (PlanIT Geo) provided a summary of the proposed changes to the draft tree preservation code amendments following the July 6 public hearing and the Planning Commission's discussion that followed it. City responses to Public Hearing comments would be provided before the July 20 Commission meeting.

Ms. Brunell provided options of potential amendments to the version of the tree code amendments that had been subject of the July 6 public hearing. She and Ms. Hancock also provided information regarding a potential City urban forestry program and tree inventory. Following discussion by the Commission, Ms. Brunell stated she would prepare a draft Resolution 2022-07 for the Commission's review and potential action on July 20.

Discussion re Energy & Climate Change Chapter Implementation Plan

Ms. Tiffany Speir reviewed the draft Energy & Climate Change Chapter (ECCC) Implementation Plan as provided to the Commission on May 18 by CED Director Dave Bugher. The Commission did not propose any edits to the draft initial Implementation Plan. Ms. Speir would prepare materials, and Mr. Bugher would be present at the July 20 Planning Commission meeting where draft Resolution 2022-06 recommending approval of the implementation plan would be reviewed and possibly acted upon.

New Business

None

Report from Council Liaison

None

Reports from Commission Members and Staff

Ms. Tiffany Speir reviewed the following topics slated for discussion at future meetings:

Future Planning Commission Agenda Topics

07/20/2022: Action on Tree Preservation Code; Action on Climate Change Implementation Plan

The next scheduled meeting would be September 21, 2022

Next Regular Meeting would be held as a hybrid in-person/ZOOM meeting on July 20, 2022.

Meeting Adjourned at 8:15 p.m.

Don Daniels, Chair
Planning Commission 07/20/2022

Karen Devereaux, Recording Secretary
Planning Commission 07/20/2022



TO: Planning Commission
FROM: Tiffany Speir, Long Range & Strategic Planning Manager
DATE: July 20, 2022
SUBJECT: Work Plan for Comprehensive Plan Energy & Climate Change Chapter (ECCC)
ATTACHMENT: Draft Resolution 2022-06; ECCC Action Items as adopted in Ordinance 756

INTRODUCTION

On May 18, 2022, CED Director Dave Bugher provided the Planning Commission an updated proposed Work Plan for the City's Comprehensive Plan Energy & Climate Change Chapter (ECCC.) The Planning Commission reviewed the draft Work Plan again on July 13. The ECCC Work Plan. It ranks 32 action items by:

- **Difficulty/Effort** (High, Medium, and Low);
- **Priority** (Critical, Important, Normal, Low); and
- **Financial Considerations** (In Budget, Not in Budget, Whether Consultant Services needed.)

The higher the point total assigned an item, the higher the ranking in setting the recommended implementation schedule. 14 items with scores of 10 or higher are recommended for inclusion on the initial ECCC Work Plan. Several new items are on the list compared to the version seen by the City Council earlier in 2022.

A summary version of the recommended ECCC Work Plan follows below. The full Work Plan is included as Exhibit A of draft Resolution 2022-06 (**Attachment A**). **Attachment B** is the list all ECCC action items as adopted in Ordinance 756.

RECOMMENDATION

It is recommended that the Planning Commission take action on Resolution 2022-06 to forward the updated ECCC Work Plan to the City Council on July 20.

2022 ECCC Work Plan #	Implementation Measure*	Category	Partners	Total points (D, P, F)
1	Establish (and regularly update) a new climate change chapter to the City's Comprehensive Plan.	ALL: Energy & Built Environment; transportation; Consumption & Waste Management; Carbon Sequestration; Education & Outreach	Puget Sound Energy; Tacoma Power; Lakeview Light & Power; Pierce County Sustainability Collaborative	14
2	Develop a five-year plan for reducing greenhouse gas emissions. The action plan shall include four-main topics: a comprehensive greenhouse gas emissions inventory and forecast; emissions reduction target(s); Carbon Sequestration targets; & a program for monitoring and reporting out the implementation tasks found in this document.	Energy & Built Environment	Puget Sound Energy; Tacoma Power; Lakeview Light & Power; Pierce County Sustainability Collaborative	12
3	Update the City's non-motorized transportation plan (also referred to as active transportation plan).	Transportation	Internal; Pierce College; Clover Park Technical College; Western State Hospital; Pierce College; CPSD; WSDOT; Steilacoom; UP; Tacoma; Pierce County.	12
4	Clover Creek Floodplain Engineering Alternatives Analysis.	Energy & Built Environment	Internal; property owners; Pierce County Public Works & Planning; WA State DOT; FEMA.	12
5	Review, and as appropriate, update Lakewood Municipal Code (LMC) Title 14, Environmental Protections. Title 14 provides regulations for geologic hazard areas, flood hazard areas, and critical lands and natural resources. Climate change impacts may require that new regulations be inserted into this chapter. (Types of critical areas: wetlands; aquifer recharge areas; fish & wildlife conservation; flooded areas; and geologic hazards.)	Energy & Built Environment	Washington Department of Ecology; Washington State Department of Commerce.	11
6	Work with Pierce County and Pierce County municipalities to develop a regional approach and best practices to address climate change. One strategy: adopt revised climate change Pierce Countywide Planning Policies.	ALL: Energy & Built Environment; transportation; Consumption & Waste Management; Carbon Sequestration; Education & Outreach	Pierce County; loose consortium of Pierce County cities.	11
7	Develop a public engagement plan for climate change.	Education & Outreach	University of Washington, Evans School of Public Policy & Governance.	11

8	Incorporate an environmental justice assessment into the climate change work plan. (Dependent upon completion of climate perception study.)	Education & Outreach	City's communication manager; Korean Women's Association; neighborhood associations; Community Services Advisory Board; Youth Council; Lakewood's Promise; Pierce County Sustainability Collaborative; Tacoma Pierce County Health Department; WA State Department of Health.	10
9	Lakewood, as a member of the South Sound Military Communities Partnership SSMCP), advocate at both the state and federal levels, improvements to the I-5 Nisqually Corridor. Project has multiple challenges: Transportation alternatives for I-5 traffic congestion; Sea level rise leading to increased flood potential; Mitigating salmon habitat degradation; Military readiness and national security; Environmental remediation; Population growth; and Treaty rights of the Nisqually Tribe.	Energy & Built Environment; Transportation	SSMCP partnerships (multiple local, state, federal agencies, and private parties). Governor Inslee, Sen Cantwell and Congresswoman Strickland all support the project as a priority for the state.	10
10	Revise the Lakewood's tree preservation code.	Energy & Built Environment and Carbon Sequestration	Internal; Ad hoc tree committee.	10
11	Explore the feasibility of reducing the City hall footprint from three floors to two floors. (Potentially reducing energy consumption.)	Energy & Built Environment	Internal.	10
12	Every two years, or as otherwise dictated by Washington State, update LMC Title 15, Buildings and Construction Codes to address hazards resulting from climate change.	Energy & Built Environment	Washington State Building Code Council (SBCC); Washington Association of Building Officials (WABO); Pierce County Master Builders Association; & West Pierce Fire & Rescue.	10
13	Support the implementation of the Tacoma-Pierce County Solid Waste Management Plan.	Waste Consumption; Education & Outreach	Pierce County; Tacoma-Pierce County Health Department; Waste Connections; other Pierce County cities; Clover Park School District; Western State Hospital; Pierce College; Clover Park Technical College; Saint Clare Hospital	10
14	Coordinate a regional electric vehicle (EV) infrastructure strategy with neighboring cities, Pierce County and the State	Energy & Built Environment; Transportation	Pierce County; other Pierce County cities; TPU; PSE, Lakewood Light & Power	10

*Several items have been added to this list that were not included in the original 89 ECCC action items

Note: The ECCC Implementation Plan will likely be subject to periodic review and update over time.

ATTACHMENT A
PLANNING COMMISSION RESOLUTION NO. 2022-06

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
LAKEWOOD, WASHINGTON, FORMALIZING ITS RECOMMENDATIONS
REGARDING ADOPTION OF AN ENERGY & CLIMATE CHANGE WORK PLAN**

WHEREAS, on July 6, 2021, the Lakewood City Council adopted Ordinance No. 756 approving the slate of Comprehensive Plan docket amendments for 2021; and

WHEREAS, one of these amendments was a new Energy & Climate Change Chapter (ECCC) for the City's Comprehensive Plan; and

WHEREAS, this new Energy & Climate Change Chapter contained 89 +/- implementation measures; and

WHEREAS, in the fall of 2021, the Planning Commission began the assignment of narrowing down the number of implementation measures to a more manageable number; and

WHEREAS, the Planning Commission discussed the appropriate length of a work plan and settled on a 3-year time frame; and

WHEREAS, the Planning Commission met five times from October 2021, through January 2022 to develop a 3-year work plan; and

WHEREAS, on January 5, 2022, the Planning Commission conducted a duly noticed public hearing; and

WHEREAS, on January 5, 2022, the Planning Commission closed the public hearing, and on a voice vote, recommended approval of a 3-year work plan to the Lakewood City Council; and

WHEREAS, on February 14, 2022, the Planning Commission's recommendations were forwarded to the Lakewood City Council; and

WHEREAS, after review, Lakewood City Council requested additional information, that the work plan be refined with tasks grouped and prioritized, and targeted metrics and associated costs be identified; and

WHEREAS, on March 30, 2022, the Planning Commission reviewed the direction of the Lakewood City Council; and

WHEREAS, the Planning Commission desired to prioritize and include: reduce greenhouse gases; address electric charging stations; and identify a means to track and measure annual progress; and

WHEREAS, on May 18, 2022 and July 13, 2022, a revised work plan was presented to the Lakewood Planning Commission for further review and recommendation to the Lakewood City Council;

NOW, THEREFORE, THE LAKEWOOD PLANNING COMMISSION OF THE CITY OF LAKEWOOD, WASHINGTON, DOES RECOMMEND AS FOLLOWS:

Section 1. Recommends approval to the Lakewood City Council the attached Energy & Climate Change Work Plan.

PASSED AND ADOPTED at a regular meeting of the City of Lakewood Planning Commission this 20th day of July, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ATTEST:

DON DANIELS, CHAIR
PLANNING COMMISSION

KAREN DEVEREAUX, SECRETARY

EXHIBIT A

2022 Work Plan #	Implementation Measure	Category	Partners	Difficulty/ Effort			Priority				Subtotal points (D, P)	Financials			Financial points	Total points (D, P, F)	Timing (Where budget constraints were identified, completion dates were extended.)					Notes
				High 3	Medium 2	Low 1	Critical 4	Important 3	Normal 2	Low 1		In budget 4	Not in budget 2	Consulting 1			Timeframe	Progress	Frequency	Start Date	Completion Date	
1	Establish (and regularly update) a new climate change chapter to the City's Comprehensive Plan.	ALL: Energy & Built Environment; transportation; Consumption & Waste Management; Carbon Sequestration; Education & Outreach	Puget Sound Energy; Tacoma Power; Lakeview Light & Power; Pierce County Sustainability Collaborative	3	0	0	4	3	0	0	10	4	0	0	4	14	Early action	Started	Unique	Jun 20	Jun 21	Some of the action plan items are difficult to carry out since the only utility the City owns and operates is stormwater. Water is operated by the Lakewood Water District. Sewer is operated by Pierce County Public Works. Electricity is operated by three separate utilities: Tacoma Power; Lakeview Light & Power; and Puget Sound Energy. Garbage collection services are provided by Waste Connections under contract with the City. Primary efforts to address climate change are focused on: 1) agency coordination; 2) hazards mitigation; 3) nonmotorized transportation systems, 4) land use, 5) building code enforcement, and, to some extent; 6) Carbon Sequestration.
2	Develop a five-year plan for reducing greenhouse gas emissions. The action plan shall include four-main topics: a comprehensive greenhouse gas emissions inventory and forecast; emissions reduction target(s); Carbon Sequestration targets; & a program for monitoring and reporting out the implementation tasks found in this document.	Energy & Built Environment	Puget Sound Energy; Tacoma Power; Lakeview Light & Power; Pierce County Sustainability Collaborative	3	0	0	4	0	0	0	7	4	0	1	5	12	Early action	Started	Unique	Oct 22	Apr 23	First reports will be basic; content of reports will expand over time. Costs for measuring Lakewood's Carbon Sequestration difficult to determine.
3	Update the City's non-motorized transportation plan (also referred to as active transportation plan).	Transportation	Internal; Pierce College; Clover Park Technical College; Western State Hospital; Pierce College; CPSD; WSDOT; Steilacoom; UP; Tacoma; Pierce County.	3	0	0	4	0	0	0	7	4	0	1	5	12	Early action	Not started	Every 5 years	Unknown	Unknown	General Fund, \$100,000. See also adopted action plan items 18, 19, 20, 21, 22, 23, and 24.
4	Clover Creek Floodplain Engineering Alternatives Analysis.	Energy & Built Environment	Internal; property owners; Pierce County Public Works & Planning; WA State DOT; FEMA.	3	0	0	4	0	0	0	7	4	0	1	5	12	Early action	Started	Unique	Jan 22	Jan 23	SWM Funds, \$271,377.
5	Review, and as appropriate, update Lakewood Municipal Code (LMC) Title 14, Environmental Protections. Title 14 provides regulations for geologic hazard areas, flood hazard areas, and critical lands and natural resources. Climate change impacts may require that new regulations be inserted into this chapter. (Types of critical areas: wetlands; aquifer recharge areas; fish & wildlife conservation; flooded areas; and geologic hazards.)	Energy & Built Environment	Washington Department of Ecology; Washington State Department of Commerce.	3	0	0	4	0	0	0	7	4	0	0	4	11	Early action	Not started	Periodic update schedule	Not started	Jun 24	Timing dates subject to change. CED may speed up reviews.
6	Work with Pierce County and Pierce County municipalities to develop a regional approach and best practices to address climate change. One strategy: adopt revised climate change Pierce Countywide Planning Policies.	ALL: Energy & Built Environment; transportation; Consumption & Waste Management; Carbon Sequestration; Education & Outreach	Pierce County; loose consortium of Pierce County cities.	3	0	0	4	0	0	0	7	4	0	0	4	11	Early action	Started	Quarterly meetings	Jan 22	Continual	The Pierce County Sustainability Office is heading the project. Currently in the process of gleaning interest from other communities. As of April 2022, two meetings have been conducted. Lakewood has participated in both. No formal actions have been proposed at this time. Lack of financial resources has already been identified as a significant problem.
7	Develop a public engagement plan for climate change.	Education & Outreach	University of Washington, Evans School of Public Policy & Governance.	3	0	0	4	0	0	0	7	4	0	0	4	11	Early action	In process	Unique	Sep 21	May 22	Project turned out to be more difficult than expected. Outreach to low-income neighborhoods was ineffective.

2022 Work Plan #	Implementation Measure	Category	Partners	Difficulty/ Effort			Priority				Subtotal points (D, P)	Financials			Financial points	Total points (D, P, F)	Timing (Where budget constraints were identified, completion dates were extended.)					Notes
8	Incorporate an environmental justice assessment into the climate change work plan. (Dependent upon completion of climate perception study.)	Education & Outreach	City's communication manager; Korean Women's Association; neighborhood associations; Community Services Advisory Board; Youth Council; Lakewood's Promise; Pierce County Sustainability Collaborative; Tacoma Pierce County Health Department; WA State Department of Health.	3	0	0	4	0	0	0	7	0	2	1	3	10	Early action	Not started	Unique	Jun 23	Oct 23	
9	Lakewood, as a member of the South Sound Military Communities Partnership SSMCP), advocate at both the state and federal levels, improvements to the I-5 Nisqually Corridor. Project has multiple challenges: Transportation alternatives for I-5 traffic congestion; Sea level rise leading to increased flood potential; Mitigating salmon habitat degradation; Military readiness and national security; Environmental remediation; Population growth; and Treaty rights of the Nisqually Tribe.	Energy & Built Environment; Transportation	SSMCP partnerships (multiple local, state, federal agencies, and private parties). Governor Inslee, Sen Cantwell and Congresswoman Strickland all support the project as a priority for the state.	3	0	0	4	0	0	0	7	0	2	1	3	10	Long term action	In process	Ongoing with multiple tasks at play at various governmental layers	Dec 17	Multi-year; tentative construction dates, 2027/2028 (?)	State funding at this point. Most recently \$5M for NEPA and \$75M for engineering pre-design. Possible shortfall of \$50M for pre-design will require federal assistance for funding. Federal funding required in the near future should construction schedule stay in the 2027/2028 timeframe. The I-5 Nisqually Corridor is now defined as a WA State mega-project and is about to be listed on the state TIP, PSRC and TRPC TIPs. This is a significant accomplishment.
10	Revise the Lakewood's tree preservation code.	Energy & Built Environment and Carbon Sequestration	Internal; Ad hoc tree committee.	3	0	0	4	0	0	0	7	0	2	1	3	10	Early action	Started	Unique	Sep 21	Aug 22	General fund, \$60,000 for study. Once the new code is adopted, depending on proposed regulations, additional staffing may be required. Cost for ½ FTE, \$45,432; for full FTE, \$90,864.
11	Explore the feasibility of reducing the City hall footprint from three floors to two floors. (Potentially reducing energy Consumption.)	Energy & Built Environment	Internal.	0	2	0	0	3	0	0	5	4	0	1	5	10	Early action	Started	Unique	Jan 22	Aug 22	\$100,000 ARPA funds: \$30,000 General Fund; RFP in-process.
12	Every two years, or as otherwise dictated by Washington State, update LMC Title 15, Buildings and Construction Codes to address hazards resulting from climate change.	Energy & Built Environment	Washington State Building Code Council (SBCC); Washington Association of Building Officials (WABO); Pierce County Master Builders Association; & West Pierce Fire & Rescue.	3	0	0	0	3	0	0	6	4	0	0	4	10	Early action	Not started	Ongoing	Jan 23	Continual	Program funded through general fund & permit fees. The International Code Council (ICC) promulgates a new International Building Code every 3 years through the ICC Code Development Process, and subject to amendments by the Washington Legislature and Lakewood City Council. Most current version of codes was delayed because of pandemic. The current version of the IBC is the 2018 edition. Next code cycle is in 2021. Possible areas of concern – wildfire resilience and wind storms. (NOTE: Ongoing issues - lack of qualified workers, supply chain disruption & material sourcing issues, COVID-19, & inflation.)
13	Support the implementation of the Tacoma-Pierce County Solid Waste Management Plan.	Waste Consumption; Education & Outreach	Pierce County; Tacoma-Pierce County Health Department; Waste Connections; other Pierce County cities; Clover Park School District; Western State Hospital; Pierce College; Clover Park Technical College; Saint Clare Hospital	0	2	0	0	3	0	0	5	4	0	1	5	10	Early action	Started	Unique	Mar 22	Continual	Project underway. Original plan adopted in 2000 & updated in 2016. A new plan is under review. City Council was provided a presentation on March 14, 2022. City staff persons assigned to monitor plan's promulgation and eventual adoption. A new plan may require amendments to the City's current contract with Waste Connections.
14	Coordinate a regional electric vehicle (EV) infrastructure strategy with neighboring cities, Pierce County and the State	Energy & Built Environment; Transportation	Pierce County; other Pierce County cities; TPU; PSE, Lakewood Light & Power													10						

ATTACHMENT B
Approved Climate Change Action Plan Items
July 6, 2021 Adoption, Ordinance No. 756

PROVIDE LEADERSHIP & ADVOCACY

1. Develop a five-year plan for reducing greenhouse gas emissions. The action plan shall include five-main topics:
 - Incorporation of an environmental justice assessment into the five (5)-year action plan;
 - A comprehensive greenhouse gas emissions inventory and forecast;
 - Emissions reduction target(s);
 - Carbon sequestration targets; &
 - A program for monitoring and reporting out the implementation tasks found in this document.

Since this is a new program for the city, start with easy-to-accomplish tasks, or easy to-solve problems.

Also, consider the impact of the end-user, recognizing that that the more stringent the implementation targets, the higher the mitigation costs, although delays, in the long-term, result in net increases in mitigation costs. As the city matures in its efforts to address climate change, move forward with more challenging action items.

2. Inform city residents and businesses, the city council, planning commission, staff, and other stakeholders of the city's emission reduction targets and overall progress. Add targets and progress to the Lakewood dashboard.
3. Where feasible, enter into formal interlocal cooperation agreements with utility providers to reduce waste, promote water conservation, and improve energy efficiencies.

4. Collaborate with Pierce Transit, Sound Transit, WSDOT Rail Division, Amtrak and major employers in Lakewood to promote greater transit opportunities and use.
5. Amend/revise the current strategic plan that will help guide and focus city resources and program initiatives to: reduce greenhouse gas production and the carbon footprint of city government and the Lakewood community; and, reduce and minimize the potential risks of climate change.
6. Collaborate with neighboring jurisdictions to share best practices and implement regional programs to help residents and businesses meet regional demand reduction targets.
7. Work with energy providers (Puget Sound Energy, Lakeview Light & Power, and city of Tacoma Power) to develop strategies that will reduce energy demand and promote energy conservation.
8. Collaborate with local workforce development programs so that city of Lakewood can lead Pierce County in green jobs.
9. If warranted, if enabling legislation is in place, and as a means to meet carbon-cutting targets, participate in Washington State's cap-and-trade program. (Program does not go into effect until January 2023, and provided there is a new, approved transportation-spending funding package.)

10. Develop a Request for Proposal whose primary objective is to raise the community's awareness about sources of greenhouse gas emissions and mitigation through climate change action identified in policy documents with the intended result of changing behaviors. Three primary tasks are envisioned: a) Identifying behavior solutions to reducing GHG emissions; b) development and implementation of a community education, engagement and activation guide; and c) development of public facing tools. Project to include an equity screening exercise. Successful engagement with historically under-served groups would be a priority.

IMPROVE CLEAN AND EFFICIENT TRANSPORTATION OPTIONS

11. Develop fleet electrification plan including necessary charging infrastructure and implement electric first policy when purchasing replacement vehicles and other fuel burning equipment. When electric vehicle options are inappropriate, hybrid vehicles should be the second choice.
12. Work with Clover Park School District to promote an anti-idling program for school buses. Encourage the District to educate parents and transportation providers to avoid idling during pick-up/drop-off times.
13. Continue to collaborate with Pierce Transit, Sound Transit, Washington Department of Transportation (WDOT), and major employers in Lakewood that provide shuttle services, to explore the potential for expanding transit in the evenings for people with special needs. This includes:
 - Exploring the potential to enhance Lakewood's paratransit service.
 - Collaborate with regional transportation agencies to maintain and enhance service within the city and region.
14. Coordinate and partner with transit partners to develop an incentives program to expand transit use among residents and employees in Lakewood.

This includes exploring the potential for supporting fare-free transit zones in major commercial areas, free or very low-cost bus passes for target groups, pre-tax passes, rebates to employees who give up use of employer parking facilities, and online tools for providing real time information to transit riders. Expand outreach and information programs to promote transit use.
15. Coordinate with both Pierce Transit and Sound Transit to expand service, increase affordability and accessibility for seniors, youth, and low-income households. Ensure that all transit stations and routes to and from these stations are safe.
16. Coordinate with both Pierce Transit and Sound Transit to ensure public transit service connects major destinations in Lakewood including education institutions, community facilities, employment centers, regional open space areas, and major commercial corridors to serve a greater number of riders and reduce commuter vehicle miles. Encourage development of a bus rapid transit system that connects Downtown Tacoma to Lakewood.
17. Work with both Pierce Transit and Sound Transit to develop a non-motorized connectivity study specific to Lakewood.
18. Update the city's non-motorized transportation plan to make Lakewood a

more pedestrian and bicycle-friendly city. This includes identifying gaps in the network and explore developing potential pedestrian and bicycle priority areas or districts.

19. Collaborate with Pierce County, University Place, the Town of Steilacoom, Tacoma, and WSDOT to ensure links to a regional commuter trail network.

20. As part of the non-motorized transportation plan update, explore bicycle-sharing programs.

21. Encourage new businesses, schools and residential developments, install and maintain secured bicycle parking facilities.

22. As part of the non-motorized transportation plan update, review design guidelines and standards for bicycle and pedestrian facilities and amenities that meet local, state and federal standards. Include a uniform citywide signage plan and comply with all Americans with Disabilities Act (ADA) and Washington State accessibility requirements.

23. As feasible and appropriate, the city shall require new development and redevelopment to provide pedestrian connections and safety improvements to foster use of non-motorized transportation. This includes connections between retail, living, and working places and transit connections and facilities. It includes traffic calming and other safety-related improvements; development of new sidewalks and trails; and new pedestrian and bicycle amenities.

24. Pursue grant funding to plan and construct missing pedestrian and bicycle connections

between major destinations, such as, parks, opens spaces, civic facilities, employment centers, retail, and recreation areas.

25. Coordinate and partner with the Clover Park School District and Safe Routes to Schools to expand educational programs and events to encourage and promote walking and biking, including a Bike to School Day, walking school bus, and sidewalk painting for safe routes.

26. Coordinate with Washington State Department of Transportation, Sound Transit, and Amtrak about adding an Amtrak Cascades stop within the city.

27. Work with Sound Transit to provide for extended hours of operations at the Sound Transit Lakewood Station and to expand the existing parking garage.

28. Work with Sound Transit to require parking permits and associated fees for commuters who use the Lakewood Station parking garage, but who reside outside the Sound Transit district area boundary.

29. Coordinate with Lakewood Chamber of Commerce to inform local employers on the options for and benefits of compressed work weeks, telecommuting, and other schedule adjustments that reduce commute trips.

INCREASE SUSTAINABLE & ENERGY-EFFICIENT SYSTEMS

30. Encourage and support the generation, transmission and use of locally distributed renewable energy. Advocate at the regional and state level for upgrades to the existing power grid so that it can support renewable energy production and transmission.

31. Evaluate incentives that promote the inclusion of solar power with commercial, industrial, and residential development.
32. Establish a Green Energy and Building Fund to provide incentives to increase building electrification conversions and battery storage.

33. Reduce the City Hall footprint from three floors to two floors.

34. Work with all utility providers to raise awareness about existing rebate and assistance programs that will increase energy conservation.
35. Work with utilities to explore strategies to reduce GHG emissions in multifamily housing.
36. If necessary, consider financially subsidizing the RHSP to promote energy conservation for rental properties. Alternatively, increase rental housing licensing fees.

37. Support the implementation of the Tacoma-Pierce County Solid Waste Management Plan.

38. Develop a comprehensive recycling and composting program for all city-owned facilities.
39. Work with Pierce County Conservation District to provide residential and business education regarding composting and natural yard care.
40. Continue to support neighborhood events such as garage sales and clean-up/recycling events.

41. Support tool libraries, repair cafes, and other collaborative consumption projects.
42. Require that all commercial entities participate in recycling and a green waste program, once established.
43. Implement water conservation efforts for households, businesses, industries and public infrastructure. Include measures such as the following:

- Enforce the Uniform Plumbing Code (IPC), which requires low-flow appliances and fixtures in all new development;
- Work with the Lakewood Water District to create an incentives program that encourages retrofitting existing development district-wide with low-flow water fixtures;
- Require new development and landscaped public areas to use state-of-the-art irrigation systems that reduce water consumption including graywater systems and rainwater catchment; and
- Encourage use of drought-tolerant and native vegetation.

44. Install hydration stations in all municipal facilities to allow refills of reusable water
45. Require hydration stations all new development that includes private and public parks
46. Establish a trip reduction policy that includes a remote work strategy, and appropriate technology.

47. Conduct a feasibility study on using treated greywater and rainwater harvesting for non-potable water needs at city facilities
48. Work with energy partnerships to develop and implement an electrification action plan for all city facilities. In new and existing buildings, incorporate strategies to address electricity storage, and focus on highlighting any hurdles or solutions that would be applicable to the broader community
49. Develop a city-wide environmentally preferable purchasing policy (EPP). Consider life-cycle costing as one of the decision-making tools in the process and promote purchasing of local products.
50. Replace all non-energy star office equipment and appliances at their end of their life cycle with energy and water efficiency as a primary consideration for all future purchasing decisions.

51. Examine city practices for opportunities to reduce paper consumption in the workplace. Implement a document management information system.

ENCOURAGE SUSTAINABLE DEVELOPMENT

52. Regularly update the Downtown Subarea Plan and the Lakewood Station District as market conditions and climate conditions change.
53. Develop plans for key commercial corridors in the city to guide redevelopment of these areas into mixed-use, pedestrian and transit-oriented corridors and nodes. Possible corridors include South Tacoma Way, Steilacoom Boulevard SW, Bridgeport Way, and Union Avenue SW. Include

development standards and urban design guidelines.

54. Continue to incentivize mixed-use and infill development (fee waivers, density bonuses, development impact fee, tax benefits, etc.)
55. Continue to expand and enhance open space lands throughout the city through property acquisition.
56. Conduct a sustainability audit that evaluates existing plans, ordinances, and development standards to identify regulatory barriers to infill development.
57. Conduct a feasibility study to determine how best to allow alternative uses and designs within vacant low-density residential areas. Provide outreach in identified neighborhoods.
58. Consider the use of incentives for new construction projects that exceed energy efficiency standards with a focus on affordable and multifamily housing.
59. Using the data from the Carbon Sequestration Analysis, complete an analysis and findings of forested landscapes, ecological function and ecosystem processes, including carbon sequestration, into land use decisions. The city shall keep statistics from each land use decision for a biannual report.
60. Review and if appropriate, update the city's street design standards so that they support public transit, and non-motorized transportation policies. The updated standards should be consistent with and tailored to street or trail function and adjacent land use type.

- Update street design standards based on recommendation from the updated non-motorized transportation plan.
 - Identify on a case-by-case basis priority thoroughfares for developing new green streets in the city to implement a natural systems approach for stormwater management and to expand urban greenery.
61. Evaluate the feasibility of reducing the number or width of travel lanes on future, key mixed-use streets that may have excess capacity and using the capacity and/or regained width for wider sidewalks and bicycle lanes.
 62. Ensure that roadway medians include native plants and trees and are wide enough to support their long-term viability with the least demand for irrigation and maintenance.
 63. Continue to prioritize the use of locally propagated native drought-tolerant vegetation and discourage the use of invasive non-native species in home landscaping.
 64. Develop and promote an urban forest management/master reforestation plan.
 65. Evaluate the feasibility of expanding tree planting within the city, including an evaluation of potential carbon sequestration as well as GHG emissions. Specific task includes:
 - Provide information to the public, including landscape companies, gardeners, and nurseries, on carbon sequestration rates, drought tolerance, and fire resistance of different tree species.
 66. Evaluate the benefits and tradeoffs of regulations that require all-electric buildings. Potential tools to require all-electric buildings include city mandates, building code updates, or ordinances. Ideally, these regulations would cover new construction and major renovations.
 67. Install energy efficient appliances; where appropriate consider the conversion of power to all electricity, and upgrade structures to improve energy conservation.
 68. Beginning in 2021, adopt and enforce the 2018 Washington State Energy Code.
 69. Enforce the 2018 International Building Code, Section 429, Electric Vehicle and Charging Infrastructure. This section includes charging infrastructure for accessible parking spaces.
 70. Develop a new program to encourage the installation of public electric vehicle charging infrastructure in public spaces.
 71. Consider local amendments to the building codes to allow for, encourage, or require integration of passive solar design, green roofs, active solar, and other renewable energy sources.
 72. Support the addition of performance-based alternatives to energy codes and appropriate sections of the building code.
 73. Evaluate the feasibility of incorporating Washington State Department of Commerce Incentivizing Low-impact Development report into the development code and as a resource for developers.

74. Evaluate the feasibility of creating a sustainable site planning score to evaluate a development.

75. Assess opportunities for sustainable Urban Agriculture.

Work with non-profits and regulatory agencies to explore the potential for creating, expanding and sustaining local urban agriculture, including community gardens, orchards and farmers' markets. The assessment should explore the feasibility of implementing the following strategies:

- Developing a site inventory and a management plan to administer the use of potential urban agricultural sites;
- Expanding the number and frequency of farmer's markets throughout Lakewood;
- Promoting urban agriculture as a desirable civic activity that improves the quality of urban life, food security, neighborhood safety and environmental stewardship;
- Establishing a community-based support system for urban growers such as tool banks, shared processing facilities, farmers' markets, community supported agriculture ventures, funding streams and technical service providers;
- Offering locally grown food to local schools, hospitals, nursing homes, food banks, daycare centers, correction facilities and businesses such as restaurants, while creating economic opportunities for urban growers and related industries;
- Creating training programs for unemployed people to work in

urban food-related businesses as a source of jobs;

- Working with representatives of community gardening and urban farming organizations to meet needs unique to urban farm enterprises;
- Ensuring long-term land commitment for community gardens, entrepreneurial farms and other urban agriculture ventures;
- Updating building codes to encourage rooftop gardening.

76. Coordinate with Clover Park School District in developing school-based programs that integrate nutrition and gardening in order to raise awareness about the connection between healthy food choices and locally grown fresh produce and the environmental benefits of urban agriculture.

DEVELOP A HAZARDS MANAGEMENT PLAN (developing a climate-resilient community)

77. Perform a climate change assessment report for the community's lakes.

78. Develop a community wildfire protection plan using community assistance grants.

79. Review, and as appropriate, update Lakewood Municipal Code based on Community Wildfire Protection Plan recommendations and best management practices.

80. Review, and as appropriate, update Lakewood Municipal Code (LMC) Title 14, Environmental Protections. Title 14 provides regulations for geologic hazard areas, flood hazard areas, and critical lands and natural resources. Climate change

impacts may require that new regulations be inserted into this chapter.

81. Review, and as appropriate update the city's hazard mitigation plan to address climate change.

82. Every two years, or as otherwise dictated by Washington State, update LMC Title 15, Buildings and Construction Codes to address hazards resulting from climate change.

83. Analyze climate risks and benefits of resilience measures to property value and city revenue streams.

84. Map vulnerable community assets and disadvantaged neighborhoods.

85. Include resilience requirements in local building and zoning codes.

86. Communicate climate risks and resilience activities to the public.

87. Engage economic development organizations in city resilience planning efforts.

88. Update city budget process to ensure equitable resource allocation.

89. Address household financial and climate vulnerability in a holistic manner by coordinating complementary programs.



TO: City of Lakewood Planning Commission
FROM: Courtney Brunell, Planning Manager
SUBJECT: Tree Preservation Code Update
MEETING DATE: July 20, 2022

Purpose

The purpose of this memo is provide the Planning Commission with options and final recommendations to take action on the proposed resolution on July 20, 2022.

Comparison of Current Code and Recommendations

The chart below compares the current code, the Ad Hoc Committee recommendations and the Planning Commission Redlines prepared for the hearing.

Table 1. Comparison of Tree Protection Regulations

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Redline: 7/20/22
Key Issue #1: Canopy Goal	No numeric target. General goal and policies. GOAL LU-60: Institute an urban forestry program to preserve significant trees, promote healthy and safe trees, and expand tree coverage throughout the City.	Considered range – no net loss, 35%, and 40%. Recommended adding a policy under Goal LU-60 for 40%.	Considered Ad Hoc Committee recommendations and range of targets. Recommended adding a policy under Goal LU-60 for 30%.
Key Issue #2: Residential lots exemption	Residential lots < 17,000 s.f.	No exemption	No exemption for Oregon white oak. Otherwise exempt < 17,000 sf.
Key Issue #3: Industrially zoned properties	Exempt	No exemption	No exemption
Key Issue #4: Easements and Rights of Way	Exempt	Remove exemption and meet similar standards as on private or public parcels, but provide for simple permit (see Key Issue #5). Redefine trimming and pruning	No exemption for Oregon white oak. Otherwise exempt.

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Redline: 7/20/22
		for code interpretation/enforcement; address all tree types but ensure Garry Oaks have appropriate standards (e.g., Oak Harbor). Ensure appropriate arborist certifications for private or public entities, considering expertise and equity.	
Key Issue #5: Set up tree permit process	Review non-exempt activities for compliance with tree protection regulations with a tree permit.	Keep Permits Fair, Inexpensive and Simple, except for Garry Oaks which require review and monitoring by arborist.	Require permit for non-exempt development. Also require permit for any Oregon white oak.
Key Issue #6: Significant tree definition and critical areas – Garry Oaks	Regulate significant trees if at least 6 inches diameter breast height (DBH). Oregon white oak stands are regulated as critical areas.	Regulate as a significant tree at 4 inches DBH. Specify the size and quality of individual Garry Oaks that would qualify as heritage trees. Any single Garry Oak tree 20"+ or white oak stands with average diameter at breast height of 15" or more regardless of stand size qualify as a fish and wildlife habitat conservation area. Review under critical area rule; would require a reasonable use exception	Similar to Ad Hoc Committee. Regulate as a significant tree at 4" DBH to 20' DBH. Set up heritage tree program with Landmark Committee. Addresses individual oak trees over 20". Set up administrative reasonable use for modest development; greater levels of change subject to reasonable use exception.
Key Issue #7: Heritage Tree/ Historical Tree	No heritage tree program.	Develop a Heritage Tree/Historical Tree Program to recognize valuable and irreplaceable trees and offer incentives to property owners that participate.	Set up heritage tree program with Landmark Commission.

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Redline: 7/20/22
Key Issue #8: Maximum Tree Removal on Developed Single Family Properties.	Allow a specific (maximum) number of trees to be removed per year per property. Relate the number of significant trees that can be removed to lot size annually and over 5 years: Up to 30,000 SF, 2 per year max. 4 in 5 years; over 30,000 SF, 4 per year up to 8 max. in 5 years. No significant trees may be removed in critical areas/buffers.	Maintain a specific percentage of trees canopy per property. No significant trees may be removed in critical areas/buffers or if a heritage tree. Require a permit.	Maximum tree removal per lots at different sizes similar to current code, except that blanket tree removal not applicable to Oregon white oaks which require review/permits and consistency with tree protection regulations.
Key Issue #9: Replacement	Currently, the City of Lakewood requires a ratio of 2:1 replacement for significant trees and any other existing healthy trees (not significant) to be replaced at a 1:1 ratio.	Mitigation should be based on no-net-loss (caliper and number of trees required to be planted is based on canopy % lost and/or ecosystem benefits lost). A certified arborist report must determine no-net loss conditions and mitigation to ensure this approach can be clearly regulated. Encourage tree planting of trees with significant canopy if tree removal is necessary.	Retain 2:1 replacement ratio for significant trees. An applicant may choose to plant fewer replacement trees if an ISA Certified Arborist determines they will compensate for the canopy lost when they reach maturity.
Key Issue #10: City Tree Fund Clarity	Lakewood has identified a City Tree Fund. Currently the City requires that restoration/settlements in lieu of penalties, as well as donations and grants go into the fund. Uses of the fund are varied and include acquiring/maintaining/preserving wooded areas, planting and maintaining trees, providing a public tree nursery, education, monitoring, research, or other purposes.	Allow the City to use tree permit fees and penalties to go into the fund. Add an explicit funding purpose to include restoration or enhancement of native trees like Garry Oaks, such as on public lands, private tree tracts, critical area buffers, or lands with conservation easements.	Allow tree permit fees and penalties to go into the fund. Promote explicit funding purpose to include restoration or enhancement of native trees like Garry Oaks.
Key Issue #11: Fines	The City has collected fines and deposited it in its tree fund. The City has found that fees and fines may be reduced through court reviews.	Establish a free or low cost tree permit or affidavit/over the counter review to make compliance the easy path. Provide clear decision criteria on tree permits.	Require a permit for removal of all significant Oregon white oak trees. Approval is required prior to the removal of any significant tree

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Redline: 7/20/22
		<p>This provides certainty in decision-making including the potential for denial.</p> <p>Increase penalties for non-compliance, e.g., triple penalties. Apply penalty to property owner and contractor individually. Have an administrative appeal opportunity with a code-based percentage limit on reductions.</p>	<p>(track exempt removal on single family lots).</p> <p>Add decision criteria on tree permits. Add construction standards for Oregon white oaks.</p> <p>Add enforcement including stating a civil infraction, and triple fees for malicious cutting.</p>
Key Issue #12: Incentives	No explicit incentives.	Add incentives for preservation throughout the City's development regulations to promote tree preservation.	Add incentives for preservation throughout the City's development regulations to promote tree preservation.

Individual Oaks:

During the July 13, 2022 Commissioners requested additional information regarding how neighboring jurisdictions define critical areas in relation to Oregon White Oak Trees.

First we wanted to provide additional background on the proposed amendment and the adhoc committee recommendation.

The designation of critical fish and wildlife habitat areas is found in [LMC 14.145.020](#). To summarize, Critical fish and wildlife habitat areas in the City include Federal and State Listed Species and their associated habitats, and *Habitats and species of local importance*. It is in the second category that we find "Priority white oak woodlands". Any tree which meets the definition of Priority White oak woodlands is subject to review under the critical area ordinance. Today, the City's definition does not align with the WDFW definition, illustrated in table 2, other jurisdictions which have adopted Oak Woodlands as part of their critical areas ordinance have adopted a similar definition to WDFW, which is shown in table 3.

Table 2. Comparison of Definitions.

City of Lakewood ¹	WDFW ²	Proposed Revision
<p>“Priority Oregon white oak woodland” means forested areas of pure oak, or of oak/conifer associations one acre or larger, and all oak trees located within, where oak canopy coverage of the area is at least 25 percent. Stands of oaks less than one acre in size may also be considered priority habitat when found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, have a large diameter at breast height (dbh), are used by priority species, or have a large canopy).</p>	<p>“Priority Oregon white oak woodlands are stands of pure oak or oak/conifer associations where canopy coverage of the oak component of the stand is 25%; or where total canopy coverage of the stand is <25%, but oak accounts for at least 50% of the canopy coverage present. The latter is often referred to as an oak savanna.</p> <ul style="list-style-type: none"> • In non-urbanized areas west of the Cascades, priority oak habitat is stands 0.4 ha (1 ac) in size. • East of the Cascades, priority oak habitat is stands 2 ha (5 ac) in size. • In urban or urbanizing areas, <u>single oaks</u>, or stands of oaks <0.4 ha (1 ac), may also be considered priority habitat when found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, have a large diameter at breast height [dbh], are used by priority species, or have a large canopy). 	<p>“Priority Oregon white oak trees and woodlands” means woodlands, stands, and individual trees meeting the following definitions:</p> <ol style="list-style-type: none"> 1. Forested areas of pure oak, or of oak/conifer associations one acre or larger, and all oak trees located within, where oak canopy coverage of the area is at least 25 percent. 2. Stands of oaks less than one acre in size, or individual trees, may also be considered priority habitat when one or more of the following criteria: <ul style="list-style-type: none"> (A) Individual oak trees having a diameter at breast height of 20 inches or more; or (B) Oregon white oak stands in which the oak trees have an average diameter at breast height of 20 inches or more regardless of stand size; or (C) Oregon white oak stands found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, are used by priority species, or have well formed, dominant crowns,) based on an evaluation by the Washington Department of Fish and Wildlife or qualified expert report prepared consistent with Chapter 14 to the satisfaction of the Director.

Table 3. Comparison with other agencies

¹ Critical Areas Ordinance 14.165.010

² Management Recommendations for Washington's Priority Habitats: Oregon White Oak Woodlands
<https://wdfw.wa.gov/publications/00030>

Agency	WDFW Oak Woodlands	WDFW Single Large Oaks
Lakewood	X	Proposed
Pierce County [1]	X	X
Olympia [2]	X	X
Lacey [2]	X	X
Oak Harbor [3]	X	X

1. Pierce County, Habitats of Local Importance, Oregon white oak trees and woodlands: Critical area regulations recognize single oaks or stands of oaks larger than 1 acre, as well as smaller than 1 acre in size when any of the following criteria are met: (1) Individual trees having a diameter at breast height of 20 inches or more; or (2) Oregon white oak stands in which the oak trees have an average diameter at breast height of 15 inches or more regardless of stand size.
2. State priority habitats and species are protected in ordinance. This by definition includes Oregon White Oak. Code also refers to WDFW Management Recommendations which include Oregon White Oak stands and single large trees.
3. Chapter 20.16 Garry Oak Protection. Addresses single tree. Chapter 20.25 Fish and Wildlife Habitat Conservation Area addresses State priority habitats and species. See note 2.

Following the July 13th meeting, staff has prepared additional redlines to offer an “opt-out” for individual oaks. Essentially, if there is a single large oak on site an applicant may hire an arborist or certified biologist to determine if the oak does or does not meet the City’s criteria of a priority oak woodland. To be considered a critical area, the City’s critical areas ordinance LMC 14.154.020 offers two qualifiers in addition to the definition:

- i. Areas with which state listed monitor or candidate species or federally listed candidate species have a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.*
- ii. Documented habitat areas or outstanding potential habitat areas for fish and wildlife species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and Lakewood, and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:*

We have also proposed to insert the following language to section LMC 14.154.020

C. Single Oregon White Oak Tree: Optional Non-Critical Area Evaluation. Where a single Oregon white oak meets the definition of a Priority Oregon white oak tree in Section 14.165, an applicant may request a determination that the oak tree does not provide fish and wildlife habitat, with a report prepared by a qualified biologist or arborist, and meeting the following criteria, to the satisfaction of the Director:

- 1. The single tree is not valuable to fish and wildlife because it does not contain many cavities, is not used by priority species, and does not have a large canopy.*

2. The lack of large canopy is not due to actions by the applicant contrary to the protection standards of this code or Title 18A, Article III.

3. The tree is not located within another designated critical area or its buffer. Or the tree is located further than .5 mile from an Oregon white oak stand.

The Director may require third party review by WDFW or another qualified professional prior to making a determination that the single tree is not a critical area.

To summarize, if a certified biologist or arborist, in addition to City qualified staff, assess an individual tree and determines it does not meet the qualifications to be considered a habitat or species of local importance, it will not be subject to the critical areas ordinance.

Option: The Planning Commission may choose to keep the City's existing definition which does not consider individual trees a critical area regardless of DBH size. If the Commission chooses this route, the City has proposed a separate set of amendments that does not decrease the existing protections on Garry Oak trees but does include clearer administration standards including requiring a reasonable use exception to remove oak trees part of a priority white oak woodland greater than 1 acre in size. This amendment will increase the City's predictability in permitting, offer protection for the critical areas, but still offer a mechanism to allow for new development.

Recommendations:

1. Via resolution 2022-6, it is recommended that the Planning Commission take action to recommend amendments to the following chapters in the Lakewood Municipal Code:

The Commission has reached general consensus on the following amendments:

- a. Chapter 2.48, Protection and Preservation of Landmarks
- b. Development regulations 18A.70.310 Tree Removal applicability/exemptions: Establish additional protections for Oregon White Oak trees. Remove the industrially zoned property exemptions.
- c. Development regulations 18A.70.320 Significant Tree Preservation: Reduce the size of a significant Oregon White Oak Tree from six (6) to four (4) inches. Establish additional standards for trimming trees. Require a permit for tree removal on single family residential lots over 17,000 gsf. Establish a simple permitting process that is administrative for residential lots or non-Oregon White Oak tree removals not associated with a project permit/plan. Establish a permitting process to remove heritage trees. Allow for additional on-site replacement options when approved by an ISA Certified Arborist. Provide Incentives for Tree Preservation. Establish enforcement procedures which will be charged to both the property owner and contractor.
- d. Development regulations 18A.70.330 Oregon white oak preservation to establish a new section to regulate Oregon white oak preservation
- e. Development regulations 18A.70.340 City Tree Fund to include tree permit fees and penalties as well s, to allow for the funds to be used for restoration projects and to administer the tree preservation code.

- f. Development regulations 18A70.350 Definitions to adopt new definitions related to tree preservation.
- g. Propose a future amendment to the City's comprehensive plan as part of the 2023 or 2024 amendment cycle to establish a city-wide canopy goal of 30% and establish policies related to equity when evaluating the tree canopy distribution.
- h. That the City consider establishing an Urban Forestry Program as outlined in the existing comprehensive plan Goal LU-60.

Alternatives:

On July 13th the Commission requested additional discussion on whether or not to amend the definition of Priority White Oak Woodland to include single trees. For this discussion, we have prepared two options:

- A. **Recommended Option.** Via Resolution 2022-6 Option A, the Planning Commission may take action to recommend amendments to the municipal code and critical areas ordinance including:
 - 1. Amend Critical Areas Ordinance (CAO) Chapter 14.145.080 to establish a process to preserve priority white oak woodlands through maintenance and permit the removal of priority white oak woodlands subject to City review or a reasonable use exception.
 - 2. Create an opt-out for single Oregon white oak trees.
 - 3. Critical Areas Ordinance 14.156.010 to **amend the definition of Priority White Oak Woodlands to include individual trees.** Create a new definition for "feasible."
 - 4. Make consistent amendments to the tree preservation code in revised section 18A.70.330 to state that individual oak trees greater than 20" are subject to the critical areas ordinance.
- B. Via Resolution 2022-6 Option B, the Planning Commission may take action to recommend amendments to the municipal code and critical areas ordinance to include:
 - 1. Critical Areas Ordinance Chapter 14.145.080 to establish a process to preserve priority white oak woodlands through maintenance and permit the removal of stands under 1 acre, subject to City review or a reasonable use exception.
 - 2. No change to the definition of priority white oak woodlands. Create a new definition for "feasible"
 - 3. Make consistent amendments to the tree preservation code, include in revised 18A.70.330 the ability to remove individual trees regardless if they are not located in a critical area or its buffer, the applicant has demonstrated no alternative siting in order to construct, streets, utilities or other on-site improvements, tree replacement is required at a 2:1 ratio.

Next Steps

- Planning Commission Deliberations and final adoption: July 20, 2022
- City Council review begins August 8, 2022

Attachments

- Draft redlines 7/20/2022
- Planning Commission Resolution Option A
- Planning Commission Resolution Option B

Title 14

ENVIRONMENTAL PROTECTION*

Chapters:

14.02	Environmental Rules and Procedures
14.142	Critical Areas and Natural Resource Lands Authority, Intent, and General Provisions
14.146	Geologically Hazardous Areas
14.150	Aquifer Recharge Areas
14.154	Fish and Wildlife Habitat Areas
14.158	Flood Hazard Areas
14.162	Wetlands Areas
14.165	Definitions

* **Prior legislation note:** Ord. 362 repealed Chapters 14.138 through 14.170 and enacted a Title 14A; Ord. 590 repealed Chapters 14.06 through 14.134. Prior to its repeal and reenactment, the title was based on the provisions of Ords. 56, 57 and 585.

14.154.020 Designation of critical fish and wildlife habitat areas.

A. *General.* This chapter applies to proposed regulated activities within critical fish and wildlife habitat areas. Critical fish and wildlife habitat areas are those areas identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both.

B. *Identification of Critical Fish and Wildlife Species and Habitats.*

1. *Critical Fish and Wildlife Habitat Areas.*

a. *Federal and State Listed Species and Their Associated Habitats.* Areas which have a primary association with federally or state listed endangered, threatened, or sensitive species of fish or wildlife (specified in [50 CFR 17.11](#), [50 CFR 17.12](#), [WAC 220-610-010](#) and [220-610-110](#)) and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

b. Habitats and species of local importance, including the following:

i. Areas with which state listed monitor or candidate species or federally listed candidate species have a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

ii. Documented habitat areas or outstanding potential habitat areas for fish and wildlife species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and Lakewood, and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:

- (A) Priority Oregon white oak [trees and](#) woodlands.
- (B) Prairies.
- (C) Old growth forests.
- (D) Caves.
- (E) Cliffs.
- (F) Snag-rich areas.
- (G) Rivers and streams with critical fisheries.
- (H) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.
- (I) Waters of the state, including all water bodies classified by the Washington Department of Natural Resources (DNR) water typing classification system as detailed in WAC [222-16-030](#), together with associated riparian areas.
- (J) Lakes, ponds, streams, and rivers planted with game fish by a governmental entity or tribal entity.
- (K) State natural area preserves and natural resource conservation areas.

2. *Mapping.* The resources listed below provide information on fish and wildlife habitat areas:

- a. Puget Sound Environmental Atlas, Puget Sound Water Quality Authority.
- b. The following Washington Department of Natural Resources documents and data sources:
 - i. Stream typing maps.
 - ii. Natural Heritage Database.
- c. The following Washington Department of Wildlife documents and data sources:
 - i. Priority Habitats and Species Program.
 - ii. Nongame Database.

iii. Washington Rivers Information System.

d. The following Washington Department of Fisheries documents:

- i. Water Resource Index Areas (WRIA). [Ord. 630 § 1, 2015; Ord. 362 § 3, 2004.]

C. Single Oregon White Oak Tree: Optional Non-Critical Area Evaluation. Where a single Oregon white oak meets the definition of a Priority Oregon white oak tree in Section 14.165, an applicant may request a determination that the oak tree does not provide fish and wildlife habitat, with a report prepared by a qualified biologist or arborist, and meeting the following criteria, to the satisfaction of the Director:

1. The single tree is not valuable to fish and wildlife because it does not contain many cavities, is not used by priority species, and does not have a large canopy.

2. The lack of large canopy is not due to actions by the applicant contrary to the protection standards of this code or Title 18A, Article III.

3. The tree is not located within another designated critical area or its buffer. Or the tree is located further than .5 mile from an Oregon white oak stand.

The Director may require third party review by WDFW or another qualified professional prior to making a determination that the single tree is not a critical area.

14.154.030 Habitat protection standards.

A. *Education and Information.* A voluntary education program to explain the need for and methods of habitat management will help provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in Pierce County, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

1. The Department will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.
2. The Department will accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this chapter and indicated by County maps to be in the vicinity of identified critical fish and wildlife habitats pursuant to LMC [14.154.020](#). Information shall include the number of single-family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations may be developed.

B. *Use of Existing Procedures and Laws, Biological Assessments.* The primary procedures used to implement this chapter shall include this chapter itself, the City's Land Use and Development Code, the State Environmental Policy Act (Chapter [43.21C](#) RCW), the City's environmental regulations, the State Shoreline Management Act (Chapter [90.58](#) RCW), and the City's shoreline management regulations.

Regulated activities subject to environmental review shall be reviewed with consideration for impacts on critical fish and wildlife habitat as identified in this title. The Community Development Director may require a biological assessment prepared by a qualified wildlife biologist whenever the Director finds that a project site may contain, affect, or be affected by, species or habitats designated in this chapter. Biological assessments shall be prepared in accordance with LMC [14.154.050\(B\)](#), and are subject to the review and approval of the Director.

Projects undergoing review for fish and wildlife considerations shall be routed to the Washington Department of Fish and Wildlife, the Washington Department of Ecology, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers and any other appropriate state and federal agencies. These agencies will have an opportunity to provide specific habitat information on proposed development sites, advise the City of their jurisdiction and applicable permit requirements, and suggest appropriate project modifications and/or other mitigation.

The City shall give substantial weight to the management recommendations contained in the Washington Department of Fish and Wildlife Priority Habitats and Species Program, ~~particularly the management recommendations for Oregon white oak woodlands.~~ [Ord. 630 § 2, 2015; Ord. 362 § 3, 2004.]

14.154.080 Provisions for Priority Oregon white oak trees and woodlands

A. No person shall willfully remove, top, damage, destroy, break, injure, mutilate or kill any Priority Oregon white oak trees and woodlands except as allowed by this chapter.

B. During building or construction operations, suitable protective measures in LMC 18A.70.320(1) shall be erected around Oregon white oak trees, stands, or woodlands which may be subject to injury.

C. The following activities may be permitted regarding Priority Oregon white oak trees and woodlands:

1. Removal of diseased trees and trees that present an imminent threat to properties. The Director may require a written report by a certified arborist assessing the condition of any tree that is purported to be diseased or hazardous.

2. Trimming. Trimming shall be granted when it is determined:

(a) That trimming is needed for safety or public welfare or to remove diseased or dead branches; or

(b) That branches hang over an existing building or interfere with utility lines or right-of-way access.

3. Single Family Property. If the presence of the Priority Oregon white oak trees or woodlands renders the development of a house or permitted accessory structure infeasible, and the application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development, the City may allow removal or trimming of a Priority Oregon white oak trees and woodlands in order to allow a maximum building footprint of one thousand five hundred (1,500) square feet for a single family residence, 1,000 square feet for an accessory dwelling unit, and 600 square feet for a detached garage. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area. The proposal shall demonstrate prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time, the proposal results in the least possible impact to the critical area to achieve a feasible development, and includes mitigation to offset any impacts to critical areas consistent with the provisions of this chapter and in accordance with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

4. Commercial, Industrial, Multifamily, Institutional or Other Development. On non-single-family properties where Priority Oregon white oak trees and woodlands does not exceed 1 acre in size contiguous and the application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development², the City may allow for removal or trimming of a Priority Oregon white oak trees and woodlands to accommodate a legal use of the property with the least possible impact to the critical area, provided no clearing of trees occurred prior to the application for a land use permit in violation of Article III of Chapter 18A.70 LMC in effect at the time, and provided mitigation is instituted consistent with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

5. Required findings. To approve a proposal for a single family home in paragraph 3 or other non-single family development in paragraph 4, the Director shall find:

(a) The application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development.

(b) The development results in the least possible impact to the critical area to achieve a feasible development that accommodates a legal use of the property.

¹ For example, building setbacks, parking standard adjustments, height/density bonuses, etc.

(c) The report and mitigation prepared by a qualified biologist or certified arborist demonstrates to the satisfaction of the Director that mitigation addresses impacts to Priority Oregon white oak trees and woodlands consistent with the provisions of this chapter. The report and mitigation consider the Washington Department of Fish and Wildlife Priority Habitats and Species Program management recommendations for Oregon white oak woodlands. The report has been reviewed by either the Washington Department of Fish and Wildlife through SEPA review and/or a qualified biologist or certified arborist at the applicant's expense as required by the Director.

(d) Prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time.

D. If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to LMC 14.142.080.

Chapter 14.165

DEFINITIONS

Sections:

14.165.010 **Definitions.**

14.165.010 **Definitions.**

For the purpose of this title, in addition to the definitions in LMC [18A.10.180](#), the following definitions shall apply:

“Abutting” means bordering upon, to touch upon, in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

“Activity” means any use conducted on a site.

“Agricultural activities” means the production of crops and/or raising or keeping livestock, including operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Forest practices regulated under Chapter [76.09](#) RCW, Title [222](#) WAC are not included in this definition.

“Alluvial geologic unit” means geologically recent stream, lake, swamp and beach deposits of gravel, sand, silt and peat.

“Animal containment area” means a site where two or more animal units of large animals per acre or three-quarters of an animal unit of small animals per acre are kept, and where a high volume of waste material is deposited in quantities capable of impacting ground water resources.

“Animal unit” means the equivalent of 1,000 pounds of animal.

“Applicant” means a person, party, firm, corporation, or other legal entity that proposes a development on a site.

“Aquifer” means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

“Aquifer recharge area” means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water with potential to be used for potable water. For the purposes of this title, all of the area located within the Clover/Chambers Creek Basin boundary or the two highest DRASTIC zone boundaries is included in the aquifer recharge area.

“Aquifer susceptibility” means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the “100-year flood.” The area subject to the base flood is the special flood hazard area designated on flood insurance rate maps as Zones “A” or “V.”

“Base flood elevation” means the elevation of the base flood above the datum of the effective firm.

“Basement” means any area of structure having its floor sub-grade (below ground level) on all sides.

“Best management plan” means a plan developed for a property which specifies best management practices for the control of animal wastes, storm water runoff, and erosion.

“Buffer” means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.

“Building footprint” means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

“Channel migration area” means that area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradation, avulsions, and shifts in location of stream channels plus 50 feet.

“Class” means one of the wetland classes used to categorize wetlands by their attributes and characteristics. Wetlands shall be rated using the latest adopted version of the Washington State Wetland Rating System for Western Washington published by the Washington State Department of Ecology.

“Class I injection well” means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.

“Class II injection well” means a well used to inject fluids: brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection; for enhanced recovery of oil or natural gas; or for storage of hydrocarbons that are liquid at standard temperature and pressure.

“Class III injection well” means a well used for extraction of minerals, including but not limited to the injection of fluids for: in-situ production of uranium or other metals that have not been conventionally mined; mining of sulfur by Frasch process; or solution mining of salts or potash.

“Class IV injection well” means a well used to inject dangerous or radioactive waste fluids.

“Class V injection wells” means all injection wells not included in Class I, II, III, or IV.

“Classification” means defining value and hazard categories to which critical areas and natural resource lands will be assigned.

“Clearing” means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth’s surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved forest practices application/notification issued by the Department of Natural Resources.

“Cliff” means a steep vertical or overhanging face of rock or earth greater than 25 feet in height.

“Compensatory mitigation” means mitigation to compensate for loss of wetland habitat due to filling of wetlands or other regulated activities in wetlands.

“Confined aquifer” means an aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

“Confining formation” means the relatively impermeable formation immediately overlying an artesian aquifer.

“Contaminant” means any chemical, physical, biological, or radiological substance that does not occur naturally or occurs at concentrations and duration as to be injurious to human health or welfare or shown to be ecologically damaging.

“Critical aquifer recharge area” means areas that are determined to have a critical recharging effect on aquifers used as a source for potable water, and are vulnerable to contamination from recharge.

“Critical areas” means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, and geologically hazardous areas as defined in this chapter.

“Critical facilities” means those facilities occupied by populations or which handle dangerous substances including but not limited to hospitals, medical facilities; structures housing, supporting or containing toxic or explosive substances; covered public assembly structures; school buildings through secondary including day-care centers; buildings for colleges or adult education; jails and detention facilities; and all structures with occupancy of greater than 5,000 people.

“Degraded” means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons, on or off a site.

“Delineation” means identification of wetlands and their boundaries done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

“Delineation report” means a written document prepared by a wetland specialist which includes data sheets, findings of the delineation and a site plan which identifies the wetland boundaries.

“Department” means the City of Lakewood Department of Community Development.

“Designation” means taking formal legislative and/or administrative action to adopt classifications, inventories, and regulations.

“Developed lot” means any lot developed with a primary use and structure(s), not generally subject to further development with additional units or other primary uses.

“Development” means any human-induced change to improved or unimproved real property including, but not limited to, the construction of buildings or other structures, placement of manufactured home/mobile, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, subdivision of property, removal of substantial amounts of vegetation, or alteration of natural site characteristics.

“Director” means the Director of the Department of Community Development or his/her designee.

“DRASTIC” means a model developed by the National Water Well Association and Environmental Protection Agency used to measure aquifer susceptibility.

“Dry certificate” means any combination of structural and nonstructural measures that prevent flood waters from entering a structure.

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination thereof.

“Ecotone” means a transition area between two adjacent vegetation communities.

“Elevation certificate” means the official form (FEMA form 81-31) used to provide elevation information necessary to ensure compliance with provisions of this title and determine the proper flood insurance premium rate.

“Enhancement” means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the quality of wetland functions increases (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or solid waste).

“Erosion” means the wearing away of the earth’s surface as a result of the movement of wind, water, or ice.

“Erosion hazard areas” means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

“Excavation” means the mechanical removal of earth material.

“Existing” means those uses legally established prior to incorporation whether conforming or nonconforming.

“Extirpation” means the elimination of a species from a portion of its original geographic range.

"Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where the chapter requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Director may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

“Fill/fill material” means a deposit of earth material, placed by human or mechanical means.

“Filling” means the act of placing fill material on any surface, including temporary stockpiling of fill material.

“Fish and wildlife habitat areas” means those areas identified as being of critical importance to maintenance of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity, or private organization; state natural area preserves and natural resource conservation areas.

“Fisheries biologist” means a professional with a degree in fisheries, or certification by the American Fisheries Society, or with five years’ professional experience as a fisheries biologist.

“Flood hazard areas” means areas of land located in floodplains which are subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood protection elevation” (FPE) means the elevation above the datum of the effective FIRM to which the new and substantially improved structures must be protected from flood damage.

“Floodfringe” means the area subject to inundation by the base flood, but outside the limits of the floodway, and which may provide needed temporary storage capacity for flood waters.

“Floodplain” means the total area subject to inundation by the base flood, including the floodfringe and the floodway areas.

“Floodway” means the channel of a river, or other watercourse, and the land areas that must be reserved in order to convey and discharge the base flood without cumulatively increasing the water surface elevation by more than one foot, and those areas designated as deep and/or fast-flowing water.

“Geological assessment” means an assessment prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering or prepared by a professional geologist, hydrologist, or soils scientist, who has earned the related bachelor’s degree from an accredited college or university, or equivalent educational training, and has a minimum of five years’ experience assessing the relevant geologic hazard. A geological assessment must detail the surface and subsurface conditions of a site and delineate the areas of a property that might be subject to specified geologic hazards.

“Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, may pose a risk to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

“Geotechnical report” means a report prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering, evaluating the site conditions and mitigating measures necessary to reduce the risks associated with development in geologically hazardous areas.

“Grading” means any excavating, filling, clearing, creating (or combination thereof) of impervious surfaces.

“Ground amplification” means an increase in the intensity of earthquake induced ground shaking which occurs at a site whereby thick deposits of unconsolidated soil or surficial geologic materials are present.

“Ground water” means all water found beneath the ground surface, including slowly-moving subsurface water present in aquifers and recharge areas.

“Ground water management area” means a specific geographic area or subarea designated pursuant to Chapter [173-100](#) WAC for which a ground water management program is required.

“Ground water management program” means a comprehensive program designed to protect ground water quality, to assure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated ground water management area or subarea and developed pursuant to Chapter [173-100](#) WAC.

“Habitat assessment” means a report prepared by a professional wildlife biologist or fisheries biologist, which identifies the presence of fish and wildlife habitat conservation areas in the vicinity of the proposed development site.

“Habitat management plan” means a report prepared by a professional wildlife biologist or fisheries biologist, which discusses and evaluates the measures necessary to maintain fish and wildlife habitat conservation areas on a proposed development site.

“Habitat of local importance” means an area, range or habitat within which a species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Examples include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These areas may also include habitats that are of limited availability or high vulnerability to alteration. The Lakewood City Council may designate specific habitats of local importance by ordinance or resolution.

“Hazardous substance(s)” means any liquid, solid, gas, or sludge, including any materials, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC [173-303-090](#) or [173-303-100](#).

“Hazardous substance processing or handling” means the use, storage, manufacture, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. Hazardous substances shall not be disposed on site unless in compliance with Dangerous Waste Regulations, Chapter [173-303](#) WAC, and any pertinent local ordinances, such as sewer discharge standards.

“Hazardous waste” means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Chapter [70.300](#) RCW and Chapter [173-303](#) WAC.

1. “Dangerous waste” means any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:
 - a. Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
 - b. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
2. “Extremely hazardous waste” means any waste which:
 - a. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of humans or wildlife; and
 - b. Is disposed of at a disposal site in such quantities as would present an extreme hazard to humans or the environment.

“Hazardous waste treatment and storage facility” means a facility that treats and stores hazardous waste and is authorized pursuant to Chapter [70.300](#) RCW and Chapter [173-303](#) WAC. It includes all contiguous land and structures used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of hazardous waste. Treatment includes using physical, chemical, or biological processing of hazardous wastes to make such waste nondangerous or less dangerous and safer for transport, amenable for energy or material resource recovery. Storage includes the holding of waste for a temporary period but not the accumulation of waste on the site of generation as long as the storage complies with applicable requirements of Chapter [173-303](#) WAC.

“Historic structure” means a structure that:

1. Is listed on the National Register of Historic Places, the Washington Heritage Register, or the Washington Heritage Barn Register; or
2. Has been certified to contribute to the historical significance of a registered historic district.

“Hydrogeologic assessment” means a report detailing the subsurface conditions of a site and which indicates the susceptibility and potential for contamination of ground water supplies.

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups: A, with low runoff potential and a high rate of water transmission; B with moderate infiltration potential and rate of water transmission; C, with a slow

infiltration potential and rate of water transmission; and D, with a high runoff potential and very slow infiltration and water transmission rates.

“Hydrologically isolated wetland” means a wetland which:

1. Is not contiguous to any 100-year floodplain of a lake, river or stream; and
2. Has no contiguous surface hydrology, hydric soil or hydrophytic vegetation between the wetland and any other wetland or stream system.

“Hyporheic zone” means a saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

“Impervious surface” means natural or human-produced material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“In-kind mitigation” means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

“Lakes” means impoundments of open water 20 acres or larger in size.

“Landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

“Landslide” means the abrupt downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, rockfalls, and snow avalanches.

“Landslide hazard areas” means areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

“Large animal” means an animal with an average weight of 100 pounds or more.

“Liquefaction” means a process by which a water-saturated granular (sandy) soil layer loses strength because of ground shaking commonly caused by an earthquake.

“Long-term commercial significance” means the growing capacity, productivity, and soil composition of land which makes it suitable for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of land.

“Mineral resource lands” means lands primarily devoted to the extraction of minerals or which have known or potential long-term commercial significance for the extraction of minerals.

“Minerals” means gravel, sand, and valuable metallic substances.

“Mitigation” means to avoid, minimize or compensate for adverse environmental impacts. “Mitigation” includes:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
6. Monitoring the impact and taking appropriate corrective measures.

“Natural floodplain functions” means the contribution that a floodplain makes to support habitat, including but not limited to providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations and providing breeding and feeding grounds for aquatic and riparian species.

“Natural resource lands” means mineral resource lands which have long-term commercial significance.

“New construction” for flood hazard purposes refers to structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this title.

“Old growth forests” means stands of at least two tree species, forming a multi-layered canopy with occasional small openings; with at least 20 trees/hectare (eight trees/acre) more than 81 centimeters (32 inches) dbh or more than 200 years of age; and more than 10 snags/hectare (four snags/acre) over 51 centimeters (20 inches) diameter and 4.6 meters (15 feet) tall; with numerous downed logs, including 10 logs/hectare (four logs/acre) more than 61 centimeters (24 inches) diameter and more than 15 meters (50 feet) long. High elevation stands (more than 762 meters (2,500 feet)) may have lesser dbh (more than 76 centimeters (30 inches)), fewer snags (more than 0.6/hectare (1.5/acre)), and fewer large downed logs (0.8 logs/hectare (two logs/acre)) that are more than 61 centimeters (24 inches) diameter and more than 15 meters (50 feet) long.

“Ordinary high water” means that mark on all lakes, streams, ponds, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this chapter or as it may naturally change thereafter; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the mean high water.

“Oregon white oak” means the species *Quercus garryana*, also known as a Garry oak. All references to oak trees in this chapter refer to Oregon white oak. See also “priority Oregon white oak woodland.”

“Out-of-kind mitigation” means to replace wetlands with substitute wetlands whose characteristics do not approximate those destroyed or degraded by a regulated activity.

“Perched ground water” means ground water in a saturated zone is separated from the main body of ground water by unsaturated rock.

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.

“Permeability” means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer and is independent of the force causing movement.

“Permeable surfaces” mean sand, gravel, and other penetrable deposits on the ground which permit movement of ground water through the pore spaces, and which permit the movement of fluid to the ground water.

“Person” means an individual, firm, company, partnership, association, corporation, or other legal entity.

“Ponds” means naturally occurring impoundments of open water less than 20 acres in size and larger than 2,500 square feet which maintain standing water throughout the year.

“Potable water” means water that is safe and palatable for human use.

“Prairies” means open areas predominated by native, drought-resistant, grasses, forbs (flowering nonwoody plants) and herbs. In Pierce County, prairies are an unusual vegetation regime found in areas of extremely well-drained soils.

“Priority Oregon white oak trees and woodlands” means woodlands, stands, and individual trees meeting the following definitions:

1. Forested areas of pure oak, or of oak/conifer associations one acre or larger, and all oak trees located within, where oak canopy coverage of the area is at least 25 percent.

2. Stands of oaks less than one acre in size, or individual trees, may also be considered priority habitat when one or more of the following criteria:

(A) Individual oak trees having a diameter at breast height of 20 inches or more; or

(B) Oregon white oak stands in which the oak trees have an average diameter at breast height of 20 inches or more regardless of stand size; or

(C) Oregon white oak stands found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, ~~have a large diameter at breast height (dbh)~~, are used by priority species, or have well formed,

dominant crowns, ~~a large canopy~~) based on an evaluation by the Washington Department of Fish and Wildlife or qualified expert report prepared consistent with Chapter 14 to the satisfaction of the Director.

“Private organization” means a nonprofit corporation organized pursuant to Chapter [24.03](#) RCW, which includes the planting of game fish among its purposes for organizing as a nonprofit corporation.

“Protected area” means the lands that lie within the boundaries of the floodway, the riparian habitat zone and the channel migration area. Because of the impact that development can have on flood heights and velocities and habitat, special rules apply in the protected area.

“Public services” include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

“Qualified ground water scientist” means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria:

1. Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and
2. Has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding ground water vulnerability.

“Recessional outwash geologic unit” means sand and gravel materials deposited by melt-water streams from receding glaciers.

“Recharge” means the process involved in the absorption and addition of water to ground water.

“Regolith” means any body of loose, noncemented particles overlying and usually covering the bedrock.

“Regulated activities” include, but are not limited to, any activities which are directly undertaken or originate in a regulated critical area or resource land or their buffer that require any of the following entitlements from the City: building permit, commercial or residential; binding site plan; boundary line adjustment; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this chapter. Regulated activities also include those specific activities listed in LMC [14.142.060](#).

“Regulatory floodplain” means the area of the special flood hazard area and all protected areas within the jurisdiction of the City of Lakewood.

“Restoration” means the reestablishment of ecological and/or habitat resources and features from a previously disturbed or degraded critical area site.

“Riparian” means of, adjacent to, or living on, the bank of a river, lake, pond, ocean, sound, or other water body.

“Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

“Short subdivision” or “short plat” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Site” means a lot, parcel, tract, or combination of lots, parcels, or tracts where a development is proposed.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

“Slump” means the downward and outward movement of a mass of bedrock or regolith along a distinct surface of failure.

“Snag-rich areas” means forested areas which contain concentrations of standing dead trees, averaging 10 snags or greater per acre, and averaging greater than 15 inches in diameter at breast height.

“Soil survey” means the most recent National Cooperative Soil Survey for the local area or county by the Soil Conservation Service, United States Department of Agriculture.

“Sole source aquifer” means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50 percent or more of the drinking water for an area without a sufficient replacement available.

“Special flood hazard area (SFHA)” means the land subject to inundation by the base flood. Special flood hazard areas are designated on flood insurance rate maps with the letters “A” or “V,” including AE, AO, AH, A1-99, and VE. The special flood hazard area is also referred to as the area of special flood hazard or SFHA.

“Species of local importance” means species that are of local concern due to their population status or their sensitivity to habitat manipulation.

“Start of construction” for flood hazard purposes includes substantial improvements, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The “actual start” is either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on property of accessory structures not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration

of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Stockpiling” means the placement of material with the intent to remove it at a later time.

“Subdivision” or “formal subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites, or division for the purpose of sale, lease, or transfer of ownership.

“Substantial damage” for flood hazard purposes means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of a wetland.

“Temporary erosion control” means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants during development, construction, or restoration.

“Toe of slope” means a distinct topographic break in slope at the lowermost limit of the landslide or erosion hazard area.

“TPCHD” means the Tacoma-Pierce County Health Department.

“Unconfined aquifer” means an aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term “water table aquifer.”

“Underground tank” means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances or hazardous wastes, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

“Urban governmental services” include those governmental services historically and typically delivered by cities, and includes storm and sanitary sewer systems, domestic water systems, street cleaning services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

“Urban growth” refers to growth that makes intensive use of the land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. “Characterized by

urban growth” refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

“Utility line” means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, communications and sanitary sewers.

“Vadose zone” is the distance between the land surface and the uppermost aquifer. This distance is also defined as the “depth to water” zone or unsaturated zone.

“View corridor” means an area which affords views of lakes, mountains, or other scenic amenities normally enjoyed by residential property owners.

“Water table” means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

“Water typing” means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources Forest Practices Water Typing classification system defines four water types:

1. Type “S” = Shoreline: streams that are designated “shorelines of the state,” including marine shorelines.
2. Type “F” = Fish: streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.
3. Type “Np” = Nonfish Perennial streams.
4. Type “Ns” = Nonfish Seasonal streams.

“Well” means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension.

“Wellhead protection area” means the surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Clean Water Act.

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands generally do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the City.

“Wetland specialist” means a person with experience and training in wetlands issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

1. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field, and two years of related work experience, including a minimum of one year of experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or
2. Four years of related work experience and training, with a minimum of two years’ experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans.

The person should be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, the City Site Development Regulations, the City wetland management policies, and the requirements of this title.

“Wildlife biologist” means a professional with a degree in wildlife, or certification by the Wildlife Society, or with five years’ professional experience as a wildlife biologist. [Ord. 758 § 2 (Exh. A), 2021; Ord. 726 § 2(Exh. A), 2019; Ord. 630 § 11, 2015; Ord. 362 § 3, 2004.]

The Lakewood Municipal Code is current through Ordinance 767, passed December 20, 2021.

Disclaimer: The city clerk’s office has the official version of the Lakewood Municipal Code. Users should contact the city clerk’s office for ordinances passed subsequent to the ordinance cited above.

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PLANNING COMMISSION RESOLUTION NO. 2022-04

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
LAKEWOOD, WASHINGTON, RECOMMENDING AMENDMENTS TO THE
LAKWOOD TREE PRESERVATION CODE.**

WHEREAS, the City of Lakewood is a code city planning under the Growth Management Act, codified in RCW 36.70A, and

WHEREAS, the City Council adopted its Tree Preservation Code, LMC 18A.70.300- 330 via Ordinance No. 726 on December 16, 2019; and

WHEREAS, the Lakewood City Council adopted Title 14, Title 18A, Land Use and Development Code, of the Lakewood Municipal Code (LMC) via Ordinance No. 630 on December 7, 2015; and

WHEREAS, it is appropriate for the Lakewood City Council to consider and adopt amendments needed to ensure that the Plan and implementing regulations provide appropriate policy and regulatory guidance for growth and development; and

WHEREAS, the Lakewood City Council passed Resolution 2021-15 to form a Tree Advisory ad hoc Committee to review the tree preservation code and associated municipal code chapters and forward its recommendations onto the Planning Commission; and

WHEREAS, the Tree Advisory Ad hoc Committee met on seven (7) occasions between March-April, 2022; and

WHEREAS, at the conclusion of its meetings, the Ad hoc Committee created a framework report to provide advice to the Planning Commission; and,

WHEREAS, the Planning Commission reviewed the existing City tree preservation code and the Tree Advisory Ad hoc Committee recommendations on May 4th, May 18th, June 1st, June 8th and June 15th; and,

WHEREAS, on June 15, 2022 the Planning Commission also reviewed revisions to the City's Comprehensive Plan, Chapter 2.64, Chapter 14.154 and Title 18A of the Lakewood Municipal Code, and set a public hearing date of July 6, 2022; and,

WHEREAS, public notice provided pursuant to Lakewood Municipal Code 18A.20.310 on June 15th and through post cards that were mailed to every Lakewood resident on June 1st; and,

WHEREAS, the City published the Planning Commission proposed amendments online on June 22nd and reviewed with the public via YouTube on July 19th; and

WHEREAS, the Lakewood Planning Commission held an open record public hearing on

July 5, 2022; and

WHEREAS, the Planning Commission wants to establish additional protections for Oregon White Oak trees and ensure that tree removals are being accurately tracked; and,

WHEREAS, the Planning Commission reviewed the best practices, other jurisdictions' municipal code provisions, and received numerous presentations from experts in the field of urban forestry to establish its recommendations; and

WHEREAS, the Planning Commission wanted to encourage future development in the City of Lakewood consistent with the City's vision and Comprehensive Plan; and

WHEREAS, the Lakewood Planning Commission finds that the proposed amendments further the goals and policies of the Comprehensive Plan and promote the community's overall health, safety, and welfare;

NOW, THEREFORE, THE LAKEWOOD PLANNING COMMISSION OF THE CITY OF LAKEWOOD, WASHINGTON, DOES RECOMMEND AS FOLLOWS:

Section 1. Amendments to Chapter 2.48, Protection and Preservation of Landmarks ordinance as contained in Exhibit A to include designation criteria for heritage trees.

Section 2. Amendments to the City's Critical areas ordinance as contained in Exhibit B herein, summarized as follows:

LMC 14.145.080 Provisions for Priority Oregon White oak trees and woodlands:

Create a new section to establish a process to preserve priority white oak woodlands through maintenance and permit the removal of priority white oak woodlands subject to City review or a reasonable use exception.

Recommendation: Approval.

14.156.010 Definitions. Amend the definition of Priority White Oak Woodlands to include individual trees. Create a new definition for "feasible"

Recommendation: Approval.

Section 3. Amendments to the City's land use and development regulations as contained in Exhibit C hereto, summarized as follows:

18A.70.310 Tree Removal applicability/exemptions: Establish additional protections for Oregon White Oak trees. Remove the industrially zoned property exemptions.

Recommendation: Approval.

18A.70.320 Significant Tree Preservation: Set the size of a significant Oregon White Oak Tree at four (4) inches. Establish additional standards for trimming trees. Require a permit for tree removal on single family residential lots over 17,000 gsf. Establish a simple permitting process that is administrative for residential lots or non-

Oregon White Oak tree removals not associated with a project permit/plan. Establish a permitting process to remove heritage trees. Allow for additional on-site replacement options when approved by an ISA Certified Arborist. Provide Incentives for Tree Preservation. Establish enforcement procedures which will be charged to both the property owner and contractor.

Recommendation: Approval.

18A.70.330 Oregon white oak preservation: Establish a new code section to regulate Oregon white oak preservation.

Recommendation: Approval.

18A.70.340 City Tree Fund. Amend the code section to include tree permits fees and penalties as well as, to allow for the funds to be used for restoration projects and to administer the tree preservation code.

Recommendation: Approval.

18A.70.350 Definitions. Adopt new definitions related to tree preservation.

Recommendation: Approval.

Section 4. Include the following as an amendment in the next Comprehensive Plan update cycle:

3.12.6 Urban Forestry

GOAL LU-60: Institute an urban forestry program to preserve significant trees, promote healthy and safe trees, and expand tree canopy coverage throughout the City.

Policies:

- LU-60.1: Establish an urban forestry program for the City.
- LU-60.2: Promote planting and maintenance of street trees.
- LU-60.3: Provide for the retention of significant tree stands and the restoration of tree stands within the City.
- LU-60.4: Work towards a citywide goal of 30% tree canopy cover by the year 2050. Consider opportunities to increase canopy and environmental equity when evaluating tree canopy distribution.

Section 5. To administer the code revisions and continue to monitor the City's urban canopy, that the City consider establishing an Urban Forestry Program as outlined in CPA Goal LU-60, first year deliverables may include:

- Identify areas within the City in need of additional canopy
- Work with a consultant to complete a city tree inventory
- Establish a tree replacement program/giveaway program
- Work with the City's contract arborist to review tree removal applications
- Monitor the City's canopy goal
- Provide public education opportunities regarding tree maintenance and appropriate planting standards; and

PASSED AND ADOPTED at a regular meeting of the City of Lakewood Planning Commission this 20th day of June, 2022, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSENT: BOARDMEMBERS:

CHAIR, PLANNING COMMISSION

ATTEST:

KAREN DEVEREAUX, SECRETARY

Chapter 2.48

PROTECTION AND PRESERVATION OF LANDMARKS

Sections:

2.48.010	Purpose.
2.48.020	Definitions.
2.48.030	Landmarks and Heritage Advisory Board created.
2.48.035	Powers of Lakewood Landmarks and Heritage Advisory Board.
2.48.040	Designation criteria.
2.48.050	Nomination procedure.
2.48.060	Designation procedure.
2.48.070	Certificate of appropriateness procedure.
2.48.080	Evaluation of economic impact.
2.48.090	Appeal procedure.
2.48.110	Penalties for violating this chapter.
2.48.120	Special valuation for historic properties.
2.48.130	Severability.
2.48.140	Retroactive approval of acts.

2.48.040 Designation criteria.

D. A tree may be designated as a heritage tree due to its historical, cultural, or environmental significance to the community. The purpose of the heritage tree designation is to ensure additional measures of protection and maintenance for trees with unique characteristics, historical importance, or cultural significance. A complete application shall include the following information:

1. A short description of the tree(s), including the address or location, species, and size (height, crown spread, and DBH);
2. Reason for designation as a heritage tree(s) including special characteristics of the tree and/or site; and
3. A report completed by an ISA Certified Arborist to identify the tree's characteristics, current condition, and maintenance needs.

Title 14

ENVIRONMENTAL PROTECTION*

Chapters:

14.02	Environmental Rules and Procedures
14.142	Critical Areas and Natural Resource Lands Authority, Intent, and General Provisions
14.146	Geologically Hazardous Areas
14.150	Aquifer Recharge Areas
14.154	Fish and Wildlife Habitat Areas
14.158	Flood Hazard Areas
14.162	Wetlands Areas
14.165	Definitions

* **Prior legislation note:** Ord. 362 repealed Chapters 14.138 through 14.170 and enacted a Title 14A; Ord. 590 repealed Chapters 14.06 through 14.134. Prior to its repeal and reenactment, the title was based on the provisions of Ords. 56, 57 and 585.

14.154.020 Designation of critical fish and wildlife habitat areas.

A. *General.* This chapter applies to proposed regulated activities within critical fish and wildlife habitat areas. Critical fish and wildlife habitat areas are those areas identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both.

B. *Identification of Critical Fish and Wildlife Species and Habitats.*

1. *Critical Fish and Wildlife Habitat Areas.*

a. *Federal and State Listed Species and Their Associated Habitats.* Areas which have a primary association with federally or state listed endangered, threatened, or sensitive species of fish or wildlife (specified in [50 CFR 17.11](#), [50 CFR 17.12](#), [WAC 220-610-010](#) and [220-610-110](#)) and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

b. Habitats and species of local importance, including the following:

i. Areas with which state listed monitor or candidate species or federally listed candidate species have a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

ii. Documented habitat areas or outstanding potential habitat areas for fish and wildlife species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and Lakewood, and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:

- (A) Priority Oregon white oak [trees and](#) woodlands.
- (B) Prairies.
- (C) Old growth forests.
- (D) Caves.
- (E) Cliffs.
- (F) Snag-rich areas.
- (G) Rivers and streams with critical fisheries.
- (H) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.
- (I) Waters of the state, including all water bodies classified by the Washington Department of Natural Resources (DNR) water typing classification system as detailed in WAC [222-16-030](#), together with associated riparian areas.
- (J) Lakes, ponds, streams, and rivers planted with game fish by a governmental entity or tribal entity.
- (K) State natural area preserves and natural resource conservation areas.

2. *Mapping.* The resources listed below provide information on fish and wildlife habitat areas:

- a. Puget Sound Environmental Atlas, Puget Sound Water Quality Authority.
- b. The following Washington Department of Natural Resources documents and data sources:
 - i. Stream typing maps.
 - ii. Natural Heritage Database.
- c. The following Washington Department of Wildlife documents and data sources:
 - i. Priority Habitats and Species Program.
 - ii. Nongame Database.

iii. Washington Rivers Information System.

d. The following Washington Department of Fisheries documents:

- i. Water Resource Index Areas (WRIA). [Ord. 630 § 1, 2015; Ord. 362 § 3, 2004.]

C. Single Oregon White Oak Tree: Optional Non-Critical Area Evaluation. Where a single Oregon white oak meets the definition of a Priority Oregon white oak tree in Section 14.165, an applicant may request a determination that the oak tree does not provide fish and wildlife habitat, with a report prepared by a qualified biologist or arborist, and meeting the following criteria, to the satisfaction of the Director:

1. The single tree is not valuable to fish and wildlife because it does not contain many cavities, is not used by priority species, and does not have a large canopy.

2. The lack of large canopy is not due to actions by the applicant contrary to the protection standards of this code or Title 18A, Article III.

3. The tree is not located within another designated critical area or its buffer. Or the tree is located further than .5 mile from an Oregon white oak stand.

The Director may require third party review by WDFW or another qualified professional prior to making a determination that the single tree is not a critical area.

14.154.030 Habitat protection standards.

A. *Education and Information.* A voluntary education program to explain the need for and methods of habitat management will help provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in Pierce County, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

1. The Department will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.
2. The Department will accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this chapter and indicated by County maps to be in the vicinity of identified critical fish and wildlife habitats pursuant to LMC [14.154.020](#). Information shall include the number of single-family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations may be developed.

B. *Use of Existing Procedures and Laws, Biological Assessments.* The primary procedures used to implement this chapter shall include this chapter itself, the City's Land Use and Development Code, the State Environmental Policy Act (Chapter [43.21C](#) RCW), the City's environmental regulations, the State Shoreline Management Act (Chapter [90.58](#) RCW), and the City's shoreline management regulations.

Regulated activities subject to environmental review shall be reviewed with consideration for impacts on critical fish and wildlife habitat as identified in this title. The Community Development Director may require a biological assessment prepared by a qualified wildlife biologist whenever the Director finds that a project site may contain, affect, or be affected by, species or habitats designated in this chapter. Biological assessments shall be prepared in accordance with LMC [14.154.050\(B\)](#), and are subject to the review and approval of the Director.

Projects undergoing review for fish and wildlife considerations shall be routed to the Washington Department of Fish and Wildlife, the Washington Department of Ecology, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers and any other appropriate state and federal agencies. These agencies will have an opportunity to provide specific habitat information on proposed development sites, advise the City of their jurisdiction and applicable permit requirements, and suggest appropriate project modifications and/or other mitigation.

The City shall give substantial weight to the management recommendations contained in the Washington Department of Fish and Wildlife Priority Habitats and Species Program, ~~particularly the management recommendations for Oregon white oak woodlands.~~ [Ord. 630 § 2, 2015; Ord. 362 § 3, 2004.]

14.154.080 Provisions for Priority Oregon white oak trees and woodlands

A. No person shall willfully remove, top, damage, destroy, break, injure, mutilate or kill any Priority Oregon white oak trees and woodlands except as allowed by this chapter.

B. During building or construction operations, suitable protective measures in LMC 18A.70.320(1) shall be erected around Oregon white oak trees, stands, or woodlands which may be subject to injury.

C. The following activities may be permitted regarding Priority Oregon white oak trees and woodlands:

1. Removal of diseased trees and trees that present an imminent threat to properties. The Director may require a written report by a certified arborist assessing the condition of any tree that is purported to be diseased or hazardous.

2. Trimming. Trimming shall be granted when it is determined:

(a) That trimming is needed for safety or public welfare or to remove diseased or dead branches; or

(b) That branches hang over an existing building or interfere with utility lines or right-of-way access.

3. Single Family Property. If the presence of the Priority Oregon white oak trees or woodlands renders the development of a house or permitted accessory structure infeasible, and the application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development, the City may allow removal or trimming of a Priority Oregon white oak trees and woodlands in order to allow a maximum building footprint of one thousand five hundred (1,500) square feet for a single family residence, 1,000 square feet for an accessory dwelling unit, and 600 square feet for a detached garage. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area. The proposal shall demonstrate prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time, the proposal results in the least possible impact to the critical area to achieve a feasible development, and includes mitigation to offset any impacts to critical areas consistent with the provisions of this chapter and in accordance with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

4. Commercial, Industrial, Multifamily, Institutional or Other Development. On non-single-family properties where Priority Oregon white oak trees and woodlands does not exceed 1 acre in size contiguous and the application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development², the City may allow for removal or trimming of a Priority Oregon white oak trees and woodlands to accommodate a legal use of the property with the least possible impact to the critical area, provided no clearing of trees occurred prior to the application for a land use permit in violation of Article III of Chapter 18A.70 LMC in effect at the time, and provided mitigation is instituted consistent with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

5. Required findings. To approve a proposal for a single family home in paragraph 3 or other non-single family development in paragraph 4, the Director shall find:

(a) The application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development.

(b) The development results in the least possible impact to the critical area to achieve a feasible development that accommodates a legal use of the property.

¹ For example, building setbacks, parking standard adjustments, height/density bonuses, etc.

(c) The report and mitigation prepared by a qualified biologist or certified arborist demonstrates to the satisfaction of the Director that mitigation addresses impacts to Priority Oregon white oak trees and woodlands consistent with the provisions of this chapter. The report and mitigation consider the Washington Department of Fish and Wildlife Priority Habitats and Species Program management recommendations for Oregon white oak woodlands. The report has been reviewed by either the Washington Department of Fish and Wildlife through SEPA review and/or a qualified biologist or certified arborist at the applicant's expense as required by the Director.

(d) Prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time.

D. If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to LMC 14.142.080.

Chapter 14.165

DEFINITIONS

Sections:

14.165.010 **Definitions.**

14.165.010 **Definitions.**

For the purpose of this title, in addition to the definitions in LMC [18A.10.180](#), the following definitions shall apply:

“Abutting” means bordering upon, to touch upon, in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

“Activity” means any use conducted on a site.

“Agricultural activities” means the production of crops and/or raising or keeping livestock, including operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Forest practices regulated under Chapter [76.09](#) RCW, Title [222](#) WAC are not included in this definition.

“Alluvial geologic unit” means geologically recent stream, lake, swamp and beach deposits of gravel, sand, silt and peat.

“Animal containment area” means a site where two or more animal units of large animals per acre or three-quarters of an animal unit of small animals per acre are kept, and where a high volume of waste material is deposited in quantities capable of impacting ground water resources.

“Animal unit” means the equivalent of 1,000 pounds of animal.

“Applicant” means a person, party, firm, corporation, or other legal entity that proposes a development on a site.

“Aquifer” means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

“Aquifer recharge area” means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water with potential to be used for potable water. For the purposes of this title, all of the area located within the Clover/Chambers Creek Basin boundary or the two highest DRASTIC zone boundaries is included in the aquifer recharge area.

“Aquifer susceptibility” means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the “100-year flood.” The area subject to the base flood is the special flood hazard area designated on flood insurance rate maps as Zones “A” or “V.”

“Base flood elevation” means the elevation of the base flood above the datum of the effective firm.

“Basement” means any area of structure having its floor sub-grade (below ground level) on all sides.

“Best management plan” means a plan developed for a property which specifies best management practices for the control of animal wastes, storm water runoff, and erosion.

“Buffer” means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.

“Building footprint” means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

“Channel migration area” means that area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradation, avulsions, and shifts in location of stream channels plus 50 feet.

“Class” means one of the wetland classes used to categorize wetlands by their attributes and characteristics. Wetlands shall be rated using the latest adopted version of the Washington State Wetland Rating System for Western Washington published by the Washington State Department of Ecology.

“Class I injection well” means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.

“Class II injection well” means a well used to inject fluids: brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection; for enhanced recovery of oil or natural gas; or for storage of hydrocarbons that are liquid at standard temperature and pressure.

“Class III injection well” means a well used for extraction of minerals, including but not limited to the injection of fluids for: in-situ production of uranium or other metals that have not been conventionally mined; mining of sulfur by Frasch process; or solution mining of salts or potash.

“Class IV injection well” means a well used to inject dangerous or radioactive waste fluids.

“Class V injection wells” means all injection wells not included in Class I, II, III, or IV.

“Classification” means defining value and hazard categories to which critical areas and natural resource lands will be assigned.

“Clearing” means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth’s surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved forest practices application/notification issued by the Department of Natural Resources.

“Cliff” means a steep vertical or overhanging face of rock or earth greater than 25 feet in height.

“Compensatory mitigation” means mitigation to compensate for loss of wetland habitat due to filling of wetlands or other regulated activities in wetlands.

“Confined aquifer” means an aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

“Confining formation” means the relatively impermeable formation immediately overlying an artesian aquifer.

“Contaminant” means any chemical, physical, biological, or radiological substance that does not occur naturally or occurs at concentrations and duration as to be injurious to human health or welfare or shown to be ecologically damaging.

“Critical aquifer recharge area” means areas that are determined to have a critical recharging effect on aquifers used as a source for potable water, and are vulnerable to contamination from recharge.

“Critical areas” means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, and geologically hazardous areas as defined in this chapter.

“Critical facilities” means those facilities occupied by populations or which handle dangerous substances including but not limited to hospitals, medical facilities; structures housing, supporting or containing toxic or explosive substances; covered public assembly structures; school buildings through secondary including day-care centers; buildings for colleges or adult education; jails and detention facilities; and all structures with occupancy of greater than 5,000 people.

“Degraded” means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons, on or off a site.

“Delineation” means identification of wetlands and their boundaries done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

“Delineation report” means a written document prepared by a wetland specialist which includes data sheets, findings of the delineation and a site plan which identifies the wetland boundaries.

“Department” means the City of Lakewood Department of Community Development.

“Designation” means taking formal legislative and/or administrative action to adopt classifications, inventories, and regulations.

“Developed lot” means any lot developed with a primary use and structure(s), not generally subject to further development with additional units or other primary uses.

“Development” means any human-induced change to improved or unimproved real property including, but not limited to, the construction of buildings or other structures, placement of manufactured home/mobile, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, subdivision of property, removal of substantial amounts of vegetation, or alteration of natural site characteristics.

“Director” means the Director of the Department of Community Development or his/her designee.

“DRASTIC” means a model developed by the National Water Well Association and Environmental Protection Agency used to measure aquifer susceptibility.

“Dry certificate” means any combination of structural and nonstructural measures that prevent flood waters from entering a structure.

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination thereof.

“Ecotone” means a transition area between two adjacent vegetation communities.

“Elevation certificate” means the official form (FEMA form 81-31) used to provide elevation information necessary to ensure compliance with provisions of this title and determine the proper flood insurance premium rate.

“Enhancement” means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the quality of wetland functions increases (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or solid waste).

“Erosion” means the wearing away of the earth’s surface as a result of the movement of wind, water, or ice.

“Erosion hazard areas” means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

“Excavation” means the mechanical removal of earth material.

“Existing” means those uses legally established prior to incorporation whether conforming or nonconforming.

“Extirpation” means the elimination of a species from a portion of its original geographic range.

"Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where the chapter requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Director may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

“Fill/fill material” means a deposit of earth material, placed by human or mechanical means.

“Filling” means the act of placing fill material on any surface, including temporary stockpiling of fill material.

“Fish and wildlife habitat areas” means those areas identified as being of critical importance to maintenance of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity, or private organization; state natural area preserves and natural resource conservation areas.

“Fisheries biologist” means a professional with a degree in fisheries, or certification by the American Fisheries Society, or with five years’ professional experience as a fisheries biologist.

“Flood hazard areas” means areas of land located in floodplains which are subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood protection elevation” (FPE) means the elevation above the datum of the effective FIRM to which the new and substantially improved structures must be protected from flood damage.

“Floodfringe” means the area subject to inundation by the base flood, but outside the limits of the floodway, and which may provide needed temporary storage capacity for flood waters.

“Floodplain” means the total area subject to inundation by the base flood, including the floodfringe and the floodway areas.

“Floodway” means the channel of a river, or other watercourse, and the land areas that must be reserved in order to convey and discharge the base flood without cumulatively increasing the water surface elevation by more than one foot, and those areas designated as deep and/or fast-flowing water.

“Geological assessment” means an assessment prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering or prepared by a professional geologist, hydrologist, or soils scientist, who has earned the related bachelor’s degree from an accredited college or university, or equivalent educational training, and has a minimum of five years’ experience assessing the relevant geologic hazard. A geological assessment must detail the surface and subsurface conditions of a site and delineate the areas of a property that might be subject to specified geologic hazards.

“Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, may pose a risk to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

“Geotechnical report” means a report prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering, evaluating the site conditions and mitigating measures necessary to reduce the risks associated with development in geologically hazardous areas.

“Grading” means any excavating, filling, clearing, creating (or combination thereof) of impervious surfaces.

“Ground amplification” means an increase in the intensity of earthquake induced ground shaking which occurs at a site whereby thick deposits of unconsolidated soil or surficial geologic materials are present.

“Ground water” means all water found beneath the ground surface, including slowly-moving subsurface water present in aquifers and recharge areas.

“Ground water management area” means a specific geographic area or subarea designated pursuant to Chapter [173-100](#) WAC for which a ground water management program is required.

“Ground water management program” means a comprehensive program designed to protect ground water quality, to assure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated ground water management area or subarea and developed pursuant to Chapter [173-100](#) WAC.

“Habitat assessment” means a report prepared by a professional wildlife biologist or fisheries biologist, which identifies the presence of fish and wildlife habitat conservation areas in the vicinity of the proposed development site.

“Habitat management plan” means a report prepared by a professional wildlife biologist or fisheries biologist, which discusses and evaluates the measures necessary to maintain fish and wildlife habitat conservation areas on a proposed development site.

“Habitat of local importance” means an area, range or habitat within which a species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Examples include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These areas may also include habitats that are of limited availability or high vulnerability to alteration. The Lakewood City Council may designate specific habitats of local importance by ordinance or resolution.

“Hazardous substance(s)” means any liquid, solid, gas, or sludge, including any materials, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC [173-303-090](#) or [173-303-100](#).

“Hazardous substance processing or handling” means the use, storage, manufacture, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. Hazardous substances shall not be disposed on site unless in compliance with Dangerous Waste Regulations, Chapter [173-303](#) WAC, and any pertinent local ordinances, such as sewer discharge standards.

“Hazardous waste” means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Chapter [70.300](#) RCW and Chapter [173-303](#) WAC.

1. “Dangerous waste” means any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:
 - a. Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
 - b. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
2. “Extremely hazardous waste” means any waste which:
 - a. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of humans or wildlife; and
 - b. Is disposed of at a disposal site in such quantities as would present an extreme hazard to humans or the environment.

“Hazardous waste treatment and storage facility” means a facility that treats and stores hazardous waste and is authorized pursuant to Chapter [70.300](#) RCW and Chapter [173-303](#) WAC. It includes all contiguous land and structures used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of hazardous waste. Treatment includes using physical, chemical, or biological processing of hazardous wastes to make such waste nondangerous or less dangerous and safer for transport, amenable for energy or material resource recovery. Storage includes the holding of waste for a temporary period but not the accumulation of waste on the site of generation as long as the storage complies with applicable requirements of Chapter [173-303](#) WAC.

“Historic structure” means a structure that:

1. Is listed on the National Register of Historic Places, the Washington Heritage Register, or the Washington Heritage Barn Register; or
2. Has been certified to contribute to the historical significance of a registered historic district.

“Hydrogeologic assessment” means a report detailing the subsurface conditions of a site and which indicates the susceptibility and potential for contamination of ground water supplies.

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups: A, with low runoff potential and a high rate of water transmission; B with moderate infiltration potential and rate of water transmission; C, with a slow

infiltration potential and rate of water transmission; and D, with a high runoff potential and very slow infiltration and water transmission rates.

“Hydrologically isolated wetland” means a wetland which:

1. Is not contiguous to any 100-year floodplain of a lake, river or stream; and
2. Has no contiguous surface hydrology, hydric soil or hydrophytic vegetation between the wetland and any other wetland or stream system.

“Hyporheic zone” means a saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

“Impervious surface” means natural or human-produced material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“In-kind mitigation” means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

“Lakes” means impoundments of open water 20 acres or larger in size.

“Landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

“Landslide” means the abrupt downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, rockfalls, and snow avalanches.

“Landslide hazard areas” means areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

“Large animal” means an animal with an average weight of 100 pounds or more.

“Liquefaction” means a process by which a water-saturated granular (sandy) soil layer loses strength because of ground shaking commonly caused by an earthquake.

“Long-term commercial significance” means the growing capacity, productivity, and soil composition of land which makes it suitable for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of land.

“Mineral resource lands” means lands primarily devoted to the extraction of minerals or which have known or potential long-term commercial significance for the extraction of minerals.

“Minerals” means gravel, sand, and valuable metallic substances.

“Mitigation” means to avoid, minimize or compensate for adverse environmental impacts. “Mitigation” includes:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
6. Monitoring the impact and taking appropriate corrective measures.

“Natural floodplain functions” means the contribution that a floodplain makes to support habitat, including but not limited to providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations and providing breeding and feeding grounds for aquatic and riparian species.

“Natural resource lands” means mineral resource lands which have long-term commercial significance.

“New construction” for flood hazard purposes refers to structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this title.

“Old growth forests” means stands of at least two tree species, forming a multi-layered canopy with occasional small openings; with at least 20 trees/hectare (eight trees/acre) more than 81 centimeters (32 inches) dbh or more than 200 years of age; and more than 10 snags/hectare (four snags/acre) over 51 centimeters (20 inches) diameter and 4.6 meters (15 feet) tall; with numerous downed logs, including 10 logs/hectare (four logs/acre) more than 61 centimeters (24 inches) diameter and more than 15 meters (50 feet) long. High elevation stands (more than 762 meters (2,500 feet)) may have lesser dbh (more than 76 centimeters (30 inches)), fewer snags (more than 0.6/hectare (1.5/acre)), and fewer large downed logs (0.8 logs/hectare (two logs/acre)) that are more than 61 centimeters (24 inches) diameter and more than 15 meters (50 feet) long.

“Ordinary high water” means that mark on all lakes, streams, ponds, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this chapter or as it may naturally change thereafter; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the mean high water.

“Oregon white oak” means the species *Quercus garryana*, also known as a Garry oak. All references to oak trees in this chapter refer to Oregon white oak. See also “priority Oregon white oak woodland.”

“Out-of-kind mitigation” means to replace wetlands with substitute wetlands whose characteristics do not approximate those destroyed or degraded by a regulated activity.

“Perched ground water” means ground water in a saturated zone is separated from the main body of ground water by unsaturated rock.

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.

“Permeability” means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer and is independent of the force causing movement.

“Permeable surfaces” mean sand, gravel, and other penetrable deposits on the ground which permit movement of ground water through the pore spaces, and which permit the movement of fluid to the ground water.

“Person” means an individual, firm, company, partnership, association, corporation, or other legal entity.

“Ponds” means naturally occurring impoundments of open water less than 20 acres in size and larger than 2,500 square feet which maintain standing water throughout the year.

“Potable water” means water that is safe and palatable for human use.

“Prairies” means open areas predominated by native, drought-resistant, grasses, forbs (flowering nonwoody plants) and herbs. In Pierce County, prairies are an unusual vegetation regime found in areas of extremely well-drained soils.

“Priority Oregon white oak trees and woodlands” means woodlands, stands, and individual trees meeting the following definitions:

1. Forested areas of pure oak, or of oak/conifer associations one acre or larger, and all oak trees located within, where oak canopy coverage of the area is at least 25 percent.

2. Stands of oaks less than one acre in size, or individual trees, may also be considered priority habitat when one or more of the following criteria:

(A) Individual oak trees having a diameter at breast height of 20 inches or more; or

(B) Oregon white oak stands in which the oak trees have an average diameter at breast height of 20 inches or more regardless of stand size; or

(C) Oregon white oak stands found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, ~~have a large diameter at breast height (dbh)~~, are used by priority species, or have well formed,

dominant crowns, ~~a large canopy~~) based on an evaluation by the Washington Department of Fish and Wildlife or qualified expert report prepared consistent with Chapter 14 to the satisfaction of the Director.

“Private organization” means a nonprofit corporation organized pursuant to Chapter [24.03](#) RCW, which includes the planting of game fish among its purposes for organizing as a nonprofit corporation.

“Protected area” means the lands that lie within the boundaries of the floodway, the riparian habitat zone and the channel migration area. Because of the impact that development can have on flood heights and velocities and habitat, special rules apply in the protected area.

“Public services” include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

“Qualified ground water scientist” means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria:

1. Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and
2. Has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding ground water vulnerability.

“Recessional outwash geologic unit” means sand and gravel materials deposited by melt-water streams from receding glaciers.

“Recharge” means the process involved in the absorption and addition of water to ground water.

“Regolith” means any body of loose, noncemented particles overlying and usually covering the bedrock.

“Regulated activities” include, but are not limited to, any activities which are directly undertaken or originate in a regulated critical area or resource land or their buffer that require any of the following entitlements from the City: building permit, commercial or residential; binding site plan; boundary line adjustment; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this chapter. Regulated activities also include those specific activities listed in LMC [14.142.060](#).

“Regulatory floodplain” means the area of the special flood hazard area and all protected areas within the jurisdiction of the City of Lakewood.

“Restoration” means the reestablishment of ecological and/or habitat resources and features from a previously disturbed or degraded critical area site.

“Riparian” means of, adjacent to, or living on, the bank of a river, lake, pond, ocean, sound, or other water body.

“Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

“Short subdivision” or “short plat” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Site” means a lot, parcel, tract, or combination of lots, parcels, or tracts where a development is proposed.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

“Slump” means the downward and outward movement of a mass of bedrock or regolith along a distinct surface of failure.

“Snag-rich areas” means forested areas which contain concentrations of standing dead trees, averaging 10 snags or greater per acre, and averaging greater than 15 inches in diameter at breast height.

“Soil survey” means the most recent National Cooperative Soil Survey for the local area or county by the Soil Conservation Service, United States Department of Agriculture.

“Sole source aquifer” means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50 percent or more of the drinking water for an area without a sufficient replacement available.

“Special flood hazard area (SFHA)” means the land subject to inundation by the base flood. Special flood hazard areas are designated on flood insurance rate maps with the letters “A” or “V,” including AE, AO, AH, A1-99, and VE. The special flood hazard area is also referred to as the area of special flood hazard or SFHA.

“Species of local importance” means species that are of local concern due to their population status or their sensitivity to habitat manipulation.

“Start of construction” for flood hazard purposes includes substantial improvements, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The “actual start” is either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on property of accessory structures not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration

of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Stockpiling” means the placement of material with the intent to remove it at a later time.

“Subdivision” or “formal subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites, or division for the purpose of sale, lease, or transfer of ownership.

“Substantial damage” for flood hazard purposes means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of a wetland.

“Temporary erosion control” means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants during development, construction, or restoration.

“Toe of slope” means a distinct topographic break in slope at the lowermost limit of the landslide or erosion hazard area.

“TPCHD” means the Tacoma-Pierce County Health Department.

“Unconfined aquifer” means an aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term “water table aquifer.”

“Underground tank” means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances or hazardous wastes, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

“Urban governmental services” include those governmental services historically and typically delivered by cities, and includes storm and sanitary sewer systems, domestic water systems, street cleaning services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

“Urban growth” refers to growth that makes intensive use of the land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. “Characterized by

urban growth” refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

“Utility line” means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, communications and sanitary sewers.

“Vadose zone” is the distance between the land surface and the uppermost aquifer. This distance is also defined as the “depth to water” zone or unsaturated zone.

“View corridor” means an area which affords views of lakes, mountains, or other scenic amenities normally enjoyed by residential property owners.

“Water table” means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

“Water typing” means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources Forest Practices Water Typing classification system defines four water types:

1. Type “S” = Shoreline: streams that are designated “shorelines of the state,” including marine shorelines.
2. Type “F” = Fish: streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.
3. Type “Np” = Nonfish Perennial streams.
4. Type “Ns” = Nonfish Seasonal streams.

“Well” means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension.

“Wellhead protection area” means the surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Clean Water Act.

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands generally do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the City.

“Wetland specialist” means a person with experience and training in wetlands issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

1. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field, and two years of related work experience, including a minimum of one year of experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or
2. Four years of related work experience and training, with a minimum of two years’ experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans.

The person should be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, the City Site Development Regulations, the City wetland management policies, and the requirements of this title.

“Wildlife biologist” means a professional with a degree in wildlife, or certification by the Wildlife Society, or with five years’ professional experience as a wildlife biologist. [Ord. 758 § 2 (Exh. A), 2021; Ord. 726 § 2(Exh. A), 2019; Ord. 630 § 11, 2015; Ord. 362 § 3, 2004.]

The Lakewood Municipal Code is current through Ordinance 767, passed December 20, 2021.

Disclaimer: The city clerk’s office has the official version of the Lakewood Municipal Code. Users should contact the city clerk’s office for ordinances passed subsequent to the ordinance cited above.

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[City Website: www.cityoflakewood.us](http://www.cityoflakewood.us)

City Telephone: (253) 589-2489

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Article III. Tree Preservation

18A.70.300 Purpose.

This article promotes tree preservation by protecting the treed environment of the City of Lakewood by regulating the removal of significant trees and providing incentives to preserve trees that, because of their size, species, or location, provide special benefits. Tree preservation is an essential strategy for meeting Lakewood's citywide goal of 30% tree canopy cover by the year 2050. Tree preservation protects and enhances critical areas, facilitates aquifer recharge, reduces erosion and storm water runoff, and helps to define public and private open spaces. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.310 Tree removal applicability/exemptions.

The requirements for tree preservation shall be provided in accordance with the development standards of each individual zoning district and the provisions of this section, and are applicable to all zoning districts. The following exemptions do not apply to Oregon white oaks. Refer to section 18A.70.330 for Oregon white oak protection standards.

A. Lots of less than seventeen thousand (17,000) square feet in single-family residential zones are exempt from this chapter, except for those lots that contain Oregon white oak trees where specific tree preservation is required in section 18A.70.330, or where specific tree preservation is required as a mitigation measure under SEPA. In the event a permit is not required for the establishment of a use, the standards of this section shall still apply.

~~B. Industrially zoned properties are exempt from this chapter, except where specific tree preservation is required as a mitigation measure under SEPA.~~

~~CB.~~ Removal of nonsignificant trees that are not protected by any other means is exempt from this chapter.

~~DC.~~ *Removal of Trees in Association with Right-of-Way and Easements.* Tree removal by a public agency or a franchised utility within a public right-of-way or upon an easement, for the purpose of installing and maintaining water, storm, sewer, power, gas or communication lines, or motorized or nonmotorized streets or paths is exempt from this chapter. Notification to the City by the public agency or franchised utility is required prior to tree maintenance or removal within City rights-of-way.

~~ED.~~ *Emergency Removal.* Any number of hazardous protected and nonprotected trees may be removed under emergency conditions. Emergency conditions include immediate danger to life or dwellings or similar stationary and valuable property, including the presence of a target. Emergency removal may occur and all the following conditions shall be met:

1. The City is notified the following business day of the unpermitted action;
2. Visual documentation (i.e., photographs, video, etc.) is made available; and
3. The felled tree remains on site for City inspection.
4. Replacement required.
 - a. Nonsingle-family use: The property owner will be required to provide replacement trees as established in LMC 18A.70.320(G), Replacement.

- b. Single-family use: The property owner will not be required to provide replacement trees.
5. Should the City determine that the tree(s) did not pose an emergency condition, the owner shall be cited for a violation of the terms of this chapter. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.320 Significant tree preservation.

A. *Standards.* Significant tree preservation shall be required for any project permit.

1. A significant tree is an existing tree which:
 - a. When measured at four and one-half (4.5) feet above ground, has a minimum diameter of nine (9) inches for evergreen trees and deciduous trees;
 - b. When measured at four and one-half (4.5) feet above ground, has a minimum diameter of ~~six-four~~ (64) inches for ~~Garry Oaks~~Oregon white oaks (also known as ~~Oregon White Oaks~~Garry oaks); and
 - c. Regardless of the tree diameter, is determined to be significant by the Director due to the uniqueness of the species or provision of important wildlife habitat.
2. For the purposes of this section, existing trees are measured by diameter at four and one-half (4.5) feet above ground level, which is the usual and customary forest standard. Replacement trees are measured by diameter at six (6) inches above ground level, which is the usual and customary nursery standard.
3. *Damaged or Diseased Trees.* Trees will not be considered “significant” if, following inspection and a written report by a registered landscape architect, certified nursery professional or certified arborist, and upon review of the report and concurrence by the City, they are determined to be:
 - a. Safety hazards due to root, trunk or primary limb failure;
 - b. Damaged or diseased, and do not constitute an important wildlife habitat. At the discretion of the City, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement, if demonstrated that such trees will provide important wildlife habitat and are not classified as a safety hazard.
4. *Preventive Measure Evaluation.* An evaluation of preventive measures by an arborist in lieu of removing the tree and potential impacts of tree removal may be required. If required, this evaluation shall include the following measures:
 - a. Avoid disturbing tree: Avoid disturbing the tree at all unless it represents a hazard as determined by an arborist;
 - b. Stabilize tree: Stabilize the tree, if possible, using approved arboricultural methods such as cable and bracing in conjunction with other practices to rejuvenate the tree such as repairing damaged bark and trunk wounds, mulching, application of fertilizer, and improving aeration of the tree root zones;
 - c. Pruning: Remove limbs from the tree, such as removing dead or broken branches, or by reducing branch end weights. If needed, remove up to one-quarter (1/4) of the branches from the canopy and main trunk only in small amounts, unless greater pruning is needed by approval of the arborist;
 - d. Wildlife tree: Create a wildlife tree or snag, or cut the tree down to a safe condition, without disturbing the roots, where the tree no longer poses a hazard. To create snags, remove all branches from the canopy, girdle deciduous trees, and leave the main trunk standing. Wildlife trees or snags are most appropriate in City parks, greenbelts, vacant property, and environmentally critical areas;

- e. Steep slopes: Removal of tree roots on steep slopes may require a geotechnical evaluation;
- f. Creeks and lakes: Trees fallen into creeks and lakes are to remain in place unless they create a hazard; and
- g. Provide professional recommendations on:
 - i. The necessity of removal, including alternative measures to removal;
 - ii. The lowest-impact approach to removal;
 - iii. A replacement tree plan, if required.

B. *Trimming.* Trimming of tree limbs and branches for purposes of vegetation management is permitted, provided the trimming does not cause the tree to be a safety hazard.

C. *Preservation Criteria.* All significant trees shall be preserved according to the following criteria:

1. *Perimeter Trees.* All significant trees within twenty (20) feet of the lot perimeter or required buffer, whichever is greater, shall be preserved; except that significant trees may be removed if required for the siting and placement of driveway and road access, buildings, vision clearance areas, utilities, sidewalks or pedestrian walkways, or storm drainage facilities and other similar required improvements, subject to the discretion of the Director.

This requirement shall not apply to single-family residential lots less than seventeen thousand (17,000) square feet in size, where no specific tree preservation is required.

2. *Maximum Tree Removal on Developed Properties.* Existing single-family lots: Except for Oregon white oaks which are regulated by section 18A.70.330, significant trees may be removed with a permit based on the following:

<u>Maximum Tree Removal on Existing Single-Family Lots no permit required</u>		
<u>Lot Size</u>	<u>Maximum number of significant trees allowed to be removed in 1 year without a permit</u>	<u>Maximum number of significant trees allowed to be removed in 5 years without a permit</u>
<u>*Lots up to 17,000 sq. ft.</u>	<u>N/A</u>	<u>N/A</u>
<u>Lots 17,001 to 30,000 sq. ft.</u>	<u>2</u>	<u>4</u>
<u>Lots 30,001 sq. ft. or greater</u>	<u>4</u>	<u>8</u>
<u>*Section 18A.70.310(A) states that single-family lots up to 17,000 sq. ft. are exempted from tree preservation requirements.</u>		

32. *Interior Trees.* A percentage of all significant trees within the interior of a lot, excluding the perimeter area, shall be preserved within the applicable zoning district.

- a. For new single-family residential development including a single-family dwelling on an individual lot, multifamily residential development, and public/quasi-public institutional development, fifty (50) percent of the significant trees located within the interior area of the lot shall be retained.
- b. For new residential subdivisions where the proposed lot size is greater than seventeen thousand (17,000) square feet, all significant trees shall be retained and preserved except those required to be removed in order to construct streets, utilities, or other on-site improvements. Tree retention shall thereafter be provided on a lot-by-lot basis as the individual lots are developed. For subdivisions where the proposed lots are less than seventeen thousand (17,000) square feet, no specific tree preservation is required.

- c. For commercial and industrial development, ten (10) percent of the significant trees located within the interior area of the lot, or individual lots in the case of subdivisions, shall be retained.
- d. In Open Space and Recreation zones, ninety-five (95) percent of the significant trees located within the interior area of the lot shall be retained unless otherwise determined by the Director.

~~3. *Buffers and Sensitive/Critical Areas.* Tree preservation criteria listed above shall exclude sensitive/critical areas and their buffers, and open space areas and tracts. All trees within such areas shall be retained except as may be specifically approved and indicated in the written findings of a discretionary land use permit or a tree removal permit.~~

4. *SEPA Requirements.* Additional or specific tree retention may be required as SEPA mitigation in addition to the requirements of this section.

~~C. *Tree Retention Plan Required.*~~

~~1. A significant tree retention plan shall be submitted to the Community Economic and Development Department for any project permit, except building permits that do not increase the footprint of a building. The plans shall be submitted according to the requirements of the application form provided by the Community Economic and Development Department.~~

~~2. The Director shall review and may approve, approve with modifications, or deny a tree retention plan subject to the provisions of this section.~~

~~3. A significant tree permit is required for the removal of any significant tree unless specifically exempted within this section.~~

~~Any project permit, except building permits that do not increase the footprint of a building shall identify, preserve, and replace significant trees in accordance with the following:~~

~~D. *Tree Permits Associated with a Project Permit/Plan Requirements.*~~

D. *Tree Removal Permit Required.* Approval is required prior to the removal of any significant tree (as described in Section 18A.70.320.A) in accordance with the following:

E. *Tree Permits for residential lots or not Associated with a Project Permit/Plan.*

1. Criteria:

- a. The applicant shall submit a complete application using the form provided and kept by the City.
- b. The applicant shall confirm that the proposal complies with the requirements of Article III. Tree Preservation.

2. Permit review process:

- a. Applications and all submitted information will be verified and approved by City staff administratively.
- b. If an application does not comply with any requirement in this section, the permit is subject to additional review by an ISA Certified Arborist and/or City staff. A Tree retention plan may be required.
 - i. The Director shall review and may approve, approve with modifications, or deny a tree retention plan subject to the provisions of this

F. Tree Permits in non-residential zones or Associated with a Project Permit/Plan.

1. Submit a tree retention plan that consists of a tree survey that identifies the location, size and species of all significant trees on a site and any trees over three (3) inches in diameter at four and one-half (4.5) feet above ground level that will be retained on the site.
 - a. The tree survey may be conducted by a method that locates individual significant trees, or
 - b. Where site conditions prohibit physical survey of the property, standard timber cruising methods may be used to reflect general locations, numbers and groupings of significant trees.
 - c. Oregon white oaks that are to be retained on the site shall be indicated on the site plan with critical root zone protection per section 18A.70.330.
2. The tree retention plan shall also show the location, species, and dripline of each significant tree that is intended to qualify for retention credit, and identify the significant trees that are proposed to be retained, and those that are designated to be removed.
3. The applicant shall demonstrate on the tree retention plan those tree protection techniques intended to be utilized during land alteration and construction in order to provide for the continued healthy life of retained significant trees.
4. If tree retention and/or landscape plans are required, no clearing, grading or disturbance of vegetation shall be allowed on the site until approval of such plans by the City.

G. Heritage Tree Removal. The following criteria pertains only to those trees designated under LMC 2.48.040 D. Heritage Trees

1. A tree removal permit is required for removal of any heritage tree(s);
2. City Staff and an ISA Certified Arborist shall evaluate any heritage trees prior to a decision on the removal permit. Permit approval will be granted if an arborist report demonstrates that alteration or removal is necessary for health and safety, infrastructure operation, protection of existing buildings, or to accomplish reasonable use of property per state law. Recommendations for care, other than removal, will be considered.

H. Construction Requirements.

1. An area free of disturbance, corresponding to the dripline of the significant tree's canopy, shall be identified and protected during the construction stage with a temporary three (3) foot high chain-link or plastic net fence. No impervious surfaces, fill, excavation, storage of construction materials, or parking of vehicles shall be permitted within the area defined by such fencing.
2. At Director's sole discretion, a protective tree well may be required to be constructed if the grade level within ten (10) feet of the dripline around the tree is to be raised or lowered. The inside diameter of the well shall be at least equal to the diameter of the tree spread dripline, plus at least five (5) feet of additional diameter.
3. The Director may approve use of alternate tree protection techniques if the trees will be protected to an equal or greater degree than by the techniques listed above. Alternative techniques must be approved by a registered landscape architect, certified nursery professional or certified arborist, with review and concurrence by the City.
4. If any significant tree that has been specifically designated to be retained in the tree preservation plan dies or is removed within five (5) years of the development of the site, then the significant tree shall be replaced pursuant to subsection (G) of this section.

~~FG. *Maximum Tree Removal on Developed Properties.* Existing single-family lots: Single-family ~~Except for Oregon white oaks which are regulated by section 18A.70.330, homeowners may remove significant trees may be removed without a permit based on the following:~~~~

Maximum Tree Removal on Existing Single-Family Lots without a Permit		
Lot Size	Maximum number of significant trees allowed to be removed in 1 year without a permit	Maximum number of significant trees allowed to be removed in 5 years without a permit
*Lots up to 17,000 sq. ft.	N/A	N/A
Lots 17,001 to 30,000 sq. ft.	2	4
Lots 30,001 sq. ft. or greater	4	8
*Section 18A.70.310(A) states that single-family lots up to 17,000 sq. ft. are exempted from tree preservation requirements.		

I. Replacement. When a significant tree subject to this section cannot be retained, the tree shall be replaced as a condition for the removal of the significant tree, in accordance with the following:

1. *On-Site Replacement.*

a. *Based on DBH Size.* Significant trees shall be replaced at a ratio of two to one (2:1) of the total diameter inches of all replacement trees to the diameter inches of all the significant trees removed.

~~b. *Based on Canopy Coverage.* The applicant may choose to plant fewer replacement trees than required by option (a) if an ISA Certified Arborist determines in a written report that they will compensate for the canopy lost when they reach maturity~~

~~b c.~~ Replacement trees shall be no smaller than three (3) inches in diameter at six (6) inches above ground;

~~e d.~~ Existing healthy trees anywhere on the site which are retained to support the remaining significant trees can be counted against the on-site replacement requirements on a one to one (1:1) basis of the total diameter inches of all replacement trees removed, provided it meets the following criteria:

- i. The tree does not present a safety hazard; and
- ii. The tree is between three (3) and nine (9) inches in diameter at four and one-half (4.5) feet above ground.

2. Each significant tree that is located interior to the twenty (20) foot perimeter area, and which is in excess of the fifty (50) percent of significant trees that are required to be retained, may be credited towards replacement on a one and one-half to one (1.5:1) basis of the total diameter inches for any perimeter trees required to be removed for development, provided the interior tree is between nine (9) inches and twenty-four (24) inches in diameter for evergreen trees, or between nine (9) inches and thirty (30) inches in diameter for deciduous trees.

3. Each significant tree that is located interior to the twenty (20) foot perimeter area, and which is in excess of the fifty (50) percent of significant trees that are required to be retained, may be credited towards replacement on a two to one (2:1) basis of the total diameter inches for any perimeter trees required to be removed for development, provided it meets one of the following criteria:

- a. The tree exceeds sixty (60) feet in height, or twenty-four (24) inches in diameter for evergreen trees, or thirty (30) inches in diameter for deciduous trees.

- b. The tree is located in a grouping of at least five (5) other significant trees with canopies that touch or overlap.
 - c. The tree provides energy savings, through wind protection or summer shading, as a result of its location relative to buildings.
 - d. The tree belongs to a unique or unusual species.
 - e. The tree is located within twenty-five (25) feet of any critical area or required critical area buffers.
 - f. The tree is eighteen (18) inches in diameter or greater and is identified as providing valuable wildlife habitat.
4. *Off-Site Replacement.* When the required number of significant trees cannot be physically retained or replaced on site, the applicant may have the option of:
- a. The planting of the required replacement trees at locations approved by the Director throughout the City. Plantings shall be completed prior to completion of the project permit requiring tree replacement.
 - b. Payment in lieu of replacement may be made to the City Tree Fund for planting of trees in other areas of the City. The payment of an amount equivalent to the estimated cost of buying and planting the trees that would otherwise have been required to be planted on site, as determined by the City's Tree Replacement Cost Schedule. Payment in lieu of planting trees on site shall be made at the time of the issuance of any building permit for the property or completion of the project permit requiring the tree replacement, whichever occurs first.

~~III. *Trimming.* Trimming of tree limbs and branches for purposes of vegetation management is permitted, provided the trimming does not cause the tree to be a safety hazard.~~ [Ord. 726 § 2 (Exh. B), 2019.]

J. *Incentives for Preservation.* Significant tree preservation is incentivized in the following code sections.

Tree Preservation Incentives			
Incentive	Code Sections	Description	Code Language
Parking Reduction	<u>18A.80.060 Parking Incentives</u> <u>18B.600 Parking</u> <u>18C.600 Parking</u>	<u>Allow for alternative standards to protect significant trees, e.g., alter parking dimensional standards or rates.</u>	<u>Credit for Preservation of Heritage Trees. For every Significant Tree preserved within the property, the required number of parking spaces may be reduced by 0.5 spaces, provided the total reduction does not exceed five (5) percent of the total required parking spaces, when combined with all parking incentive credits.</u>

<u>Density Increase</u>	<u>18A.60.110 Density standards</u> <u>18B.200.230 District-Wide Development Standards</u> <u>18C.200.230 District-wide development standards</u>	<u>Increase density if retaining significant trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u>	<u>For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Downtown District (not to exceed of more than 20% of the total allowable units)</u> <u>Bonus density, where applicable, shall be computed by adding the bonus units authorized by LMC 18A.90.050 to the base units computed under this section.</u> <u>For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in a census tract with a tree equity score of under XX% (not to exceed of more than 20% of the total allowable units)</u>
<u>Master Plan Flexibility</u>	<u>18B.700.720 Master Planned Development – Town Center Incentive Overlay</u>	<u>Allow flexibility in a master plan if retaining significant trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u>	<u>18B.700.720(G)(3) j. Preservation of Significant Trees on the property.</u>
<u>Tree Preservation Paired with Mixed Income Developments</u>	<u>18C.700.720 Optional master planned development</u>	<u>Include tree preservation as a criteria or condition of approval for mixed income developments.</u>	<u>18C.700.720(D)(3)(c) iv. The preservation of 5% of the existing significant trees on the property as identified by a tree survey (not greater than 5 significant trees).</u>
<u>Landscaping Reduction for Oregon White Oak Preservation</u>	<u>18A.70.140 Landscaping Standards</u>	<u>Allow for a reduction in the landscaping requirements for the preservation of Oregon white oaks.</u>	<u>A credit of one and one-half square feet for landscaping requirements under the city zoning code shall be given for every square foot of area devoted to new or the preservation of Oregon white oak tree use.</u>

<u>Building Setback Reduction</u>	<u>18A.60.030 Residential area and dimensions</u> <u>18A.60.040 Commercial area and dimensions</u> <u>18A.60.050 Industrial area and dimensions</u> <u>18A.60.060 Military lands area and dimensions.</u> <u>18A.60.070 Open space area and dimensions.</u>	<u>Allow for a reduction in the rear yard and/or side yard building setback requirements for the preservation of significant trees.</u>	<u><i>Tree Preservation.</i> Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter 18A.70, Article III. The Director may reduce a rear yard and/or side yard building setback to compensate for the preservation of a significant tree.</u>
<u>Impervious Surface Bonus</u>	<u>18A.60.030 Residential area and dimensions</u> <u>18A.60.040 Commercial area and dimensions</u> <u>18A.60.050 Industrial area and dimensions</u> <u>18A.60.060 Military lands area and dimensions.</u> <u>18A.60.070 Open space area and dimensions.</u>	<u>Allow an increase in allowable impervious surface on a site where a significant tree is being preserved. Impervious surface cannot be located within the critical root zone of the preserved tree(s)</u>	<u><i>Tree Preservation.</i> Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter 18A.70, Article III. The Director may increase the amount of allowable impervious surface area to compensate for the preservation of a significant tree. Impervious surface not to be located within the critical root zone of the preserved tree(s).</u>

K. Enforcement

a. Failure to comply with any lawful order issued under the authority of this title, constitutes a Class 2 civil infraction, as defined in Chapter 1.48 LMC. Any violation of this title which is deemed to be a public nuisance or a danger to the public health and/or safety shall be addressed as specified in Chapter 1.44 LMC.

b. Malicious Cutting. Malicious cutting may result in tripling of the amount of replacement value as provided in code Section 18A.70.320(G)(d).

18A.70.330 Oregon white oak preservation.

The Oregon white oak, *quercus garryana*, also known as Garry oak, is a native tree designated by Washington Department of Fish and Wildlife as a priority habitat. In Lakewood, individual trees and stands of trees are protected as critical fish and wildlife habitat area under Chapter 14.154 Fish and Wildlife Habitat Areas.

The requirements for Oregon white oak tree preservation shall be provided in accordance with the development standards of each individual zoning district and the provisions of this section and are applicable to all zoning districts.

- A. Priority White Oak Woodlands, including single trees greater than 20", -or trees located within a critical area or buffer are subject to the critical areas ordinance LMC Chapter 14.154.
- B. Permits for Oregon white oaks and all trees within critical areas
 1. Permits for removal, topping and trimming
 - a. Removal or Topping. regardless of diameter, Aa permit for removal or topping may be granted when it is determined by the Director that the Oregon white oak tree is so diseased or damaged that it presents a danger to the public or adjacent property and trimming is inadequate to ameliorate the danger. Wherever feasible, dead Oregon white oak trees shall be left as snags for their habitat value.
 1. Individual Oregon white oak trees greater than 20" or trees located within a critical area are subject to the critical areas ordinance LMC Chapter 14.154.
 - i. A tree may be exempted from the requirements of this code section with a biological assessment prepared by a qualified wildlife biologist or a tree report prepared by an ISA Certified Arborist. The biological assessments shall be prepared in accordance with LMC 14.154.050(B), and are subject to the review and approval of the Director.
 2. Individual Oregon white oak or stands with average DBH of > 4" but <20" may be removed subject to the following conditions:
 - i. The trees are not located in a critical area, in such case subject to the critical areas ordinance LMC Chapter 14.154
 - ii. The applicant has demonstrated no alternative siting in order to construct streets, utilities, or other on-site improvements.
 - iii. Tree replacement is required at a 2:1 ratio
- C. Construction Operations. During building or construction operations, suitable protective measures listed below shall be implemented around significant Oregon white oak trees to prevent injury:
 1. Establish a critical root zone (CRZ) for the tree which at a minimum is a circular area around the tree trunk with a radius of one foot for every one inch in diameter measured at four and one-half feet above grade.
 2. Install an access deterring fence with a minimum height of three feet around the CRZ that will remain in place till final inspections have been completed.
 3. Post highly visible and legible signs of caution, warning, or do not disturb, which are not less than 12 inches by 12 inches of the restrictions around the tree on the fence or restricted area to help convey the importance of CRZ to workers on site.
 4. No roots greater than four inches in diameter shall be cut, even if such roots are outside the CRZ.
 5. Make all necessary cuts to tree roots cleanly with sharp tools.
 6. Construction debris or stockpile construction material shall be done outside the CRZ and away from the tree as practically possible.

7. The soil composition in and around the CRZ shall not be disturbed or altered during project construction.
8. Change in soil grades around the CRZ and tree shall be gradual.
 - a. Washing equipment, vehicle maintenance and other potential soil contamination activities shall be done away from the CRZ and the tree as practically possible.
 - b. All measures to avoid damage to tree trunks and branches should be taken during construction activities.
- D. If the protective measures listed above cannot be met due to site specific conditions, or if it is determined that the measures may not meet the intent of protecting the Oregon white oak tree, the applicant will be required to provide a tree protection plan prepared by a certified arborist.
- E. No hard surface area shall be allowed within the drip line of an Oregon white oak tree to the maximum extent possible. An administrative variance may allow hard surface on up to 25 percent of the area within the drip line when there is no practical alternative.

18A.70.~~330~~340 City Tree Fund.

A. *Funding Sources.* All civil penalties received under this chapter and all money received pursuant to Chapter [14.02](#) LMC, Environmental Rules and Procedures, shall be used for the purposes set forth in this section. In addition, the following sources may be used for the purposes set forth in this section:

1. Agreed-upon restoration payments or settlements in lieu of penalties;

2. Tree permit fees and penalties

- 2.3. Donations and grants for tree purposes;

- 3.4. Other moneys allocated by the City Council.

B. *Funding Purposes.* The City shall use money received pursuant to this section for the following purposes:

1. Acquiring, maintaining, and preserving wooded areas within the City;
2. Planting and maintaining trees within the City;
3. Restoration or enhancement of native trees like Oregon white oaks, such as on public lands, private tree tracts, critical area buffers, or lands with conservation easements
4. Establishment of a holding public tree nursery;
- 4.5. Urban forestry education;
- 5.6. Implementation of a tree canopy monitoring program;
- 6.7. Scientific research; or
- 7.8. Resources to support the administration of Ch. 18A.70 Art. III Tree Preservation
9. Other purposes relating to trees as determined by the City Council. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.350 Definitions.

“ANSI A300” means the industry standards for tree care in the United States.

“Certified Arborist” means a specialist in the care and maintenance of trees who is certified by and in good standing with the International Society of Arboriculture (ISA).

“Critical Root Zone” (CRZ) means the area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. CRZ can be determined using the dripline of the tree.

“DBH” is an acronym meaning tree diameter at breast height measured at 4.5 feet above ground. For multi-trunked trees, DBH is the total of all individual trunks added together.

“Dripline” means the outermost edge of a tree’s canopy. When viewed from above, the drip line will appear as a line that follows the contour of the tree’s branches. At a minimum, the drip line is a circle whose diameter is 15 times a tree’s DBH.

“Pruning” means removing branches from a tree to achieve a specified objective using approved practices according to ANSI A300 industry standards.

“Root Pruning” means removing roots from a tree to achieve a specified objective using approved practices according to ANSI A300 industry standards.

“Topping” means using inappropriate pruning techniques to reduce tree size that may result in unnecessary risk, tree stress, or decay.

“Trimming” means detaching a limb, branch, or root from a tree. Trimming shall include pruning and cutting.

Lakewood Comprehensive Plan Goals and Policies

3.12.6 Urban Forestry

GOAL LU-60: Institute an urban forestry program to preserve significant trees, promote healthy and safe trees, and expand tree canopy coverage throughout the City.

Policies:

- LU-60.1: Establish an urban forestry program for the City.
- LU-60.2: Promote planting and maintenance of street trees.
- LU-60.3: Provide for the retention of significant tree stands and the restoration of tree stands within the City.
- LU-60.4: Work towards a citywide goal of 30% tree canopy cover by the year 2050. Consider opportunities to increase canopy and environmental equity when evaluating tree canopy distribution.

PLANNING COMMISSION RESOLUTION NO. 2022-04

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
LAKEWOOD, WASHINGTON, RECOMMENDING AMENDMENTS TO THE
LAKWOOD TREE PRESERVATION CODE.**

WHEREAS, the City of Lakewood is a code city planning under the Growth Management Act, codified in RCW 36.70A, and

WHEREAS, the City Council adopted its Tree Preservation Code, LMC 18A.70.300- 330 via Ordinance No. 726 on December 16, 2019; and

WHEREAS, the Lakewood City Council adopted Title 14, Title 18A, Land Use and Development Code, of the Lakewood Municipal Code (LMC) via Ordinance No. 630 on December 7, 2015; and

WHEREAS, it is appropriate for the Lakewood City Council to consider and adopt amendments needed to ensure that the Plan and implementing regulations provide appropriate policy and regulatory guidance for growth and development; and

WHEREAS, the Lakewood City Council passed Resolution 2021-15 to form a Tree Advisory ad hoc Committee to review the tree preservation code and associated municipal code chapters and forward its recommendations onto the Planning Commission; and

WHEREAS, the Tree Advisory Ad hoc Committee met on seven (7) occasions between March-April, 2022; and

WHEREAS, at the conclusion of its meetings, the Ad hoc Committee created a framework report to provide advice to the Planning Commission; and,

WHEREAS, the Planning Commission reviewed the existing City tree preservation code and the Tree Advisory Ad hoc Committee recommendations on May 4th, May 18th, June 1st, June 8th and June 15th; and,

WHEREAS, on June 15, 2022 the Planning Commission also reviewed revisions to the City's Comprehensive Plan, Chapter 2.64, Chapter 14.154 and Title 18A of the Lakewood Municipal Code, and set a public hearing date of July 6, 2022; and,

WHEREAS, public notice provided pursuant to Lakewood Municipal Code 18A.20.310 on June 15th and through post cards that were mailed to every Lakewood resident on June 1st; and,

WHEREAS, the City published the Planning Commission proposed amendments online on June 22nd and reviewed with the public via YouTube on July 19th; and

WHEREAS, the Lakewood Planning Commission held an open record public hearing on

July 5, 2022; and

WHEREAS, the Planning Commission wants to establish additional protections for Oregon White Oak trees and ensure that tree removals are being accurately tracked; and,

WHEREAS, the Planning Commission reviewed the best practices, other jurisdictions' municipal code provisions, and received numerous presentations from experts in the field of urban forestry to establish its recommendations; and

WHEREAS, the Planning Commission wanted to encourage future development in the City of Lakewood consistent with the City's vision and Comprehensive Plan; and

WHEREAS, the Lakewood Planning Commission finds that the proposed amendments further the goals and policies of the Comprehensive Plan and promote the community's overall health, safety, and welfare;

NOW, THEREFORE, THE LAKEWOOD PLANNING COMMISSION OF THE CITY OF LAKEWOOD, WASHINGTON, DOES RECOMMEND AS FOLLOWS:

Section 1. Amendments to Chapter 2.48, Protection and Preservation of Landmarks ordinance as contained in Exhibit A to include designation criteria for heritage trees.

Section 2. Amendments to the City's Critical areas ordinance as contained in Exhibit B herein, summarized as follows:

LMC 14.145.080 Provisions for Priority Oregon White oak trees and woodlands:

Create a new section to establish a process to preserve priority white oak woodlands through maintenance and permit the removal of priority white oak woodlands subject to City review or a reasonable use exception.

Recommendation: Approval.

14.156.010 Definitions. Create a new definition for "feasible"

Recommendation: Approval.

Section 3. Amendments to the City's land use and development regulations as contained in Exhibit C hereto, summarized as follows:

18A.70.310 Tree Removal applicability/exemptions: Establish additional protections for Oregon White Oak trees. Remove the industrially zoned property exemptions.

Recommendation: Approval.

18A.70.320 Significant Tree Preservation: Set the size of a significant Oregon White Oak Tree at four (4) inches. Establish additional standards for trimming trees. Require a permit for tree removal on single family residential lots over 17,000 gsft. Establish a simple permitting process that is administrative for residential lots or non-Oregon White Oak tree removals not associated with a project permit/plan.

Establish a permitting process to remove heritage trees. Allow for additional on-site replacement options when approved by an ISA Certified Arborist. Provide Incentives for Tree Preservation. Establish enforcement procedures which will be charged to both the property owner and contractor.

Recommendation: Approval.

18A.70.330 Oregon white oak preservation: Establish a new code section to regulate Oregon white oak preservation.

Recommendation: Approval.

18A.70.340 City Tree Fund. Amend the code section to include tree permits fees and penalties as well as, to allow for the funds to be used for restoration projects and to administer the tree preservation code.

Recommendation: Approval.

18A.70.350 Definitions. Adopt new definitions related to tree preservation.

Recommendation: Approval.

Section 4. Include the following as an amendment in the next Comprehensive Plan update cycle:

3.12.6 Urban Forestry

GOAL LU-60: Institute an urban forestry program to preserve significant trees, promote healthy and safe trees, and expand tree canopy coverage throughout the City.

Policies:

- LU-60.1: Establish an urban forestry program for the City.
- LU-60.2: Promote planting and maintenance of street trees.
- LU-60.3: Provide for the retention of significant tree stands and the restoration of tree stands within the City.
- LU-60.4: Work towards a citywide goal of 30% tree canopy cover by the year 2050. Consider opportunities to increase canopy and environmental equity when evaluating tree canopy distribution.

Section 5. To administer the code revisions and continue to monitor the City's urban canopy, that the City consider establishing an Urban Forestry Program as outlined in CPA Goal LU-60, first year deliverables may include:

- Identify areas within the City in need of additional canopy
- Work with a consultant to complete a city tree inventory
- Establish a tree replacement program/giveaway program
- Work with the City's contract arborist to review tree removal applications
- Monitor the City's canopy goal
- Provide public education opportunities regarding tree maintenance and appropriate planting standards; and
-

PASSED AND ADOPTED at a regular meeting of the City of Lakewood Planning Commission this 20th day of June, 2022, by the following vote:

AYES: BOARDMEMBERS:

NOES: BOARDMEMBERS:

ABSENT: BOARDMEMBERS:

CHAIR, PLANNING COMMISSION

ATTEST:

KAREN DEVEREAUX, SECRETARY

Chapter 2.48

PROTECTION AND PRESERVATION OF LANDMARKS

Sections:

2.48.010	Purpose.
2.48.020	Definitions.
2.48.030	Landmarks and Heritage Advisory Board created.
2.48.035	Powers of Lakewood Landmarks and Heritage Advisory Board.
2.48.040	Designation criteria.
2.48.050	Nomination procedure.
2.48.060	Designation procedure.
2.48.070	Certificate of appropriateness procedure.
2.48.080	Evaluation of economic impact.
2.48.090	Appeal procedure.
2.48.110	Penalties for violating this chapter.
2.48.120	Special valuation for historic properties.
2.48.130	Severability.
2.48.140	Retroactive approval of acts.

2.48.040 Designation criteria.

D. A tree may be designated as a heritage tree due to its historical, cultural, or environmental significance to the community. The purpose of the heritage tree designation is to ensure additional measures of protection and maintenance for trees with unique characteristics, historical importance, or cultural significance. A complete application shall include the following information:

1. A short description of the tree(s), including the address or location, species, and size (height, crown spread, and DBH);
2. Reason for designation as a heritage tree(s) including special characteristics of the tree and/or site; and
3. A report completed by an ISA Certified Arborist to identify the tree's characteristics, current condition, and maintenance needs.

Title 14

ENVIRONMENTAL PROTECTION*

Chapters:

14.02	Environmental Rules and Procedures
14.142	Critical Areas and Natural Resource Lands Authority, Intent, and General Provisions
14.146	Geologically Hazardous Areas
14.150	Aquifer Recharge Areas
14.154	Fish and Wildlife Habitat Areas
14.158	Flood Hazard Areas
14.162	Wetlands Areas
14.165	Definitions

* **Prior legislation note:** Ord. 362 repealed Chapters 14.138 through 14.170 and enacted a Title 14A; Ord. 590 repealed Chapters 14.06 through 14.134. Prior to its repeal and reenactment, the title was based on the provisions of Ords. 56, 57 and 585.

14.154.020 Designation of critical fish and wildlife habitat areas.

A. *General.* This chapter applies to proposed regulated activities within critical fish and wildlife habitat areas. Critical fish and wildlife habitat areas are those areas identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both.

B. *Identification of Critical Fish and Wildlife Species and Habitats.*

1. *Critical Fish and Wildlife Habitat Areas.*

a. *Federal and State Listed Species and Their Associated Habitats.* Areas which have a primary association with federally or state listed endangered, threatened, or sensitive species of fish or wildlife (specified in [50 CFR 17.11](#), [50 CFR 17.12](#), [WAC 220-610-010](#) and [220-610-110](#)) and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

b. Habitats and species of local importance, including the following:

i. Areas with which state listed monitor or candidate species or federally listed candidate species have a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

ii. Documented habitat areas or outstanding potential habitat areas for fish and wildlife species. These areas include specific habitat types which are infrequent in occurrence in Pierce County and Lakewood, and may provide specific habitats with which endangered, threatened, sensitive, candidate, or monitor species have a primary association, such as breeding habitat, winter range, and movement corridors. These areas include the following:

- (A) Priority Oregon white oak woodlands.
- (B) Prairies.
- (C) Old growth forests.
- (D) Caves.
- (E) Cliffs.
- (F) Snag-rich areas.
- (G) Rivers and streams with critical fisheries.
- (H) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.
- (I) Waters of the state, including all water bodies classified by the Washington Department of Natural Resources (DNR) water typing classification system as detailed in WAC [222-16-030](#), together with associated riparian areas.
- (J) Lakes, ponds, streams, and rivers planted with game fish by a governmental entity or tribal entity.
- (K) State natural area preserves and natural resource conservation areas.

2. *Mapping.* The resources listed below provide information on fish and wildlife habitat areas:

- a. Puget Sound Environmental Atlas, Puget Sound Water Quality Authority.
- b. The following Washington Department of Natural Resources documents and data sources:
 - i. Stream typing maps.
 - ii. Natural Heritage Database.
- c. The following Washington Department of Wildlife documents and data sources:
 - i. Priority Habitats and Species Program.
 - ii. Nongame Database.

- iii. Washington Rivers Information System.
- d. The following Washington Department of Fisheries documents:
 - i. Water Resource Index Areas (WRIA). [Ord. 630 § 1, 2015; Ord. 362 § 3, 2004.]

14.154.030 Habitat protection standards.

A. *Education and Information.* A voluntary education program to explain the need for and methods of habitat management will help provide for long-term protection and enhancement of critical fish and wildlife habitat areas. By informing citizens of the declining populations of several fish and wildlife species in Pierce County, the diminishing animal habitat available, and the management techniques that individuals can use to preserve and restore fish and wildlife habitat areas, the City can foster good stewardship of the land by property owners.

1. The Department will provide educational materials and lists of additional sources of information to applicants proposing regulated activities in the vicinity of critical fish and wildlife habitat areas. Materials will be selected from a variety of state and local resources.
2. The Department will accumulate information on the number of proposed activities associated with fish and wildlife habitat areas as identified by this chapter and indicated by County maps to be in the vicinity of identified critical fish and wildlife habitats pursuant to LMC [14.154.020](#). Information shall include the number of single-family residences and other development occurring in the vicinity of critical fish and wildlife areas. Based on this information, additional regulations may be developed.

B. *Use of Existing Procedures and Laws, Biological Assessments.* The primary procedures used to implement this chapter shall include this chapter itself, the City's Land Use and Development Code, the State Environmental Policy Act (Chapter [43.21C](#) RCW), the City's environmental regulations, the State Shoreline Management Act (Chapter [90.58](#) RCW), and the City's shoreline management regulations.

Regulated activities subject to environmental review shall be reviewed with consideration for impacts on critical fish and wildlife habitat as identified in this title. The Community Development Director may require a biological assessment prepared by a qualified wildlife biologist whenever the Director finds that a project site may contain, affect, or be affected by, species or habitats designated in this chapter. Biological assessments shall be prepared in accordance with LMC [14.154.050\(B\)](#), and are subject to the review and approval of the Director.

Projects undergoing review for fish and wildlife considerations shall be routed to the Washington Department of Fish and Wildlife, the Washington Department of Ecology, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers and any other appropriate state and federal agencies. These agencies will have an opportunity to provide specific habitat information on proposed development sites, advise the City of their

jurisdiction and applicable permit requirements, and suggest appropriate project modifications and/or other mitigation.

The City shall give substantial weight to the management recommendations contained in the Washington Department of Fish and Wildlife Priority Habitats and Species Program, ~~particularly the management recommendations for Oregon white oak woodlands~~. [Ord. 630 § 2, 2015; Ord. 362 § 3, 2004.]

14.154.080 Provisions for Priority Oregon white oak trees and woodlands

A. No person shall willfully remove, top, damage, destroy, break, injure, mutilate or kill any Priority Oregon white oak trees and woodlands except as allowed by this chapter.

B. During building or construction operations, suitable protective measures in LMC 18A.70.320(1) shall be erected around Oregon white oak trees, stands, or woodlands which may be subject to injury.

C. The following activities may be permitted regarding Priority Oregon white oak trees and woodlands:

1. Removal of diseased trees and trees that present an imminent threat to properties. The Director may require a written report by a certified arborist assessing the condition of any tree that is purported to be diseased or hazardous.

2. Trimming. Trimming shall be granted when it is determined:

(a) That trimming is needed for safety or public welfare or to remove diseased or dead branches; or

(b) That branches hang over an existing building or interfere with utility lines or right-of-way access.

3. Single Family Property. If the presence of the Priority Oregon white woodland renders the development of a house or permitted accessory structure infeasible, and the application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development, the City may allow removal or trimming of a Priority Oregon white oak trees and woodlands in order to allow a maximum building footprint of one thousand five hundred (1,500) square feet for a single family residence, 1,000 square feet for an accessory dwelling unit, and 600 square feet for a detached garage. Additional impervious area for the driveway will be permitted which provides the shortest and most direct access to the house with minimal encroachment or impact into the critical area. The proposal shall demonstrate prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time, the proposal results in the least possible impact to the critical area to achieve a feasible development, and includes mitigation to offset any impacts to critical areas consistent with the provisions of this chapter and in accordance

¹ For example, building setbacks, parking standard adjustments, height/density bonuses, etc.

with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

4. Commercial, Industrial, Multifamily, Institutional or Other Development. On non-single-family properties where Priority Oregon white oak trees and woodlands does not exceed 1 acre in size contiguous and the application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development², the City may allow for removal or trimming of a Priority Oregon white oak trees and woodlands to accommodate a legal use of the property with the least possible impact to the critical area, provided no clearing of trees occurred prior to the application for a land use permit in violation of Article III of Chapter 18A.70 LMC in effect at the time, and provided mitigation is instituted consistent with a report prepared by a qualified biologist or certified arborist. The City may require a third-party review of the report at the applicant's expense. A minimum 2:1 replacement ratio shall be applied. See required findings in Subsection C.5. If a proposal does not meet the parameters of this paragraph see Subsection D.

5. Required findings. To approve a proposal for a single family home in paragraph 3 or other non-single family development in paragraph 4, the Director shall find:

- (a) The application of incentives in LMC 18A.70.320¹ is insufficient to result in a feasible development.
- (b) The development results in the least possible impact to the critical area to achieve a feasible development that accommodates a legal use of the property.
- (c) The report and mitigation prepared by a qualified biologist or certified arborist demonstrates to the satisfaction of the Director that mitigation addresses impacts to Priority Oregon white oak trees and woodlands consistent with the provisions of this chapter. The report and mitigation consider the Washington Department of Fish and Wildlife Priority Habitats and Species Program management recommendations for Oregon white oak woodlands. The report has been reviewed by either the Washington Department of Fish and Wildlife through SEPA review and/or a qualified biologist or certified arborist at the applicant's expense as required by the Director.
- (d) Prior tree removal has met Article III of Chapter 18A.70 LMC in effect at the time.

D. If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to LMC 14.142.080.

Chapter 14.165

DEFINITIONS

Sections:

14.165.010 Definitions.

14.165.010 Definitions.

For the purpose of this title, in addition to the definitions in LMC [18A.10.180](#), the following definitions shall apply:

“Abutting” means bordering upon, to touch upon, in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

“Activity” means any use conducted on a site.

“Agricultural activities” means the production of crops and/or raising or keeping livestock, including operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Forest practices regulated under Chapter [76.09](#) RCW, Title [222](#) WAC are not included in this definition.

“Alluvial geologic unit” means geologically recent stream, lake, swamp and beach deposits of gravel, sand, silt and peat.

“Animal containment area” means a site where two or more animal units of large animals per acre or three-quarters of an animal unit of small animals per acre are kept, and where a high volume of waste material is deposited in quantities capable of impacting ground water resources.

“Animal unit” means the equivalent of 1,000 pounds of animal.

“Applicant” means a person, party, firm, corporation, or other legal entity that proposes a development on a site.

“Aquifer” means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

“Aquifer recharge area” means areas where the prevailing geologic conditions allow infiltration rates which create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water with potential to be used for potable water. For the purposes of this title, all of the area located within the Clover/Chambers Creek Basin boundary or the two highest DRASTIC zone boundaries is included in the aquifer recharge area.

“Aquifer susceptibility” means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the “100-year flood.” The area subject to the base flood is the special flood hazard area designated on flood insurance rate maps as Zones “A” or “V.”

“Base flood elevation” means the elevation of the base flood above the datum of the effective firm.

“Basement” means any area of structure having its floor sub-grade (below ground level) on all sides.

“Best management plan” means a plan developed for a property which specifies best management practices for the control of animal wastes, storm water runoff, and erosion.

“Buffer” means an area contiguous with a critical area that is required for the integrity, maintenance, function, and structural stability of the critical area.

“Building footprint” means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

“Channel migration area” means that area within the lateral extent of likely stream channel movement due to stream bank destabilization and erosion, rapid stream incision, aggradation, avulsions, and shifts in location of stream channels plus 50 feet.

“Class” means one of the wetland classes used to categorize wetlands by their attributes and characteristics. Wetlands shall be rated using the latest adopted version of the Washington State Wetland Rating System for Western Washington published by the Washington State Department of Ecology.

“Class I injection well” means a well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.

“Class II injection well” means a well used to inject fluids: brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection; for enhanced recovery of oil or natural gas; or for storage of hydrocarbons that are liquid at standard temperature and pressure.

“Class III injection well” means a well used for extraction of minerals, including but not limited to the injection of fluids for: in-situ production of uranium or other metals that have not been conventionally mined; mining of sulfur by Frasch process; or solution mining of salts or potash.

“Class IV injection well” means a well used to inject dangerous or radioactive waste fluids.

“Class V injection wells” means all injection wells not included in Class I, II, III, or IV.

“Classification” means defining value and hazard categories to which critical areas and natural resource lands will be assigned.

“Clearing” means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth’s surface of the site. In addition to the above, clearing is an activity which does not require reforestation per an approved forest practices application/notification issued by the Department of Natural Resources.

“Cliff” means a steep vertical or overhanging face of rock or earth greater than 25 feet in height.

“Compensatory mitigation” means mitigation to compensate for loss of wetland habitat due to filling of wetlands or other regulated activities in wetlands.

“Confined aquifer” means an aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

“Confining formation” means the relatively impermeable formation immediately overlying an artesian aquifer.

“Contaminant” means any chemical, physical, biological, or radiological substance that does not occur naturally or occurs at concentrations and duration as to be injurious to human health or welfare or shown to be ecologically damaging.

“Critical aquifer recharge area” means areas that are determined to have a critical recharging effect on aquifers used as a source for potable water, and are vulnerable to contamination from recharge.

“Critical areas” means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, and geologically hazardous areas as defined in this chapter.

“Critical facilities” means those facilities occupied by populations or which handle dangerous substances including but not limited to hospitals, medical facilities; structures housing, supporting or containing toxic or explosive substances; covered public assembly structures; school buildings through secondary including day-care centers; buildings for colleges or adult education; jails and detention facilities; and all structures with occupancy of greater than 5,000 people.

“Degraded” means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons, on or off a site.

“Delineation” means identification of wetlands and their boundaries done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

“Delineation report” means a written document prepared by a wetland specialist which includes data sheets, findings of the delineation and a site plan which identifies the wetland boundaries.

“Department” means the City of Lakewood Department of Community Development.

“Designation” means taking formal legislative and/or administrative action to adopt classifications, inventories, and regulations.

“Developed lot” means any lot developed with a primary use and structure(s), not generally subject to further development with additional units or other primary uses.

“Development” means any human-induced change to improved or unimproved real property including, but not limited to, the construction of buildings or other structures, placement of manufactured home/mobile, mining, dredging, clearing, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, subdivision of property, removal of substantial amounts of vegetation, or alteration of natural site characteristics.

“Director” means the Director of the Department of Community Development or his/her designee.

“DRASTIC” means a model developed by the National Water Well Association and Environmental Protection Agency used to measure aquifer susceptibility.

“Dry certificate” means any combination of structural and nonstructural measures that prevent flood waters from entering a structure.

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination thereof.

“Ecotone” means a transition area between two adjacent vegetation communities.

“Elevation certificate” means the official form (FEMA form 81-31) used to provide elevation information necessary to ensure compliance with provisions of this title and determine the proper flood insurance premium rate.

“Enhancement” means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the quality of wetland functions increases (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or solid waste).

“Erosion” means the wearing away of the earth’s surface as a result of the movement of wind, water, or ice.

“Erosion hazard areas” means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

“Excavation” means the mechanical removal of earth material.

“Existing” means those uses legally established prior to incorporation whether conforming or nonconforming.

“Extirpation” means the elimination of a species from a portion of its original geographic range.

"Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where the chapter requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Director may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

“Fill/fill material” means a deposit of earth material, placed by human or mechanical means.

“Filling” means the act of placing fill material on any surface, including temporary stockpiling of fill material.

“Fish and wildlife habitat areas” means those areas identified as being of critical importance to maintenance of fish, wildlife, and plant species, including: areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat; waters of the state; lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity, or private organization; state natural area preserves and natural resource conservation areas.

“Fisheries biologist” means a professional with a degree in fisheries, or certification by the American Fisheries Society, or with five years’ professional experience as a fisheries biologist.

“Flood hazard areas” means areas of land located in floodplains which are subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood protection elevation” (FPE) means the elevation above the datum of the effective FIRM to which the new and substantially improved structures must be protected from flood damage.

“Floodfringe” means the area subject to inundation by the base flood, but outside the limits of the floodway, and which may provide needed temporary storage capacity for flood waters.

“Floodplain” means the total area subject to inundation by the base flood, including the floodfringe and the floodway areas.

“Floodway” means the channel of a river, or other watercourse, and the land areas that must be reserved in order to convey and discharge the base flood without cumulatively increasing the water surface elevation by more than one foot, and those areas designated as deep and/or fast-flowing water.

“Geological assessment” means an assessment prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering or prepared by a professional geologist, hydrologist, or soils scientist, who has earned the related bachelor’s degree from an accredited college or university, or equivalent educational training, and has a minimum of five years’ experience assessing the relevant geologic hazard. A geological assessment must detail the surface and subsurface conditions of a site and delineate the areas of a property that might be subject to specified geologic hazards.

“Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, may pose a risk to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

“Geotechnical report” means a report prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering, evaluating the site conditions and mitigating measures necessary to reduce the risks associated with development in geologically hazardous areas.

“Grading” means any excavating, filling, clearing, creating (or combination thereof) of impervious surfaces.

“Ground amplification” means an increase in the intensity of earthquake induced ground shaking which occurs at a site whereby thick deposits of unconsolidated soil or surficial geologic materials are present.

“Ground water” means all water found beneath the ground surface, including slowly-moving subsurface water present in aquifers and recharge areas.

“Ground water management area” means a specific geographic area or subarea designated pursuant to Chapter [173-100](#) WAC for which a ground water management program is required.

“Ground water management program” means a comprehensive program designed to protect ground water quality, to assure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated ground water management area or subarea and developed pursuant to Chapter [173-100](#) WAC.

“Habitat assessment” means a report prepared by a professional wildlife biologist or fisheries biologist, which identifies the presence of fish and wildlife habitat conservation areas in the vicinity of the proposed development site.

“Habitat management plan” means a report prepared by a professional wildlife biologist or fisheries biologist, which discusses and evaluates the measures necessary to maintain fish and wildlife habitat conservation areas on a proposed development site.

“Habitat of local importance” means an area, range or habitat within which a species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Examples include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These areas may also include habitats that are of limited availability or high vulnerability to alteration. The Lakewood City Council may designate specific habitats of local importance by ordinance or resolution.

“Hazardous substance(s)” means any liquid, solid, gas, or sludge, including any materials, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC [173-303-090](#) or [173-303-100](#).

“Hazardous substance processing or handling” means the use, storage, manufacture, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. Hazardous substances shall not be disposed on site unless in compliance with Dangerous Waste Regulations, Chapter [173-303](#) WAC, and any pertinent local ordinances, such as sewer discharge standards.

“Hazardous waste” means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Chapter [70.300](#) RCW and Chapter [173-303](#) WAC.

1. “Dangerous waste” means any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:
 - a. Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
 - b. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
2. “Extremely hazardous waste” means any waste which:
 - a. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of humans or wildlife; and

- b. Is disposed of at a disposal site in such quantities as would present an extreme hazard to humans or the environment.

“Hazardous waste treatment and storage facility” means a facility that treats and stores hazardous waste and is authorized pursuant to Chapter [70.300](#) RCW and Chapter [173-303](#) WAC. It includes all contiguous land and structures used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of hazardous waste. Treatment includes using physical, chemical, or biological processing of hazardous wastes to make such waste nondangerous or less dangerous and safer for transport, amenable for energy or material resource recovery. Storage includes the holding of waste for a temporary period but not the accumulation of waste on the site of generation as long as the storage complies with applicable requirements of Chapter [173-303](#) WAC.

“Historic structure” means a structure that:

1. Is listed on the National Register of Historic Places, the Washington Heritage Register, or the Washington Heritage Barn Register; or
2. Has been certified to contribute to the historical significance of a registered historic district.

“Hydrogeologic assessment” means a report detailing the subsurface conditions of a site and which indicates the susceptibility and potential for contamination of ground water supplies.

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups: A, with low runoff potential and a high rate of water transmission; B with moderate infiltration potential and rate of water transmission; C, with a slow infiltration potential and rate of water transmission; and D, with a high runoff potential and very slow infiltration and water transmission rates.

“Hydrologically isolated wetland” means a wetland which:

1. Is not contiguous to any 100-year floodplain of a lake, river or stream; and
2. Has no contiguous surface hydrology, hydric soil or hydrophytic vegetation between the wetland and any other wetland or stream system.

“Hyporheic zone” means a saturated layer of rock or sediment beneath and/or adjacent to a stream channel that contains some proportion of channel water or that has been altered by channel water infiltration.

“Impervious surface” means natural or human-produced material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, etc.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“In-kind mitigation” means to replace wetlands with substitute wetlands whose characteristics and functions and values are intended to replicate those destroyed or degraded by a regulated activity.

“Lakes” means impoundments of open water 20 acres or larger in size.

“Landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a landspreading disposal facility.

“Landslide” means the abrupt downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, rockfalls, and snow avalanches.

“Landslide hazard areas” means areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

“Large animal” means an animal with an average weight of 100 pounds or more.

“Liquefaction” means a process by which a water-saturated granular (sandy) soil layer loses strength because of ground shaking commonly caused by an earthquake.

“Long-term commercial significance” means the growing capacity, productivity, and soil composition of land which makes it suitable for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of land.

“Mineral resource lands” means lands primarily devoted to the extraction of minerals or which have known or potential long-term commercial significance for the extraction of minerals.

“Minerals” means gravel, sand, and valuable metallic substances.

“Mitigation” means to avoid, minimize or compensate for adverse environmental impacts. “Mitigation” includes:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
6. Monitoring the impact and taking appropriate corrective measures.

“Natural floodplain functions” means the contribution that a floodplain makes to support habitat, including but not limited to providing flood storage and conveyance, reducing flood velocities, reducing sedimentation, filtering nutrients and impurities from runoff, processing organic wastes, moderating temperature fluctuations and providing breeding and feeding grounds for aquatic and riparian species.

“Natural resource lands” means mineral resource lands which have long-term commercial significance.

“New construction” for flood hazard purposes refers to structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this title.

“Old growth forests” means stands of at least two tree species, forming a multi-layered canopy with occasional small openings; with at least 20 trees/hectare (eight trees/acre) more than 81 centimeters (32 inches) dbh or more than 200 years of age; and more than 10 snags/hectare (four snags/acre) over 51 centimeters (20 inches) diameter and 4.6 meters (15 feet) tall; with numerous downed logs, including 10 logs/hectare (four logs/acre) more than 61 centimeters (24 inches) diameter and more than 15 meters (50 feet) long. High elevation stands (more than 762 meters (2,500 feet)) may have lesser dbh (more than 76 centimeters (30 inches)), fewer snags (more than 0.6/hectare (1.5/acre)), and fewer large downed logs (0.8 logs/hectare (two logs/acre)) that are more than 61 centimeters (24 inches) diameter and more than 15 meters (50 feet) long.

“Ordinary high water” means that mark on all lakes, streams, ponds, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this chapter or as it may naturally change thereafter; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the mean high water.

“Oregon white oak” means the species *Quercus garryana*, also known as a Garry oak. All references to oak trees in this chapter refer to Oregon white oak. See also “priority Oregon white oak woodland.”

“Out-of-kind mitigation” means to replace wetlands with substitute wetlands whose characteristics do not approximate those destroyed or degraded by a regulated activity.

“Perched ground water” means ground water in a saturated zone is separated from the main body of ground water by unsaturated rock.

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance and/or deposition of earth, turbidity or pollutants after development, construction, or restoration.

“Permeability” means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer and is independent of the force causing movement.

“Permeable surfaces” mean sand, gravel, and other penetrable deposits on the ground which permit movement of ground water through the pore spaces, and which permit the movement of fluid to the ground water.

“Person” means an individual, firm, company, partnership, association, corporation, or other legal entity.

“Ponds” means naturally occurring impoundments of open water less than 20 acres in size and larger than 2,500 square feet which maintain standing water throughout the year.

“Potable water” means water that is safe and palatable for human use.

“Prairies” means open areas predominated by native, drought-resistant, grasses, forbs (flowering nonwoody plants) and herbs. In Pierce County, prairies are an unusual vegetation regime found in areas of extremely well-drained soils.

“Priority Oregon white oak woodland” means forested areas of pure oak, or of oak/conifer associations one acre or larger, and all oak trees located within, where oak canopy coverage of the area is at least 25 percent. Stands of oaks less than one acre in size may also be considered priority habitat when found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, have a large diameter at breast height (dbh), are used by priority species, or have a large canopy).

“Private organization” means a nonprofit corporation organized pursuant to Chapter [24.03](#) RCW, which includes the planting of game fish among its purposes for organizing as a nonprofit corporation.

“Protected area” means the lands that lie within the boundaries of the floodway, the riparian habitat zone and the channel migration area. Because of the impact that development can have on flood heights and velocities and habitat, special rules apply in the protected area.

“Public services” include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

“Qualified ground water scientist” means a hydrogeologist, geologist, engineer, or other scientist who meets all the following criteria:

1. Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and
2. Has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding ground water vulnerability.

“Recessional outwash geologic unit” means sand and gravel materials deposited by melt-water streams from receding glaciers.

“Recharge” means the process involved in the absorption and addition of water to ground water.

“Regolith” means any body of loose, noncemented particles overlying and usually covering the bedrock.

“Regulated activities” include, but are not limited to, any activities which are directly undertaken or originate in a regulated critical area or resource land or their buffer that require any of the following entitlements from the City: building permit, commercial or residential; binding site plan; boundary line adjustment; conditional use permit; franchise right-of-way construction permit; site development permit; master plan development; right-of-way permit; shoreline conditional use permit; shoreline environmental redesignation; shoreline substantial development permit; shoreline variance; large lot subdivision, short subdivision; special use permit; subdivision; unclassified use permit; utility and other use permit; variance; zone reclassification; or any subsequently adopted permit or required approval not expressly exempted by this chapter. Regulated activities also include those specific activities listed in LMC [14.142.060](#).

“Regulatory floodplain” means the area of the special flood hazard area and all protected areas within the jurisdiction of the City of Lakewood.

“Restoration” means the reestablishment of ecological and/or habitat resources and features from a previously disturbed or degraded critical area site.

“Riparian” means of, adjacent to, or living on, the bank of a river, lake, pond, ocean, sound, or other water body.

“Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

“Short subdivision” or “short plat” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Site” means a lot, parcel, tract, or combination of lots, parcels, or tracts where a development is proposed.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

“Slump” means the downward and outward movement of a mass of bedrock or regolith along a distinct surface of failure.

“Snag-rich areas” means forested areas which contain concentrations of standing dead trees, averaging 10 snags or greater per acre, and averaging greater than 15 inches in diameter at breast height.

“Soil survey” means the most recent National Cooperative Soil Survey for the local area or county by the Soil Conservation Service, United States Department of Agriculture.

“Sole source aquifer” means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50 percent or more of the drinking water for an area without a sufficient replacement available.

“Special flood hazard area (SFHA)” means the land subject to inundation by the base flood. Special flood hazard areas are designated on flood insurance rate maps with the letters “A” or “V,” including AE, AO, AH, A1-99, and VE. The special flood hazard area is also referred to as the area of special flood hazard or SFHA.

“Species of local importance” means species that are of local concern due to their population status or their sensitivity to habitat manipulation.

“Start of construction” for flood hazard purposes includes substantial improvements, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The “actual start” is either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on property of accessory structures not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Stockpiling” means the placement of material with the intent to remove it at a later time.

“Subdivision” or “formal subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites, or division for the purpose of sale, lease, or transfer of ownership.

“Substantial damage” for flood hazard purposes means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of a wetland.

“Temporary erosion control” means on-site and off-site control measures that are needed to control conveyance or deposition of earth, turbidity or pollutants during development, construction, or restoration.

“Toe of slope” means a distinct topographic break in slope at the lowermost limit of the landslide or erosion hazard area.

“TPCHD” means the Tacoma-Pierce County Health Department.

“Unconfined aquifer” means an aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term “water table aquifer.”

“Underground tank” means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances or hazardous wastes, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

“Urban governmental services” include those governmental services historically and typically delivered by cities, and includes storm and sanitary sewer systems, domestic water systems, street cleaning services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

“Urban growth” refers to growth that makes intensive use of the land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. “Characterized by urban growth” refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

“Utility line” means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, communications and sanitary sewers.

“Vadose zone” is the distance between the land surface and the uppermost aquifer. This distance is also defined as the “depth to water” zone or unsaturated zone.

“View corridor” means an area which affords views of lakes, mountains, or other scenic amenities normally enjoyed by residential property owners.

“Water table” means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

“Water typing” means a system for classifying water bodies according to their size and fish habitat characteristics. The Washington Department of Natural Resources Forest Practices Water Typing classification system defines four water types:

1. Type “S” = Shoreline: streams that are designated “shorelines of the state,” including marine shorelines.
2. Type “F” = Fish: streams that are known to be used by fish or meet the physical criteria to be potentially used by fish.
3. Type “Np” = Nonfish Perennial streams.

4. Type “Ns” = Nonfish Seasonal streams.

“Well” means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension.

“Wellhead protection area” means the surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well(s) as designated under the Federal Clean Water Act.

“Wetland” or “wetlands” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands generally do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the City.

“Wetland specialist” means a person with experience and training in wetlands issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

1. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field, and two years of related work experience, including a minimum of one year of experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or
2. Four years of related work experience and training, with a minimum of two years’ experience delineating wetlands using the Unified Federal Manual and preparing wetland reports and mitigation plans.

The person should be familiar with the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, the City Site Development Regulations, the City wetland management policies, and the requirements of this title.

“Wildlife biologist” means a professional with a degree in wildlife, or certification by the Wildlife Society, or with five years’ professional experience as a wildlife biologist. [Ord. 758 § 2 (Exh. A), 2021; Ord. 726 § 2(Exh. A), 2019; Ord. 630 § 11, 2015; Ord. 362 § 3, 2004.]

The Lakewood Municipal Code is current through Ordinance 767, passed December 20, 2021.

Disclaimer: The city clerk's office has the official version of the Lakewood Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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Article III. Tree Preservation

18A.70.300 Purpose.

This article promotes tree preservation by protecting the treed environment of the City of Lakewood by regulating the removal of significant trees and providing incentives to preserve trees that, because of their size, species, or location, provide special benefits. Tree preservation is an essential strategy for meeting Lakewood's citywide goal of 30% tree canopy cover by the year 2050. Tree preservation protects and enhances critical areas, facilitates aquifer recharge, reduces erosion and storm water runoff, and helps to define public and private open spaces. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.310 Tree removal applicability/exemptions.

The requirements for tree preservation shall be provided in accordance with the development standards of each individual zoning district and the provisions of this section, and are applicable to all zoning districts. The following exemptions do not apply to Oregon white oaks. Refer to section 18A.70.330 for Oregon white oak protection standards.

A. Lots of less than seventeen thousand (17,000) square feet in single-family residential zones are exempt from this chapter, except for those lots that contain Oregon white oak trees where specific tree preservation is required in section 18A.70.330, or where specific tree preservation is required as a mitigation measure under SEPA. In the event a permit is not required for the establishment of a use, the standards of this section shall still apply.

~~B. Industrially zoned properties are exempt from this chapter, except where specific tree preservation is required as a mitigation measure under SEPA.~~

~~C.~~ Removal of nonsignificant trees that are not protected by any other means is exempt from this chapter.

~~D.~~ *Removal of Trees in Association with Right-of-Way and Easements.* Tree removal by a public agency or a franchised utility within a public right-of-way or upon an easement, for the purpose of installing and maintaining water, storm, sewer, power, gas or communication lines, or motorized or nonmotorized streets or paths is exempt from this chapter. Notification to the City by the public agency or franchised utility is required prior to tree maintenance or removal within City rights-of-way.

~~E.~~ *Emergency Removal.* Any number of hazardous protected and nonprotected trees may be removed under emergency conditions. Emergency conditions include immediate danger to life or dwellings or similar stationary and valuable property, including the presence of a target. Emergency removal may occur and all the following conditions shall be met:

1. The City is notified the following business day of the unpermitted action;
2. Visual documentation (i.e., photographs, video, etc.) is made available; and
3. The felled tree remains on site for City inspection.
4. Replacement required.
 - a. Nonsingle-family use: The property owner will be required to provide replacement trees as established in LMC 18A.70.320(G), Replacement.

- b. Single-family use: The property owner will not be required to provide replacement trees.
5. Should the City determine that the tree(s) did not pose an emergency condition, the owner shall be cited for a violation of the terms of this chapter. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.320 Significant tree preservation.

A. Standards. Significant tree preservation shall be required for any project permit.

1. A significant tree is an existing tree which:
 - a. When measured at four and one-half (4.5) feet above ground, has a minimum diameter of nine (9) inches for evergreen trees and deciduous trees;
 - b. When measured at four and one-half (4.5) feet above ground, has a minimum diameter of ~~six-four~~ (64) inches for ~~Garry Oaks~~Oregon white oaks (also known as ~~Oregon White Oaks~~Garry oaks); and
 - c. Regardless of the tree diameter, is determined to be significant by the Director due to the uniqueness of the species or provision of important wildlife habitat.
2. For the purposes of this section, existing trees are measured by diameter at four and one-half (4.5) feet above ground level, which is the usual and customary forest standard. Replacement trees are measured by diameter at six (6) inches above ground level, which is the usual and customary nursery standard.
3. *Damaged or Diseased Trees.* Trees will not be considered “significant” if, following inspection and a written report by a registered landscape architect, certified nursery professional or certified arborist, and upon review of the report and concurrence by the City, they are determined to be:
 - a. Safety hazards due to root, trunk or primary limb failure;
 - b. Damaged or diseased, and do not constitute an important wildlife habitat. At the discretion of the City, damaged or diseased or standing dead trees may be retained and counted toward the significant tree requirement, if demonstrated that such trees will provide important wildlife habitat and are not classified as a safety hazard.
4. *Preventive Measure Evaluation.* An evaluation of preventive measures by an arborist in lieu of removing the tree and potential impacts of tree removal may be required. If required, this evaluation shall include the following measures:
 - a. Avoid disturbing tree: Avoid disturbing the tree at all unless it represents a hazard as determined by an arborist;
 - b. Stabilize tree: Stabilize the tree, if possible, using approved arboricultural methods such as cable and bracing in conjunction with other practices to rejuvenate the tree such as repairing damaged bark and trunk wounds, mulching, application of fertilizer, and improving aeration of the tree root zones;
 - c. Pruning: Remove limbs from the tree, such as removing dead or broken branches, or by reducing branch end weights. If needed, remove up to one-quarter (1/4) of the branches from the canopy and main trunk only in small amounts, unless greater pruning is needed by approval of the arborist;
 - d. Wildlife tree: Create a wildlife tree or snag, or cut the tree down to a safe condition, without disturbing the roots, where the tree no longer poses a hazard. To create snags, remove all branches from the canopy, girdle deciduous trees, and leave the main trunk standing. Wildlife trees or snags are most appropriate in City parks, greenbelts, vacant property, and environmentally critical areas;

- e. Steep slopes: Removal of tree roots on steep slopes may require a geotechnical evaluation;
- f. Creeks and lakes: Trees fallen into creeks and lakes are to remain in place unless they create a hazard; and
- g. Provide professional recommendations on:
 - i. The necessity of removal, including alternative measures to removal;
 - ii. The lowest-impact approach to removal;
 - iii. A replacement tree plan, if required.

B. *Trimming.* Trimming of tree limbs and branches for purposes of vegetation management is permitted, provided the trimming does not cause the tree to be a safety hazard.

C. *Preservation Criteria.* All significant trees shall be preserved according to the following criteria:

1. *Perimeter Trees.* All significant trees within twenty (20) feet of the lot perimeter or required buffer, whichever is greater, shall be preserved; except that significant trees may be removed if required for the siting and placement of driveway and road access, buildings, vision clearance areas, utilities, sidewalks or pedestrian walkways, or storm drainage facilities and other similar required improvements, subject to the discretion of the Director.

This requirement shall not apply to single-family residential lots less than seventeen thousand (17,000) square feet in size, where no specific tree preservation is required.

2. *Maximum Tree Removal on Developed Properties.* Existing single-family lots: Except for Oregon white oaks which are regulated by section 18A.70.330, significant trees may be removed with a permit based on the following:

<u>Maximum Tree Removal on Existing Single-Family Lots no permit required</u>		
<u>Lot Size</u>	<u>Maximum number of significant trees allowed to be removed in 1 year without a permit</u>	<u>Maximum number of significant trees allowed to be removed in 5 years without a permit</u>
<u>*Lots up to 17,000 sq. ft.</u>	<u>N/A</u>	<u>N/A</u>
<u>Lots 17,001 to 30,000 sq. ft.</u>	<u>2</u>	<u>4</u>
<u>Lots 30,001 sq. ft. or greater</u>	<u>4</u>	<u>8</u>
<u>*Section 18A.70.310(A) states that single-family lots up to 17,000 sq. ft. are exempted from tree preservation requirements.</u>		

32. *Interior Trees.* A percentage of all significant trees within the interior of a lot, excluding the perimeter area, shall be preserved within the applicable zoning district.

- a. For new single-family residential development including a single-family dwelling on an individual lot, multifamily residential development, and public/quasi-public institutional development, fifty (50) percent of the significant trees located within the interior area of the lot shall be retained.
- b. For new residential subdivisions where the proposed lot size is greater than seventeen thousand (17,000) square feet, all significant trees shall be retained and preserved except those required to be removed in order to construct streets, utilities, or other on-site improvements. Tree retention shall thereafter be provided on a lot-by-lot basis as the individual lots are developed. For subdivisions where the proposed lots are less than seventeen thousand (17,000) square feet, no specific tree preservation is required.

- c. For commercial and industrial development, ten (10) percent of the significant trees located within the interior area of the lot, or individual lots in the case of subdivisions, shall be retained.
- d. In Open Space and Recreation zones, ninety-five (95) percent of the significant trees located within the interior area of the lot shall be retained unless otherwise determined by the Director.

~~3. *Buffers and Sensitive/Critical Areas.* Tree preservation criteria listed above shall exclude sensitive/critical areas and their buffers, and open space areas and tracts. All trees within such areas shall be retained except as may be specifically approved and indicated in the written findings of a discretionary land use permit or a tree removal permit.~~

4. *SEPA Requirements.* Additional or specific tree retention may be required as SEPA mitigation in addition to the requirements of this section.

~~C. *Tree Retention Plan Required.*~~

~~1. A significant tree retention plan shall be submitted to the Community Economic and Development Department for any project permit, except building permits that do not increase the footprint of a building. The plans shall be submitted according to the requirements of the application form provided by the Community Economic and Development Department.~~

~~2. The Director shall review and may approve, approve with modifications, or deny a tree retention plan subject to the provisions of this section.~~

~~3. A significant tree permit is required for the removal of any significant tree unless specifically exempted within this section.~~

~~Any project permit, except building permits that do not increase the footprint of a building shall identify, preserve, and replace significant trees in accordance with the following:~~

~~D. *Tree Permits Associated with a Project Permit/Plan Requirements.*~~

D. *Tree Removal Permit Required.* Approval is required prior to the removal of any significant tree (as described in Section 18A.70.320.A) in accordance with the following:

E. *Tree Permits for residential lots or not Associated with a Project Permit/Plan.*

1. Criteria:

- a. The applicant shall submit a complete application using the form provided and kept by the City.
- b. The applicant shall confirm that the proposal complies with the requirements of Article III. Tree Preservation.

2. Permit review process:

- a. Applications and all submitted information will be verified and approved by City staff administratively.
- b. If an application does not comply with any requirement in this section, the permit is subject to additional review by an ISA Certified Arborist and/or City staff. A Tree retention plan may be required.
 - i. The Director shall review and may approve, approve with modifications, or deny a tree retention plan subject to the provisions of this

F. Tree Permits in non-residential zones or Associated with a Project Permit/Plan.

1. Submit a tree retention plan that consists of a tree survey that identifies the location, size and species of all significant trees on a site and any trees over three (3) inches in diameter at four and one-half (4.5) feet above ground level that will be retained on the site.
 - a. The tree survey may be conducted by a method that locates individual significant trees, or
 - b. Where site conditions prohibit physical survey of the property, standard timber cruising methods may be used to reflect general locations, numbers and groupings of significant trees.
 - c. Oregon white oaks that are to be retained on the site shall be indicated on the site plan with critical root zone protection per section 18A.70.330.
2. The tree retention plan shall also show the location, species, and dripline of each significant tree that is intended to qualify for retention credit, and identify the significant trees that are proposed to be retained, and those that are designated to be removed.
3. The applicant shall demonstrate on the tree retention plan those tree protection techniques intended to be utilized during land alteration and construction in order to provide for the continued healthy life of retained significant trees.
4. If tree retention and/or landscape plans are required, no clearing, grading or disturbance of vegetation shall be allowed on the site until approval of such plans by the City.

G. Heritage Tree Removal. The following criteria pertains only to those trees designated under LMC 2.48.040 D. Heritage Trees

1. A tree removal permit is required for removal of any heritage tree(s);
2. City Staff and an ISA Certified Arborist shall evaluate any heritage trees prior to a decision on the removal permit. Permit approval will be granted if an arborist report demonstrates that alteration or removal is necessary for health and safety, infrastructure operation, protection of existing buildings, or to accomplish reasonable use of property per state law. Recommendations for care, other than removal, will be considered.

H. Construction Requirements.

1. An area free of disturbance, corresponding to the dripline of the significant tree's canopy, shall be identified and protected during the construction stage with a temporary three (3) foot high chain-link or plastic net fence. No impervious surfaces, fill, excavation, storage of construction materials, or parking of vehicles shall be permitted within the area defined by such fencing.
2. At Director's sole discretion, a protective tree well may be required to be constructed if the grade level within ten (10) feet of the dripline around the tree is to be raised or lowered. The inside diameter of the well shall be at least equal to the diameter of the tree spread dripline, plus at least five (5) feet of additional diameter.
3. The Director may approve use of alternate tree protection techniques if the trees will be protected to an equal or greater degree than by the techniques listed above. Alternative techniques must be approved by a registered landscape architect, certified nursery professional or certified arborist, with review and concurrence by the City.
4. If any significant tree that has been specifically designated to be retained in the tree preservation plan dies or is removed within five (5) years of the development of the site, then the significant tree shall be replaced pursuant to subsection (G) of this section.

~~FG. *Maximum Tree Removal on Developed Properties.* Existing single-family lots: Single-family Except for Oregon white oaks which are regulated by section 18A.70.330, homeowners may remove significant trees may be removed without a permit based on the following:~~

Maximum Tree Removal on Existing Single-Family Lots without a Permit		
Lot Size	Maximum number of significant trees allowed to be removed in 1 year without a permit	Maximum number of significant trees allowed to be removed in 5 years without a permit
*Lots up to 17,000 sq. ft.	N/A	N/A
Lots 17,001 to 30,000 sq. ft.	2	4
Lots 30,001 sq. ft. or greater	4	8
*Section 18A.70.310(A) states that single-family lots up to 17,000 sq. ft. are exempted from tree preservation requirements.		

I. Replacement. When a significant tree subject to this section cannot be retained, the tree shall be replaced as a condition for the removal of the significant tree, in accordance with the following:

1. *On-Site Replacement.*

a. *Based on DBH Size.* Significant trees shall be replaced at a ratio of two to one (2:1) of the total diameter inches of all replacement trees to the diameter inches of all the significant trees removed.

~~b. *Based on Canopy Coverage.* The applicant may choose to plant fewer replacement trees than required by option (a) if an ISA Certified Arborist determines in a written report that they will compensate for the canopy lost when they reach maturity~~

~~b c.~~ Replacement trees shall be no smaller than three (3) inches in diameter at six (6) inches above ground;

~~e d.~~ Existing healthy trees anywhere on the site which are retained to support the remaining significant trees can be counted against the on-site replacement requirements on a one to one (1:1) basis of the total diameter inches of all replacement trees removed, provided it meets the following criteria:

- i. The tree does not present a safety hazard; and
- ii. The tree is between three (3) and nine (9) inches in diameter at four and one-half (4.5) feet above ground.

2. Each significant tree that is located interior to the twenty (20) foot perimeter area, and which is in excess of the fifty (50) percent of significant trees that are required to be retained, may be credited towards replacement on a one and one-half to one (1.5:1) basis of the total diameter inches for any perimeter trees required to be removed for development, provided the interior tree is between nine (9) inches and twenty-four (24) inches in diameter for evergreen trees, or between nine (9) inches and thirty (30) inches in diameter for deciduous trees.

3. Each significant tree that is located interior to the twenty (20) foot perimeter area, and which is in excess of the fifty (50) percent of significant trees that are required to be retained, may be credited towards replacement on a two to one (2:1) basis of the total diameter inches for any perimeter trees required to be removed for development, provided it meets one of the following criteria:

- a. The tree exceeds sixty (60) feet in height, or twenty-four (24) inches in diameter for evergreen trees, or thirty (30) inches in diameter for deciduous trees.

- b. The tree is located in a grouping of at least five (5) other significant trees with canopies that touch or overlap.
 - c. The tree provides energy savings, through wind protection or summer shading, as a result of its location relative to buildings.
 - d. The tree belongs to a unique or unusual species.
 - e. The tree is located within twenty-five (25) feet of any critical area or required critical area buffers.
 - f. The tree is eighteen (18) inches in diameter or greater and is identified as providing valuable wildlife habitat.
4. *Off-Site Replacement.* When the required number of significant trees cannot be physically retained or replaced on site, the applicant may have the option of:
- a. The planting of the required replacement trees at locations approved by the Director throughout the City. Plantings shall be completed prior to completion of the project permit requiring tree replacement.
 - b. Payment in lieu of replacement may be made to the City Tree Fund for planting of trees in other areas of the City. The payment of an amount equivalent to the estimated cost of buying and planting the trees that would otherwise have been required to be planted on site, as determined by the City's Tree Replacement Cost Schedule. Payment in lieu of planting trees on site shall be made at the time of the issuance of any building permit for the property or completion of the project permit requiring the tree replacement, whichever occurs first.

~~III. *Trimming.* Trimming of tree limbs and branches for purposes of vegetation management is permitted, provided the trimming does not cause the tree to be a safety hazard.~~ [Ord. 726 § 2 (Exh. B), 2019.]

J. *Incentives for Preservation.* Significant tree preservation is incentivized in the following code sections.

Tree Preservation Incentives			
Incentive	Code Sections	Description	Code Language
Parking Reduction	<u>18A.80.060 Parking Incentives</u> <u>18B.600 Parking</u> <u>18C.600 Parking</u>	<u>Allow for alternative standards to protect significant trees, e.g., alter parking dimensional standards or rates.</u>	<u>Credit for Preservation of Heritage Trees. For every Significant Tree preserved within the property, the required number of parking spaces may be reduced by 0.5 spaces, provided the total reduction does not exceed five (5) percent of the total required parking spaces, when combined with all parking incentive credits.</u>

<u>Density Increase</u>	<u>18A.60.110 Density standards</u> <u>18B.200.230 District-Wide Development Standards</u> <u>18C.200.230 District-wide development standards</u>	<u>Increase density if retaining significant trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u>	<u>For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Downtown District (not to exceed of more than 20% of the total allowable units)</u> <u>Bonus density, where applicable, shall be computed by adding the bonus units authorized by LMC 18A.90.050 to the base units computed under this section.</u> <u>For multi-family use types, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in a census tract with a tree equity score of under XX% (not to exceed of more than 20% of the total allowable units)</u>
<u>Master Plan Flexibility</u>	<u>18B.700.720 Master Planned Development – Town Center Incentive Overlay</u>	<u>Allow flexibility in a master plan if retaining significant trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u>	<u>18B.700.720(G)(3) j. Preservation of Significant Trees on the property.</u>
<u>Tree Preservation Paired with Mixed Income Developments</u>	<u>18C.700.720 Optional master planned development</u>	<u>Include tree preservation as a criteria or condition of approval for mixed income developments.</u>	<u>18C.700.720(D)(3)(c) iv. The preservation of 5% of the existing significant trees on the property as identified by a tree survey (not greater than 5 significant trees).</u>
<u>Landscaping Reduction for Oregon White Oak Preservation</u>	<u>18A.70.140 Landscaping Standards</u>	<u>Allow for a reduction in the landscaping requirements for the preservation of Oregon white oaks.</u>	<u>A credit of one and one-half square feet for landscaping requirements under the city zoning code shall be given for every square foot of area devoted to new or the preservation of Oregon white oak tree use.</u>

<u>Building Setback Reduction</u>	<u>18A.60.030 Residential area and dimensions</u> <u>18A.60.040 Commercial area and dimensions</u> <u>18A.60.050 Industrial area and dimensions</u> <u>18A.60.060 Military lands area and dimensions.</u> <u>18A.60.070 Open space area and dimensions.</u>	<u>Allow for a reduction in the rear yard and/or side yard building setback requirements for the preservation of significant trees.</u>	<u>Tree Preservation. Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter 18A.70, Article III. The Director may reduce a rear yard and/or side yard building setback to compensate for the preservation of a significant tree.</u>
<u>Impervious Surface Bonus</u>	<u>18A.60.030 Residential area and dimensions</u> <u>18A.60.040 Commercial area and dimensions</u> <u>18A.60.050 Industrial area and dimensions</u> <u>18A.60.060 Military lands area and dimensions.</u> <u>18A.60.070 Open space area and dimensions.</u>	<u>Allow an increase in allowable impervious surface on a site where a significant tree is being preserved. Impervious surface cannot be located within the critical root zone of the preserved tree(s)</u>	<u>Tree Preservation. Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter 18A.70, Article III. The Director may increase the amount of allowable impervious surface area to compensate for the preservation of a significant tree. Impervious surface not to be located within the critical root zone of the preserved tree(s).</u>

K. Enforcement

a. Failure to comply with any lawful order issued under the authority of this title, constitutes a Class 2 civil infraction, as defined in Chapter 1.48 LMC. Any violation of this title which is deemed to be a public nuisance or a danger to the public health and/or safety shall be addressed as specified in Chapter 1.44 LMC.

b. Malicious Cutting. Malicious cutting may result in tripling of the amount of replacement value as provided in code Section 18A.70.320(G)(d).

18A.70.330 Oregon white oak preservation.

The Oregon white oak, *quercus garryana*, also known as Garry oak, is a native tree designated by Washington Department of Fish and Wildlife as a priority habitat. In Lakewood, individual trees and stands of trees are protected as critical fish and wildlife habitat area under Chapter 14.154 Fish and Wildlife Habitat Areas.

The requirements for Oregon white oak tree preservation shall be provided in accordance with the development standards of each individual zoning district and the provisions of this section and are applicable to all zoning districts.

- A. Priority White Oak Woodlands; or trees located within a critical area or buffer are subject to the critical areas ordinance LMC Chapter 14.154.
- B. Permits for Oregon white oaks and all trees within critical areas
 1. Permits for removal, topping and trimming
 - a. Removal or Topping, regardless of diameter, Aa permit for removal or topping may be granted when it is determined by the Director that the Oregon white oak tree is so diseased or damaged that it presents a danger to the public or adjacent property and trimming is inadequate to ameliorate the danger. Wherever feasible, dead Oregon white oak trees shall be left as snags for their habitat value.
 1. Individual Oregon white oak trees or stands with average DBH of > 4" but <20" may be removed subject to the following conditions:
 - i. The trees are not located in a critical area, in such case subject to the critical areas ordinance LMC Chapter 14.154
 - ii. The applicant has demonstrated no alternative siting in order to construct streets, utilities, or other on-site improvements.
 - iii. Tree replacement is required at a 2:1 ratio
- C. Construction Operations. During building or construction operations, suitable protective measures listed below shall be implemented around significant Oregon white oak trees to prevent injury:
 1. Establish a critical root zone (CRZ) for the tree which at a minimum is a circular area around the tree trunk with a radius of one foot for every one inch in diameter measured at four and one-half feet above grade.
 2. Install an access deterring fence with a minimum height of three feet around the CRZ that will remain in place till final inspections have been completed.
 3. Post highly visible and legible signs of caution, warning, or do not disturb, which are not less than 12 inches by 12 inches of the restrictions around the tree on the fence or restricted area to help convey the importance of CRZ to workers on site.
 4. No roots greater than four inches in diameter shall be cut, even if such roots are outside the CRZ.
 5. Make all necessary cuts to tree roots cleanly with sharp tools.
 6. Construction debris or stockpile construction material shall be done outside the CRZ and away from the tree as practically possible.
 7. The soil composition in and around the CRZ shall not be disturbed or altered during project construction.
 8. Change in soil grades around the CRZ and tree shall be gradual.
 - a. Washing equipment, vehicle maintenance and other potential soil contamination activities shall be done away from the CRZ and the tree as practically possible.

- b. All measures to avoid damage to tree trunks and branches should be taken during construction activities.
- D. If the protective measures listed above cannot be met due to site specific conditions, or if it is determined that the measures may not meet the intent of protecting the Oregon white oak tree, the applicant will be required to provide a tree protection plan prepared by a certified arborist.
- E. No hard surface area shall be allowed within the drip line of an Oregon white oak tree to the maximum extent possible. An administrative variance may allow hard surface on up to 25 percent of the area within the drip line when there is no practical alternative.

18A.70.330340 City Tree Fund.

A. *Funding Sources.* All civil penalties received under this chapter and all money received pursuant to Chapter 14.02 LMC, Environmental Rules and Procedures, shall be used for the purposes set forth in this section. In addition, the following sources may be used for the purposes set forth in this section:

- 1. Agreed-upon restoration payments or settlements in lieu of penalties;
- 2. Tree permit fees and penalties
- 2 3. Donations and grants for tree purposes;
- 3 4. Other moneys allocated by the City Council.

B. *Funding Purposes.* The City shall use money received pursuant to this section for the following purposes:

- 1. Acquiring, maintaining, and preserving wooded areas within the City;
- 2. Planting and maintaining trees within the City;
- 3. Restoration or enhancement of native trees like Oregon white oaks, such as on public lands, private tree tracts, critical area buffers, or lands with conservation easements
- 4. Establishment of a holding public tree nursery;
- 4 5. Urban forestry education;
- 5 6. Implementation of a tree canopy monitoring program;
- 6 7. Scientific research; or
- 7 8. Resources to support the administration of Ch. 18A.70 Art. III Tree Preservation
- 9. Other purposes relating to trees as determined by the City Council. [Ord. 726 § 2 (Exh. B), 2019.]

18A.70.350 Definitions.

“ANSI A300” means the industry standards for tree care in the United States.

“Certified Arborist” means a specialist in the care and maintenance of trees who is certified by and in good standing with the International Society of Arboriculture (ISA).

“Critical Root Zone” (CRZ) means the area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. CRZ can be determined using the dripline of the tree.

“DBH” is an acronym meaning tree diameter at breast height measured at 4.5 feet above ground. For multi-trunked trees, DBH is the total of all individual trunks added together.

“Dripline” means the outermost edge of a tree’s canopy. When viewed from above, the drip line will appear as a line that follows the contour of the tree’s branches. At a minimum, the drip line is a circle whose diameter is 15 times a tree’s DBH.

“Pruning” means removing branches from a tree to achieve a specified objective using approved practices according to ANSI A300 industry standards.

“Root Pruning” means removing roots from a tree to achieve a specified objective using approved practices according to ANSI A300 industry standards.

“Topping” means using inappropriate pruning techniques to reduce tree size that may result in unnecessary risk, tree stress, or decay.

“Trimming” means detaching a limb, branch, or root from a tree. Trimming shall include pruning and cutting.

Lakewood Comprehensive Plan Goals and Policies

3.12.6 Urban Forestry

GOAL LU-60: Institute an urban forestry program to preserve significant trees, promote healthy and safe trees, and expand tree canopy coverage throughout the City.

Policies:

- LU-60.1: Establish an urban forestry program for the City.
- LU-60.2: Promote planting and maintenance of street trees.
- LU-60.3: Provide for the retention of significant tree stands and the restoration of tree stands within the City.
- LU-60.4: Work towards a citywide goal of 30% tree canopy cover by the year 2050. Consider opportunities to increase canopy and environmental equity when evaluating tree canopy distribution.