



LAKWOOD CITY COUNCIL STUDY SESSION AGENDA

Monday, September 26, 2022

7:00 P.M.

City of Lakewood

Council Chambers

6000 Main Street SW

Lakewood, WA 98499

Residents can virtually attend City Council meetings by watching them live on the city's YouTube channel:

<https://www.youtube.com/user/cityoflakewoodwa>

Those who do not have access to YouTube can call in to listen by telephone via Zoom: Dial +1(253) 215-8782 and enter meeting ID: 868 7263 2373

Page No.

CALL TO ORDER

ITEMS FOR DISCUSSION:

- (3) 1. Review of Tree Preservation Code Update. – (Memorandum)
- (86) 2. Joint Landmarks and Heritage Advisory Board Meeting. – (Work Plan)
- (88) 3. Tacoma Public Utilities Proposed Rate Adjustment Presentation.
– *LaTasha Wortham, Regional Relations Manager*
- (110) 4. Nisqually Tribe Partnership Update. – (Memorandum)
- (115) 5. Review of City Council Rules of Procedure. – (Memorandum)

ITEMS TENTATIVELY SCHEDULED FOR THE OCTOBER 3, 2022 REGULAR CITY COUNCIL MEETING:

- 1. Proclamation recognizing October as Domestic Violence Awareness month. – *Samantha Johnson, City Prosecutor*
- 2. Youth Council Report.
- 3. Clover Park School District Report.
- 4. Appointing a Youth Council Representative to the Lakewood's Promise Advisory Board. – (Motion – Consent Agenda)

Persons requesting special accommodations or language interpreters should contact the City Clerk, 253-983-7705, as soon as possible in advance of the Council meeting so that an attempt to provide the special accommodations can be made.

5. Approving a partnership agreement with the Nisqually Tribe. – (Motion – Consent Agenda)
6. Authorizing the execution of an amendment to the agreement with Olson Bros Pro-Vac for vector cleaning services. – (Motion – Consent Agenda)
7. Amending the Critical Areas Ordinance, Title 14, and Chapters 2.48, 18A.70.300-350, 18A.80.060, 18B.600, 18C.600, 18A.60.110, 18B.200.230, 18C.200.230, 18B.700.720, 18C.700.720, 18A.70.140, 18A.60.030-070, related to the Tree Preservation Code.
– (Ordinance – Regular Agenda)
8. Presentation of the 2023-2024 Proposed Biennial Budget. – (Reports by the City Manager)

REPORTS BY THE CITY MANAGER

CITY COUNCIL COMMENTS

ADJOURNMENT

Persons requesting special accommodations or language interpreters should contact the City Clerk, 253-983-7705, as soon as possible in advance of the Council meeting so that an attempt to provide the special accommodations can be made.



TO: Mayor and City Council
FROM: Courtney Brunell, Planning Manager
THROUGH: John Caulfield, City Manager *John F. Caulfield*
Date: September 26, 2022
Subject: Tree Preservation Code Study Session

Purpose

This memo summarizes the City Council study session topics on September 12, 2022 and responds to Council questions and requests. Minor changes to proposed redlines are recommended.

Background

Lakewood regulates significant trees on residential, commercial, and institutional sites is contained in Lakewood Municipal Code (LMC) section [18A.70 Article III](#). Other relevant rules include the State Environmental Policy Act (SEPA) in [LMC 14.02](#) and critical areas in [Title 14](#).

Since 2021 community members expressed interest and concern with tree preservation throughout the city. In response, the City Council directed the City Manager to complete a review of the tree preservation code and associated chapters. The City Council approved a Scope of Work and Public Participation Plan in November 2021 and formed an Ad Hoc Tree Committee in February 2022. Since February the City has engaged the public in activities to learn about the tree code update including the urban tree canopy, habitat protection, and housing and job targets.

Following the Advisory Committee recommendations in April 2022, the Planning Commission evaluated the code in May and June 2022 and following a public hearing provided recommendations to the City Council in July 2022.

The City issued its SEPA determination on the draft code in July 2022 and provided notice of intent to adopt the code to the Department of Commerce for review consistent with Growth Management Act requirements, requesting a review. The SEPA comment period closed with no comments; following the state's two-month review period, no comments were received from Commerce.

The following links to prior Ad Hoc Advisory Committee Planning Commission and City Council packets provides additional background on public engagement and the evolution of the code proposals.

- [Ad Hoc Committee Recommendations, April 2022](#)

- Planning Commission Resolution and Recommendations, July 2022 (included in City Council August 8, 2022 packet, link below)
- Summary of Public Engagement, Comparison of Recommendations, and Example Cities provided to [City Council, August 8, 2022](#)
- Responses to City Council Questions and Options, Critical Areas Overview, Urban Forestry Program Overview, [City Council, August 22, 2022](#)
- Public Hearing staff report and public comments received, [City Council, September 6, 2022](#)
- Summary of Public Hearing Themes, and Responses to City Council Questions and Draft Scenarios, [City Council, September 12, 2022](#)

The City Council is considering comments and is anticipated to provide direction on desired changes to the proposed ordinance on September 26, 2022.

Summary of Changes and Areas of Discussion

Tables 1 and 2 provide a summary of the key issues addressed in the codes addressing tree protection and recent City Council considerations. At the City Council’s September 12, 2022 session, several topics were discussed, and are summarized in the tables and addressed in redline revisions.

- Carbon sequestration of trees
- Tree replacement and utilities
- Tree size standard
- Maintenance of trees
- Malicious cutting

Table 1. Tree Canopy Goal

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Recommendations: 7/20/22	City Council Consideration
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%.	See comparison of other jurisdictions’ goals in City Council 9/12/22 packet , including appendix slides with comparison of 27%, 30%, 35%, and 40%

Table 2. Tree Preservation Code and Landmark Code Topics

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Recommendations: 7/20/22	City Council Consideration
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.	See redlines for 9/12/22 study session and as attached to this packet for 9/26/22. Short subdivisions not exempt.
Key Issue #3: Industrially zoned properties	Exempt	No exemption	No exemption.	See scenarios in attached slides. For discussion on 9/26/22.
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 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.	No exemption for Oregon white oak. Otherwise exempt.	For discussion, tree replacement and utilities. See slides attached to this memo.
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.	See tree permit costs later in this memo.
Key Issue #6: Significant tree definition Garry	Regulate significant trees if at least 6 inches diameter	Regulate as a significant tree at 4 inches DBH.	Similar to Ad Hoc Committee in Tree Protection Code,	See discussion of Oregon White Oak tree regulations in City Council

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Recommendations: 7/20/22	City Council Consideration
Oaks	breast height (DBH). Oregon white oak stands are regulated as critical areas.	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	Article III. Regulate as a significant tree at 4" DBH +. Set up heritage tree program with Landmark Committee. Do not add as a critical area a single tree over 20". Retain current critical area definition focusing on tree stands. Set up administrative reasonable use for modest development; greater levels of change subject to reasonable use exception. Adds clarity for permitting that is lacking today.	8/22/22 packet, pages 4 and 5 of memo (pages 199-200 of packet). Addresses tree size standards for significant oaks. Suggest addressing critical root zone standards similar to Oak Harbor. Administrative reasonable use is part of redlines per Planning Commission recommendations. Suggest cross referencing in permit regulations and adding definition of reasonable use in Consistency Changes below and in attached redlines.
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.	
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	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.	

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Recommendations: 7/20/22	City Council Consideration
	8 max. in 5 years. No significant trees may be removed in critical areas/buffers.			
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.	See greater list of common trees with high carbon sequestration (in updated redlines attached to this memo). See updated redlines addressing maintenance of trees and watering per discussion in City Council 9/12/22 packet , and attached in this memo.
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	Establish a free or low cost tree permit	Require a permit for removal of all	Add definition of malicious cutting. See

Topic	Current Policy/Code	Ad Hoc Committee Recommendation	Planning Commission Recommendations: 7/20/22	City Council Consideration
	deposited it in its tree fund. The City has found that fees and fines may be reduced through court reviews.	<p>or affidavit/over the counter review to make compliance the easy path.</p> <p>Provide clear decision criteria on tree permits. 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>significant Oregon white oak trees. Approval is required prior to the removal of any significant tree (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>	redlines.
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.	Redlines in City Council 9/12/22 packet and attached to this packet are implemented in more detail.

Consistency Changes

To provide for an implementable code, some changes are proposed by City staff for clarity and are included in redlines attached to this memo:

- Consistent use of shall and may.
- Add reasonable use exception to list of permits found in 18A.020.050.
- Add a reasonable use exception definition based on LMC 14.142.080.

Tree Permit Cost Comparison with Other Jurisdictions

Example permit types and costs are shared in the table below.

Table 3. Tree Permit Cost Comparisons

Jurisdiction*	Type of Permit/Other	Fee (2021-2022)
Federal Way	Many non-exempt activities do not require a permit application, only written approval by the city. A tree/vegetation retention plan must be prepared by a certified arborist or a certified landscape architect. Required when removing trees in critical areas, removing trees required for retention through a permit, tree removal that would change stormwater or groundwater.	Tree removal request: \$145
Lacey	Permits are coordinated with land use applications, or with a land clearing permit, or an exemption approval from director.	Rolled into land clearing permit \$109- \$328
Olympia	Tree Permit required for non-exempt activities, or where tree removal results in not meeting tree density or is on property line or street. See Olympia flow chart .	Single Family and lots less than 2 acres Permit fee \$50
Pierce County	Reviewed as part of other land use or land clearing permits.	\$315.00 review (clearing) Hazard tree \$190-\$760
Puyallup	Landscape plan required for development greater than 4 units.	Tree removal ROW, heritage tree: \$50 Landscape plan review: \$90-\$300
Redmond	Tree removal application	No fee for single-family zoning; \$125.69 fee for commercial, multi-family, or industrial.
Renton	Routine Vegetation Management Permit without critical areas. Required for non-exempt permits.	\$105
Sammamish	Tree removal permit or part of land use approval	Tree removal: \$132
Tacoma	ROW: Required for street tree removal or tree pruning work. Site: Reviewed with building or site development permit.	No fee tree work permits.
Tukwila*	Single family: Inventory survey Other Uses: Landscape Modification Permit	Tree and Landscape Modification Permit and Exceptions \$719.25
University Place	A tree removal permit is required when the development activity will result in the removal of more than five trees.	Tree preservation plan review Single Family: \$ 240.00 ½ acre or less sit: \$650 ½ acre to 2 acres: \$1000 Over 2 acres: \$1,375

Sources: *See other city permit fees collected by City of Seattle Tree permit fee evaluation in 2019.

<https://www.seattle.gov/documents/Departments/UrbanForestryCommission/2019/2019docs/TreePermitFees.pdf>

Urban Forestry Program

The cost of an urban forestry program is addressed in the attached slides based on information previously shared with the Planning Commission and City Council. The slides address:

- Estimated cost of an urban forestry program
- Early areas of focus

Proposed Next Steps

1. *September 26, 2022, City Council Study Session and Direction*
2. *October 5 or 19, 2022 City Council Review and Adoption*

Attachments

- A. Draft City Council Ordinance (note “whereas” clauses have been updated to be more comprehensive)
- B. Proposed Redlines, Updated: Comprehensive Plan Amendment, Protection and Preservation of Landmarks, Tree Protection Regulations, Fish and Wildlife Habitat Conservation Areas, and other sections of Lakewood Municipal Code (LMC)
- C. Presentation slides

ORDINANCE NO. 2022-XX

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending the Critical Areas Ordinance, Title 14, and Chapters 2.48, 18A.70.300-350, 18A.80.060, 18B.600, 18C.600, 18A.60.110, 18B.200.230, 18C.200.230, 18B.700.720, 18C.700.720, 18A.70.140, 18A.60.030-070, related to the 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, on July 6, 2022 The Lakewood City Council adopted Ordinance No. 756 amending the Comprehensive Plan to create Chapter 10, *Sustainability*, which focuses on Energy and Climate Change; and,

WHEREAS, Chapter 10 of the Comprehensive Plan includes goals related to tree preservation and the urban forest; 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 Lakewood 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 set a public hearing date of July 6, 2022; and,

WHEREAS, public notice of the Planning Commission Public Hearing was 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 Lakewood Planning Commission held an open record public hearing on July 5, 2022; and

WHEREAS, on July 20, 2022 the Planning Commission forwarded recommendations to the City Council via Planning Commission Resolution 2022-07; and,

WHEREAS, on July 21, 2022 the City issued a Determination of Non-Significance for the draft code; and,

WHEREAS, on July 25, 2022 the City provided notice of the intent to adopt code revisions to the Department of Commerce for review consistent with Growth Management Act requirements, requesting a review period of 55 days; and,

WHEREAS, the City Council reviewed the Adhoc Committee and Planning Commission recommendations on August 6, 2022 and August 22, 2022; and,

WHEREAS, the City Council set a public hearing date of September 6, 2022; and,

WHEREAS, public notice of the City Council Public Hearing was provided pursuant to Lakewood Municipal Code 18A.20.310 on August 17, 2022; and,

WHEREAS, the City Council desires to increase the City's tree canopy, equitably, to preserve and enhance the natural environment; and,

WHEREAS, the City Council desires to maintain the existing canopy as much as possible in residential zones that are likely to be redeveloped; and,

WHEREAS, the City Council reviewed options to find a balance between Oregon White Oak protection and modest development in all zoning districts; and,

WHEREAS, the City Council wishes to maintain a record of Oregon White Oak significant tree removal on all lots; and

WHEREAS, the City Council aims to increase permit predictability for new commercial and industrial projects by implementing specific code provisions rather than solely relying on SEPA; and,

WHEREAS, the City Council desires to provide property owners with options for tree replacement and incentivize property owners to protect existing trees; and,

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

WHEREAS, the Lakewood City Council 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 CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Adoption of Amendments to the Lakewood Municipal Code.

Amendments to the City's land use and development regulations are adopted as summarized below and included in full in Exhibit A, attached hereto:

- Chapter 2.48 related to the Protection and Preservation of Landmarks to establish a Heritage Tree Program
- Title 14 to establish Provisions for the Protection of Priority Oregon White Oak Trees and Woodlands and create a new definition for "feasible".
- Title 18A.70.300-350 the City's Tree Preservation Code
- Chapters 18A.80.060, 18B.600, 18C.600, 18A.60.110, 18B.200.230, 18C.200.230, 18B.700.720, 18C.700.720, 18A.70.140, 18A.60.030-070 to establish incentives to encourage tree preservation in all zones.

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. That this Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 3rd day of October, 2022.

CITY OF LAKEWOOD

Attest:

Don Anderson, Mayor

Briana Schumacher, City Clerk

Approved as to Form:

Heidi Ann Wachter, City Attorney

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.

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 with an approved tree removal permit. 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. Tree replacement is required at a 2:1 ratio per LMC 18A.70.330.

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

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

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 1000 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 shall 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.

“Reasonable use” means a legal concept articulated by federal and state courts in regulatory taking cases. In a takings case, the decision-maker must balance the public’s interests against the owner’s interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public

interest factors include the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions.

“Reasonable use exception” means a process by which the City will consider an applicant’s request for relief from critical area regulations if the applicant demonstrates that strict application of critical area regulations would deny all reasonable use of a property.

“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 or trees located within the shoreline buffers subject to the shoreline master program (SMP). Refer to LMC 18A.70.330 for Oregon white oak protection standards. Refer to Chapter 3, Section B.8 Shoreline Vegetation Conservation of the SMP for tree protection standards within shoreline buffers.

A. Lots of less than seventeen thousand (17,000) square feet in single-family residential zones are exempt from this chapter, except:

1. in the case of a short subdivision or subdivision per LMC 18A.70.320.C.3.b.i., or
2. for those lots that contain Oregon white oak trees where specific tree preservation is required in LMC 18A.70.330, or
3. where specific tree preservation is required as a mitigation measure under SEPA, or
4. ~~In the event a permit is not required for the establishment of a use, the standards of this section shall still apply.~~

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

C. *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.

D. *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\(GI\)](#), 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 [four \(4\)](#) inches for [Oregon white oaks](#) (also known as [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. [Tree Measurement](#). 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.

[Damaged or diseased trees shall comply with LMC 18A.70.310.D.4 and LMC 18A.70.330.B.1.a.1.iii replacement requirements.](#)

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~~

~~21. Maximum Tree Removal on Developed Properties. Significant trees on existing single-family lots may be removed with a tree removal permit and without tree replacement, except Oregon white oaks which are regulated by LMC 18A.70.330, based on the following 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 LMC 18A.70.310(A) states that single-family lots up to 17,000 sq. ft. are exempted from tree</u>		

Maximum Tree Removal on Existing Single-Family Lots no permit required
<u>preservation requirements.</u>

2. *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.

3. *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 short subdivision or subdivisions, 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. A tree survey shall be included as part of the subdivision application and a tree retention plan shall be recorded on the face of the plat to require compliance with this provision.

i. For any site proposed to be developed or cleared, at least 50 percent of significant trees located outside the net buildable area plus any approved development footprint of the lot shall be retained if they are rated in good condition or better by an ISA Certified Arborist.

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.

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

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

E. *Tree Permits for Single-Family Residential Land Uses or Any Use When 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 shall 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 section.

F. Tree Permits for Non-Single-Family Residential Land Uses or Any Use When 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 LMC 18A.70.330.
 - d. All other trees required to be preserved based on the preservation criteria in LMC 18A.70.320.C shall be indicated in the site plan.
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.

J. 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 request 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.

c. Based on Carbon Reductions. The applicant may request to plant fewer replacement trees than required by option (a) if an ISA Certified Arborist determines in a written report that the trees planted and preserved on the property meet the following criteria:

i. Tree species to be planted on the site are selected for their optimal ability to sequester carbon and store it over the course of their lifetime, according to the latest and best science.

1. Applicants shall provide an arborist report that demonstrates carbon sequestration value and calculations.

2. The City will use i-Tree or a similar source provided by the applicant and validated through a third-party arborist, to confirm the data and calculation.

ii. Trees are planted in the optimal locations on the property, relative to the structures, to reduce energy use and therefore avoid CO2 emissions.

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

e. For a minimum of five (5) years following completion of tree planting, all replacement trees shall be given the following care at a minimum:

ii. Regular irrigation with deep watering during dry months to ensure proper establishment of the tree's root system.

- iii. Installation and maintenance of natural mulch material in a three (3)-foot circle around the tree, with three (3) inches of depth, and not within three (3) inches of the trunk of the tree. Volcano mulching is an improper tree care method and should not be used.
- iv. Maintenance and pruning using ANSI A300 tree care standards.

f. 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 tree ~~percentages~~ that ~~are-is~~ required to be retained, ~~may~~ shall 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 ~~the fifty (50) percent of~~ significant tree ~~percentages~~ that ~~are-is~~ required to be retained, ~~may~~ shall 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.

[Ord. 726 § 2 (Exh. B), 2019.]

J. Incentives for Preservation. Significant tree preservation is incentivized as outlined in the following chart. All projects utilizing the following preservation incentives shall demonstrate compliance with LMC 18A.70.320(F) and LMC 18A.70.320(H) to ensure protection of the tree during site construction.

Tree Preservation Incentives			
Incentive	Code Sections	Description	Code Language
<u>Parking Reduction</u>	<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.</u> For every significant tree and/or heritage 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>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>	For multi-family uses, 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>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> 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 the City’s average score of 69 (not to exceed of more than 20% of the total allowable units)

<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 and/or heritage trees, with special attention given to areas experiencing the urban heat island effect and/or low tree equity.</u>	<u>Master Planned Development allows flexibility and variation design as long as there is a net benefit to the City. Significant and heritage tree preservation shall be included as a benefit under the Master Planned Development required net benefit findings in LMC 18B.700.720(G)(3)</u>
<u>Landscaping Reduction for Oregon White Oak Preservation</u>	<u>18A.70.150 Landscaping types</u>	<u>Allow for a reduction in the Type I, Vegetative buffer landscaping requirements for the preservation of Oregon white oaks.</u>	<u>A credit of one and one-half square feet of vegetative buffer 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.60.070 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>The Director may reduce a rear yard and/or side yard building setback to compensate for significant or heritage tree preservation provided that the setback is not reduced more than five (5) feet, is no closer to the property line than three (3) feet, is the minimum reduction required for tree preservation, and complies with LMC 18A.60.100 Building transition area</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.60.070 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>The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.</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 shall result in tripling of the amount of replacement value as provided in ~~code Section~~ LMC 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 (as defined in LMC 14.165.010) or trees located within a critical area or buffer, including shoreline buffers subject to the shoreline master program, are subject to the critical areas ordinance LMC Chapter 14.154 and/or Shoreline Master Program.
- 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, a 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. Stands of white oak trees greater than 20" or trees located within a critical area are subject to the critical areas ordinance LMC Chapter 14.154.
 - 2. 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 and under the supervision of a certified arborist or landscape architect.
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. The Director may allow hard surface on up to 25 percent of the area within the drip line when there is no practical alternative and with a tree protection plan prepared by a certified arborist.

18A.70.340 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
3. Donations and grants for tree purposes;
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;
5. Urban forestry education;
6. Implementation of a tree canopy monitoring program;
7. Scientific research; or
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.

“Malicious cutting” occurs when a person willfully and without permit removes a significant or heritage tree, or otherwise injures, cuts, or tops a significant or heritage tree to the extent that the tree’s survival is compromised, according to Best Management Practices as determined by a Certified Arborist. Removing more than 1/3 of the tree's canopy during a single growing season will always constitute malicious cutting.

“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.

A “stand” of trees means two or more trees whose canopies, driplines, and/or critical root zones are adjacent, touching, or overlapping.

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

“Tree protection plan” means an annotated and scaled drawing demonstrating compliance with tree protection specifications for construction operations as identified in this section.

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

Incentive Redlines- the following code sections will be amended for consistency with the table found in revised LMC 18A.70, Tree Preservation

18A.60.030 Residential area and dimensions.

A. Development Standards Table.

	Zoning Classifications								
	R1	R2	R3	R4	MR1	MR2	MF1	MF2	MF3
Density	1.45 DUA	2.2 DUA	4.8 DUA	6.4 DUA	8.7 DUA	14.6 DUA	22 DUA	35 DUA	54 DUA
Lot size	25,000 GSF	17,000 GSF	7,500 GSF	5,700 GSF	5,000 GSF /unit	3,000 GSF /unit for 2 or more units	No minimum lot size	No minimum lot size	No minimum lot size
Building coverage	35%	35%	45%	50%	55%	60%	60%	60%	60%
Impervious surface	45%	45%	60%	70%	70%	75%	70%	70%	70%
Front yard/street setback	25 feet	25 feet	10 feet	10 feet	5 feet	5 feet	15 feet	15 feet	15 feet
Garage/carport setback	30 feet	30 feet	20 feet	20 feet	20 feet	20 feet	20 feet	20 feet	20 feet
Principal arterial and state highway setback	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Rear yard setback	20 feet	20 feet	10 feet	10 feet	5 feet	5 feet	15 feet	15 feet	15 feet
Interior setback	8 feet	8 feet	5 feet	5 feet			8 feet	8 feet	8 feet
Interior setback for attached units					0 feet	0 feet			
Interior setback for detached units					5 feet	5 feet			
Building height	35 feet	35 feet	35 feet	35 feet	35 feet	50 feet	45 feet	65 feet	80 feet
Design	Design features shall be required as set forth in Chapter 18A.70 , Article I.								
Landscaping	Landscaping shall be provided as set forth in Chapter 18A.70 , Article II.								
Tree Preservation	Significant tree identification and preservation and/or replacement shall be required as set forth in LMC 18A.70.300 through 18A.70.330 .								
Parking	Parking shall conform to the requirements of Chapter 18A.80 .								
Signs	Signage shall conform to the requirements of Chapter 18A.100 .								

B. Tree Preservation Incentives.

1. The Director may reduce a rear yard and/or side yard building setback to compensate for significant or heritage tree preservation provided that the setback is not reduced more than five (5) feet, is no closer to the property line than three (3) feet, is the minimum reduction required for tree preservation, and complies with LMC 18A.60.100 Building transition area
2. The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.

[Ord. 726 § 2 (Exh. B), 2019.]

18A.60.040 Commercial area and dimensions.

A. Development Standards Table.

	Zoning Classifications							
	ARC	NC1	NC2	TOC	CBD	C1	C2	C3
Density	15 DUA	22 DUA	35 DUA	54 DUA	54 DUA			
Lot size	The minimum lot size for the ARC zoning district is 5,000 gross square feet (GSF), plus 2,750 GSF for each dwelling unit over 1 unit, where applicable.	There is no minimum established lot size for the commercial zoning districts. Proposed uses and their associated densities within these zoning districts, and the applicable community design standards shall be used to establish the minimum lot size for a project.						
Lot coverage	All building coverage and impervious surface maximums stated herein may be reduced at the time they are applied, because of storm water requirements. The maximum lot coverage standards for the commercial zoning districts shall be as follows:							
Building coverage	50%	70%	80%	100%	100%	100%	100%	100%
Impervious surface	60%	80%	90%	100%	100%	100%	100%	100%
Setbacks	The minimum yard setbacks for the commercial zoning districts shall be as follows, except where increased setbacks due to landscaping and building/fire code requirements apply:							
Front yard/street setback	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet
Garage/carport setback	20 feet	20 feet	20 feet	0 feet				

	Zoning Classifications							
	ARC	NC1	NC2	TOC	CBD	C1	C2	C3
Rear yard setback	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet
Interior setback	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet
Building height	40 feet	50 feet	60 feet	90 feet	90 feet	60 feet	60 feet	60 feet
Design	Design features shall be required as set forth in Chapter 18A.70 LMC, Article I.							
Landscaping	Landscaping shall be provided as set forth in Chapter 18A.70 LMC, Article II.							
Tree Preservation	Significant tree identification and preservation and/or replacement shall be required as set forth in LMC 18A.70.300 through 18A.70.330 .							
Parking	Parking shall conform to the requirements of Chapter 18A.80 .							
Signs	Signage shall conform to the requirements of Chapter 18A.100 LMC.							

B. Tree Preservation Incentives.

1. The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.

[Ord. 726 § 2 (Exh. B), 2019.]

18A.60.050 Industrial area and dimensions.

A. *Development Standards Table.*

	Industrial Zoning Classifications		
	IBP	I1	I2
Lot size	One acre	20,000 GSF	20,000 GSF
Building coverage	All building coverage and impervious surface maximums stated herein for the Industrial zoning districts may be reduced at the time they are applied to individual properties, because of storm water requirements.		
Impervious surface	The maximum building and impervious surface coverage and impervious surface for the Industrial zoning districts shall be 100%.		
Setbacks	The minimum distance setbacks for the Industrial zoning districts shall be as follows, except where increased setbacks due to landscaping or building/fire code requirements apply.		

	Industrial Zoning Classifications		
	IBP	I1	I2
Front yard/street setback	10 feet	0 feet	0 feet
Principal arterial and state highway setback	25 feet	25 feet	25 feet
Rear yard setback	0 feet	0 feet	0 feet
Interior setback	0 feet	0 feet	0 feet
Building height	60 feet	60 feet	60 feet
Design	Design features shall be required as set forth in Chapter 18A.70 LMC, Article I.		
Landscaping	Landscaping shall be provided as set forth in Chapter 18A.70 LMC, Article II.		
Tree Preservation	Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter 18A.70 LMC, Article III.		
Parking	Parking shall conform to the requirements of Chapter 18A.80 LMC.		
Signs	Signage shall conform to the requirements of Chapter 18A.100 .		

[Ord. 726 § 2 (Exh. B), 2019.]

18A.60.060 Military lands area and dimensions.

A. Development Standards Table.

	ML	AC II	AC I	CZ
Lot size	Lands owned by the federal government are exempt from local development standards. Otherwise, development standards for the Military-Related zoning districts shall be determined jointly by the Director and City Engineer on a case-by-case basis considering the intensity of the proposed use, adjacent uses and zoning, environmental issues, site design, and/or type and construction of buildings.			
Building coverage				
Impervious surface				
Setbacks				
Front yard/street setback				
Principal arterial and state highway setback				
Rear yard setback				
Interior setback				
Building height				

	ML	AC II	AC I	CZ
Design	Design features shall be required as set forth in Chapter 18A.70 , Article I.			
Tree Preservation	Landscaping shall be provided as set forth in Chapter 18A.70 , Article II.			
Landscaping	Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter 18A.70 , Article III.			
Parking	Parking shall conform to the requirements of Chapter 18A.80 .			
Signs	Signage shall conform to the requirements of Chapter 18A.100 .			

[Ord. 726 § 2 (Exh. B), 2019.]

18A.60.070 Open space area and dimensions.

A. *Development Standards Table.*

	OSR1	OSR2
Lot size	N/A	N/A
Building coverage	N/A	N/A
Impervious surface	20%	30%
Setbacks		
Front yard/street setback	25 feet	25 feet
Principal arterial and state highway setback	35 feet	35 feet
Rear yard setback	20 feet	20 feet
Interior setback	20 feet	20 feet
Building height	The maximum building height, not including any applicable height bonus, for the Open Space/Recreation zoning districts shall be 40 feet.	
Design	Design features shall be required as set forth in Chapter 18A.70 , Article I.	
Landscaping	Landscaping shall be provided as set forth in Chapter 18A.70 , Article II.	
Tree Preservation	Significant tree identification and preservation and/or replacement shall be required as set forth in Chapter	

	OSR1	OSR2
	18A.70 , Article III.	
Parking	Parking shall conform to the requirements of Chapter 18A.80 .	
Signs	Signage shall conform to the requirements of Chapter 18A.100 .	

B. Tree Preservation Incentives.

2. The Director may reduce a rear yard and/or side yard building setback to compensate for significant or heritage tree preservation provided that the setback is not reduced more than five (5) feet, is no closer to the property line than three (3) feet, is the minimum reduction required for tree preservation, and complies with LMC 18A.60.100 Building transition area
3. The Director may increase the amount of allowable impervious surface by 5% to compensate for the preservation of a significant or heritage tree.

[Ord. 726 § 2 (Exh. B), 2019.]

18A.60.110 Density standards.

D. For multi-family uses, 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).

E. 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.

F. 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 the City's average score of 69 (not to exceed of more than 20% of the total allowable units).

EG. When calculations result in a fraction, the fraction shall be rounded down to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and
2. Fractions below 0.50 shall be rounded down. [Ord. 758 § 2 (Exh. A), 2021; Ord. 726 § 2 (Exh. B), 2019.]

18A.70.150 Landscaping types.

A. The landscaping types are intended to provide a basic list of landscaping standards that may be applied within a proposed project as necessary to provide for the intent of the comprehensive plan.

1. *Type I, Vegetative Buffer.* A combination of landscaping, evergreen and deciduous trees, and fencing that provides a substantial visual barrier between uses and creates an impression of separation of spaces along an interior property line. The following standards shall be applied:

a. Landscaping strip shall be a minimum of eight (8) feet in width, and shall be increased to ten (10) feet in width and fifteen (15) feet in width as required by LMC [18A.70.160](#), Landscaping regulations by zoning district.

b. Depending on the use, a sight-obscuring barrier may be required to be placed within the landscaping strip to consist of:

- i. Fence/wall five (5) feet in height, or
- ii. A medium shrub barrier (hedge) which is of such a density as to provide a solid visual barrier.

c. One (1) evergreen or deciduous tree is required per twenty (20) linear feet of landscaping strip. Trees shall be spaced at intervals not greater than twenty (20) feet on center along the full extent of the landscaping strip. No more than sixty (60) percent of the trees may be deciduous.

d. The percentage of evergreen trees allowed may be further reduced at the discretion of the Director to address public safety concerns.

e. *Shrubs.*

- i. Two (2) medium shrubs are required per six (6) linear feet of landscaping strip and placed no greater than four (4) feet on center.
- ii. Three (3) low shrubs are required per six (6) linear feet of landscaping strip and placed no greater than three (3) feet on center.
- iii. Shrubs shall be placed along the entire length of the landscaping strip as to provide vegetative cover.

f. Vegetative groundcover.

g. Landscaping shall be placed along the entire length of the landscaping strip so as to provide a vegetative buffer. These are minimum standards; additional landscaping may be

required if, in the determination of the Director, the proposed landscaping plan does not provide effective separation and screening.

h. A credit of one and one-half square feet of vegetative buffer shall be given for every square foot of area devoted to new or the preservation of Oregon white oak tree use.

18A.80.060 Parking incentives.

A. When residential uses are combined with commercial uses in the same building, parking requirements may be reduced by twenty (20) percent, except when located within the CBD or TOC zoning districts for which parking requirements are reduced by thirty-five (35) percent.

B. A structured parking space shall count as one and one-half (1.5) parking spaces towards the required number of parking spaces.

C. When affordable housing is constructed pursuant to Chapter [18A.90](#) LMC, Housing Incentives Program, the parking space requirements shall be calculated employing any available modifications based upon LMC [18A.90.060](#).

D. *Shared Use Parking.* Joint use of required parking spaces may be permitted where two (2) or more uses on the same site or separate sites in close proximity to one another are able to share the same parking spaces because their parking usage does not materially overlap (e.g., uses primarily of a daytime versus nighttime, or weekday versus weekend nature). Shared parking shall be legally encumbered and shall meet all of the applicable standards of this section pursuant to subsection (E) of this section, Off-Site Parking.

E. *Off-Site Parking.* Joint use of required parking spaces may be authorized by the Director if the following documentation is submitted in writing to the Community and Economic Development Department:

1. The names and addresses of the owners and/or tenants that are sharing the parking.
2. The uses that are involved in the shared parking.
3. The location and number of parking spaces that are being shared.
4. An analysis showing that the peak parking times of the uses occur at different times and/or that the parking area will be large enough for the anticipated demands of both uses.
5. A legal instrument such as an easement or deed restriction that guarantees continuing access to the parking for both uses which shall be subject to review and approval by the Director.

F. *On-Street Parking Credit.* Where adjacent roads are designed for on-street parking and approved by the Public Works Director, parking credit may be given for on-street parking.

G. *Electric Vehicle Charging Parking Provisions.* For every electric vehicle charging station provided, the required number of parking spaces may be reduced by an equivalent number, provided the total reduction does not exceed five (5) percent of the total required parking spaces. For example, if forty (40) parking spaces are required and two (2) electric vehicle charging stations

are provided, the total required parking may be reduced to thirty-eight (38) spaces, yielding thirty-six (36) “regular” parking spaces and two (2) electric vehicle charging parking spaces. Note that in this example the total reduction may not be in excess of two (2) spaces ($40 \times 5\% = 2$), so if three (3) electric vehicle charging stations were provided instead, the total reduction in required parking would still be two (2) spaces, yielding thirty-five (35) “regular” parking spaces and three (3) electric vehicle charging parking spaces.

H. Credit for Tree Preservation. For every significant tree and/or heritage 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.

HI. Phased Reduction of Maximum Parking Standards. One technique for transportation demand management (TDM) is to reduce maximum allowable parking spaces. This reduction in parking can be accomplished by slowly phasing down the maximum allowable number of parking spaces over a period of years. This procedure has advantages of reducing vehicle trips and conserving urban commercial land that can be used for other purposes. However, TDM has the potential to have a significant adverse impact on the jurisdiction’s economic development if other reasonable forms of alternative transportation are not available. This technique should be periodically revisited to consider its viability but should not be implemented until its feasibility for Lakewood is established.

18B.200.230 District-Wide Development Standards.

Unless otherwise specifically modified by an adopted development agreement or master plan, in addition to the regulations and requirements contained in other sections of this title, the following property development standards apply to all land and buildings in the Downtown District:

A. *Density.*

- 1. Maximum density is 100 units per acre, except where other conditions are met in subsections (A)(2) through (A)(4) of this section. To qualify for 100 units per acre density, the residential uses shall be part of a mixed-use development, or added to a commercial site, or provide a first-floor height of 16 feet for at least a 30-foot depth that allows for future commercial occupancies.
- 2. On sites allowed a density of 100 units per acre under subsection (A)(1) of this section, density may be increased up to 125 units per acre for affordable housing according to the provisions of LMC 18A.90.050, Inclusionary density bonuses, only if the affordable housing is part of a mixed-use development.
- 3. Density shall not exceed 80 units per acre for residential-only developments that are not added to or associated with existing commercial sites, or that do not provide a first-floor height that allows for future commercial occupancies.
- 4. No density limit may be allowed in the Town Center Incentives Overlay if a master plan is approved per LMC 18B.700.720; provided, that the total number of dwellings is consistent with the planned action ordinance (Ordinance No. 696) and allowable height and bulk per this title’s design parameters.

5. *Density Bonus for Tree Preservation.*

- a. For multi-family uses, 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)
- b. 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.
- c. 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 the City’s average score of 69 (not to exceed of more than 20% of the total allowable units)

18B.600.610 Parking.

B. *Parking Reductions or Increases.* The amount of required parking may be reduced or eliminated, or increased above the maximum, based on a site-specific parking study that demonstrates one or more of the following:

- 1. *Reduction Due to Shared Parking at Mixed-Use Sites and Buildings.* A shared use parking analysis for mixed-use buildings and sites that demonstrates that the anticipated peak parking demand will be less than the sum of the off-street parking requirements for specific land uses.
- 2. *Reduction Due to Public Parking Availability.* The availability of public parking to accommodate the parking demand generated by the site or building. The City may approve a reduction in the amount of required parking by up to 50 percent for any parking stalls that will be open and available to the public. On-street parking may be considered for the reduction; any new on-street parking provided will be counted toward the required parking availability.
- 3. *Reduction Due to Lower Parking Demand or Increase Based on Greater Parking Demand.* Demonstrating that anticipated parking demand will be less than the minimum parking required, or greater than the maximum allowed, based on collecting local parking data for similar land uses on a typical day for a minimum of eight hours.
- 4. *Credit for Tree Preservation.* For every significant tree and/or heritage 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.

18B.700.720 Master Planned Development – Town Center Incentive Overlay.

G. *Required Findings.* A master planned development shall only be granted after the Hearing Examiner has reviewed the proposed use and has made written findings that all of the standards and criteria set forth below have been met or can be met subject to conditions of approval:

1. The master planned development is consistent with the comprehensive plan; and
2. The master planned development is consistent with the vision and objectives of the downtown plan in LMC [18B.100.110](#); and
3. The master planned development, by the use of permitted flexibility and variation in design, is a development practice that results in better urban design features than found in traditional development. Net benefit to the City may be demonstrated by one or more of the following:
 - a. Placement, type or reduced bulk of structures; or
 - b. Interconnected usable open space; or
 - c. Recreation facilities; or
 - d. Other public facilities; or
 - e. Preservation of significant and/or heritage trees; or
 - ef. Conservation of natural features; or
 - fg. Conservation of critical areas and critical area buffers beyond; or
 - gh. Aesthetic features and harmonious design; or
 - hj. Energy efficient site design or building features; or
 - ij. Use of low impact development techniques; and

18C.200.230 District-wide development standards.

Unless otherwise specifically modified by an adopted development agreement or master plan, in addition to the regulations and requirements contained in other sections of this title and LMC Title [15](#), the following property development standards apply to all land and buildings in the Station District:

- A. *Density*. Maximum density is based on the standards in the base zoning districts.
 - 1. *Density Bonus for Tree Preservation.*
 - a. For multi-family uses, maximum density may increase by 1 unit for each significant tree preserved on a property that is located in the Station District (not to exceed of more than 20% of the total allowable units)
 - b. 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.
 - c. 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 the City’s average score of 69 (not to exceed of more than 20% of the total allowable units)

18C.600.610 Parking.

B. *Parking Reductions or Increases.* The amount of required parking may be reduced or eliminated, or increased above the maximum, based on a site-specific parking study that demonstrates one (1) or more of the following:

- 1. *Reduction Due to Shared Parking at Mixed-Use Sites and Buildings.* A shared use parking analysis for mixed-use buildings and sites that demonstrates that the anticipated peak parking demand will be less than the sum of the off-street parking requirements for specific land uses.
- 2. *Reduction Due to Public Parking Availability.* The availability of public parking to accommodate the parking demand generated by the site or building. The City may approve a reduction in the amount of required parking by up to fifty (50) percent for any parking stalls that will be open and available to the public. On-street parking may be considered for the reduction; any new on-street parking provided will be counted toward the required parking availability.
- 3. *Reduction Due to Lower Parking Demand or Increase Based on Greater Parking Demand.* Demonstrating that anticipated parking demand will be less than the minimum parking required, or greater than the maximum allowed, shall be based on collecting local parking data for similar land uses on a typical day for a minimum of eight (8) hours.
- 4. *Reduction for Housing in Proximity to Sounder Station (RCW 36.70A.620).* When located within one-quarter (0.25) mile of the Sounder Station, an applicant may apply for an exception allowing minimum parking requirements to be reduced at least to one (1) parking space per bedroom or three-quarters (0.75) space per unit, as justified through a parking study prepared to the satisfaction of the Community Development Director or their designee:
 - a. Housing units that are affordable to very low-income or extremely low-income individuals;
 - b. Housing units that are specifically for seniors or people with disabilities;
 - c. Market rate multifamily housing.

5. Credit for Tree Preservation. For every significant tree and/or heritage 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.

In determining whether to grant a parking reduction, the Community Development Director may also consider if the project is proposed in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit.

CITY OF LAKEWOOD, WA Tree Preservation Code Update

City Council Meeting



PLANIT GEO[™]
mapping a greener future



September 26, 2022

Agenda

- Replacement Trees
- Reasonable Use Exception
- Critical Root Zone Limitations
- Malicious Cutting
- Utility Tree Replacement
- Post-Planting Tree Maintenance
- Tree Permit Cost Comparison
- Urban Forestry Program
- Scenarios



Replacement Trees

Replacement Trees

- 89 options provided by i-Tree for optimal carbon sequestration



Coast redwood
Giant sequoia
Durmast oak
Cork oak
Colgüe
Roble
Southern red oak
Shumard oak
Oregon white oak
Water tupelo
American sycamore
Oriental planetree
California sycamore
Arizona sycamore
Raulí
Japanese zelkova
American elm
California white oak
Bristlecone fir
Eastern cottonwood
Black oak
Chestnut oak
London planetree
Tulip tree
Southern magnolia
Water hickory
Cucumber tree
Black cherry
Slash pine
American beech

Live oak
Swamp white oak
Shingle oak
Laurel oak
Swamp chestnut oak
Chinkapin oak
Water oak
Pin oak
English oak
Bluff oak
Darlington oak
Ncn - magnolia officinalis
Caucasian zelkova
Silver maple
White oak
Scarlet oak
White ash
Northern red oak
American basswood
Brown's hickory
Southern shagbark hickory
Collin hickory
Demaree hickory
Dunbar's hickory
Pecan
Laney's hickory
Leconte's hickory
Hickory
Nutmeg hickory
Nussbaumer's hickory

Red hickory
Sand hickory
Carya hickory
Schneck's hickory
Black hickory
Mockernut hickory
California black oak
Red maple
Freeman maple
Tree of heaven
Bitternut hickory
Pignut hickory
Shellbark hickory
Shagbark hickory
Sugarberry
Northern hackberry
Ginkgo
Black walnut
Black locust
Yellow buckeye
White alder
Bur oak
Sugar maple
Bigleaf maple
Kentucky coffeetree
Willow oak
Chinese tulip tree
Fremont cottonwood
Yellowwood

Reasonable Use Exception

Reasonable Use Exception

- New Definition

“Reasonable use” means a legal concept articulated by federal and state courts in regulatory taking cases. In a takings case, the decision-maker must balance the public’s interests against the owner’s interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public interest factors include the seriousness of the public problem, the extent to which the land involved contributes to the problem, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions. (this is a blending of Mukilteo & Issaquah definitions)

“Reasonable use exception” means a process by which the City will consider an applicant’s request for relief from critical area regulations if the applicant demonstrates that strict application of critical area regulations would deny all reasonable use of a property.

- Added to list of permits 18A.020.050 (clean-up)

Critical Root Zone Limitations

Site improvements inside the critical root zone

"No hard surface area shall be allowed within the drip line of a Garry 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."

[Oak Harbor language in 20.16.010\(4\)](#)

Malicious Cutting

“Malicious cutting” occurs when a person willfully and without permit removes a significant or heritage tree, or otherwise injures, cuts, or tops a significant or heritage tree to the extent that the tree’s survival is compromised, according to Best Management Practices as determined by a Certified Arborist. Removing more than 1/3 of the tree's canopy during a single growing season will always constitute malicious cutting.

WA Law addresses: <https://app.leg.wa.gov/rcw/default.aspx?cite=64.12.030>

Utility Tree Replacement

Current Exemption is applicable to all zoning districts but not to Oregon white oaks. For Oregon White Oak trees a 2:1 replacement ratio is required.

18A.70.310 Tree removal applicability/exemptions.

C. 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.

Post-Planting Tree Maintenance

For a minimum of five (5) years following completion of tree planting, all replacement trees shall be given the following care at a minimum:

- Regular irrigation with deep watering during dry months to ensure proper establishment of the tree's root system.
- Installation and maintenance of natural mulch material in a three (3)-foot circle around the tree, with three (3) inches of depth, and not within three (3) inches of the trunk of the tree. Volcano mulching is an improper tree care method and should not be used.
- Maintenance and pruning using ANSI A300 tree care standards.

Tree Permit Costs

Jurisdiction*	Type of Permit/Other	Fee (2021-2022)
Federal Way	Many non-exempt activities do not require a permit application, only written approval by the city. A tree/vegetation retention plan must be prepared by a certified arborist or a certified landscape architect. Required when removing trees in critical areas, removing trees required for retention through a permit, tree removal that would change stormwater or groundwater.	Tree removal request: \$145
Lacey	Permits are coordinated with land use applications, or with a land clearing permit, or an exemption approval from director.	Rolled into land clearing permit \$109- \$328
Olympia	Tree Permit required for non-exempt activities, or where tree removal results in not meeting tree density or is on property line or street. See Olympia flow chart .	Single Family and lots less than 2 acres Permit fee \$50
Pierce County	Reviewed as part of other land use or land clearing permits.	\$315.00 review (clearing) Hazard tree \$190-\$760
Puyallup	Landscape plan required for development greater than 4 units.	Tree removal ROW, heritage tree: \$50 Landscape plan review: \$90-\$300
Redmond	Tree removal application	No fee for single-family zoning; \$125.69 fee for commercial, multi-family, or industrial.
Renton	Routine Vegetation Management Permit without critical areas. Required for non-exempt permits.	\$105
Sammamish	Tree removal permit or part of land use approval	Tree removal: \$132
Tacoma	ROW: Required for street tree removal or tree pruning work. Site: Reviewed with building or site development permit.	No fee tree work permits.
Tukwila*	Single family: Inventory survey Other Uses: Landscape Modification Permit	Tree and Landscape Modification Permit and Exceptions \$719.25
University Place	A tree removal permit is required when the development activity will result in the removal of more than five trees.	Tree preservation plan review Single Family: \$ 240.00 ½ acre or less sit: \$650 ½ acre to 2 acres: \$1000 Over 2 acres: \$1,375

Urban Forestry Program

- Measure, Maintain, and Update Lakewood's Urban Forestry Data
 - Urban Tree Canopy (UTC) Data
 - Tree Inventory Data

Citywide Tree Locations and Estimated Tree Count			
	Square Miles	Cost	Timeline
All Trees Citywide	19	\$4,626	<1 month

Tree Point

Tree Polygon

Idealized Tree Crown



Public Tree Inventory

	Tree Count (est.)	Cost	Timeline
Street Trees	20,000	\$80,000	3 months

An inventory of all trees greater than 1 inch in diameter at breast height (DBH, measured at 4.5' above grade) on public streets. Based on aerial imagery, sampling, Google Street View, and local city comparisons, it is estimated the City has approximately 20,000 trees along streets and in medians in the public right-of-way.

Park Trees	2,000	\$8,000	1 month
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An inventory of trees greater than 1 inch DBH in maintained areas of public parks.

Private Tree Inventory

	Tree Count (est.)	Cost	Timeline
All Trees >6" on Residential Property	150,000	\$469,800	10 months

An inventory of all trees greater than 6 inches in diameter at breast height (DBH, measured at 4.5' above grade) on private residential land. This approach utilizes the City's most recent Zoning Class to identify all residential parcels. Based on aerial imagery, sampling, Google Street View, and local city comparisons, it is estimated the City has over 150,000 trees greater than 6 inches DBH on private residential land.

Oak Trees >6" on Residential Property	50,000	\$281,880	6 months
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An inventory of only oaks (Quercus) greater than 6 inches DBH on private residential land. Based on research and comparisons, it is estimated the City has approximately 50,000 oak trees in this category.

Oak Trees >6" on Residential, Industrial, and Commercial Property	70,000	\$375,840	8 months
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In addition to residential areas, the City also needs to address the protection, preservation, and replacement of oak trees on commercial and industrial development and redevelopment projects. Using the most recent Zoning Class map, approximately 70,000 oak trees greater than 6 inches DBH reside on residential, industrial, or commercial property.

Urban Forestry Program

Staffing to support tree permits, inspections and enforcement of tree code, and public education. Positions to support the Planning Department in building capacity for an urban forestry program:

- 1 full time employee (FTE) with a salary in the range of \$8,326 – \$10,562 per/month
- 1 contracted City Arborist estimated cost annually \$50k

Scenario 1: Existing Warehouse

A property owner wants to remove a tree (any species) on a property zoned industrial. What is the permitting process?

Current Code:

Industrially zoned properties are exempt from tree removal permitting unless conditioned by SEPA (triggered if there is a critical area). The tree may be removed without a permit.

Proposed code:

Tree Removal Permit Required-Preservation required (same provisions as what existed prior to 2020 update)

Scenario 1: Existing Warehouse

2. *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.

3. *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.

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.

Scenario 2: New Warehouse

A developer has applied to develop a new industrial warehouse. There is a priority white oak woodland on site under one acre in size, the developer would like to remove the woodland in its entirety. What is the permitting process?

Current Code:

No clear criteria. Mitigation and habitat assessed during SEPA. City required to hire 3rd party assistance. Total time: 10 months

Proposed code:

Administrative reasonable use exception (next slide)

Administrative Reasonable Use Exception

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 development^[1], 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 shall 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.

Scenario 3: New Warehouse with large oak woodland

A developer has applied to develop a new industrial warehouse. There is a priority white oak woodland on site over one acre in size, the developer would like to remove the woodland in its entirety. What is the permitting process?

Current Code:

No clear criteria. Mitigation and habitat assessed during SEPA. City required to hire 3rd party assistance. Total time: 10 months

Proposed code:

Applicant would be required to apply for a [reasonable use exception](#)

Scenario 4: Single Family Development

An applicant lives on a 15,000sf lot and wants to remove three oak trees all located on his property, each oak is over 20", are they permitted to remove the trees?

Current Code:

Yes, no permit required

Proposed Code-

Permit required

Application received

Staff Reviews reason for request- is it for an administrative reasonable use development?

Yes

No

Tree Removal permit approved, mitigation required at 2:1 ratio

Tree Removal permit denied, applicant can apply for reasonable use exception

Administrative Reasonable Use Exception

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.70.320 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 1000 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.

Thank You!



PLANIT GEOTM
mapping a greener future



City of Lakewood
Landmarks and Heritage Advisory Board (LHAB)
2022 WORK PLAN AND SIGNIFICANT ACCOMPLISHMENTS

Members

Glen Spieth
Joan Cooley
Beth Campbell
Mark Hayes
Christina Manetti

Council Liaison

Paul Bocchi

Staff Support

Planning Manager, Courtney Brunell

Administrative Support

Community Development Administrative Assistant, Karen Devereaux

Meeting Schedule

Fourth Thursday of every month at 6:00 PM in City Hall, American Lake Room

Background

The mission of the City of Lakewood Landmarks and Heritage Advisory Board is to preserve, protect and promote the unique heritage and historic resources of the City of Lakewood. The Landmarks and Heritage Advisory Board advises the City Council, the City Manager and City staff in connection with protection and preservation of historical landmarks in Lakewood and establishing procedures for designation and preservation of landmarks.

2021 Accomplishments

- Implemented a historic street sign recognition program.
- Completed the first draft of edits for the Lakewood Touring Map.
- **Updated the "History of Lakewood" City website to include information on types of historical designations and FAQ's.**

2022 Work Plan

Ongoing Projects

The Landmarks and Heritage Advisory Board has provided no specific timelines for the completion of the following work plan items since this Board is often dependent on the follow-through of other public agencies or private property owners.

- Look for opportunities to expand the historic streets recognition program.
- Continue to work with Clover Park School District to incorporate local Lakewood History into the Curriculum.
- Research grant opportunities to fund additional historic markers throughout the City of Lakewood.

- Update the Lakewood Touring map to include historic streets identified through the recognition program
- Work with Pretty Gritty Tours to develop a walking tour program for the City of Lakewood.
- Explore the use of the Community Landmark designation for the Colonial Center; Western State Hospital; Rhodesleigh House; Villa Carman (Madera); the Flett House; Little Church on the Prairie; Thornewood Castle; Mueller-Harkins Hangar; Tacoma Country and Golf Club; **the "H" barn at Fort Steilacoom Park;** Bowlero Lanes, Dennys, House of Donuts, and the Alan Liddle House.
- Work on recruitment of new members to serve on the LHAB.
- Actively engage with the City of Lakewood Youth Council.
- **Create short, "History of Lakewood" videos to post online to engage with youth and online viewers.** Consider a partnership with Clover Park School District to create the videos or offer them as a resource for students to learn more about local history.

Proposed Rate Adjustment Presentation

City of Lakewood

Monday, September 26, 2022

LaTasha Wortham, Regional Relations Manager



Tacoma Public Utilities Overview

Our mission:

Tacoma Public Utilities provides services vital to our quality of life.

Who we are:

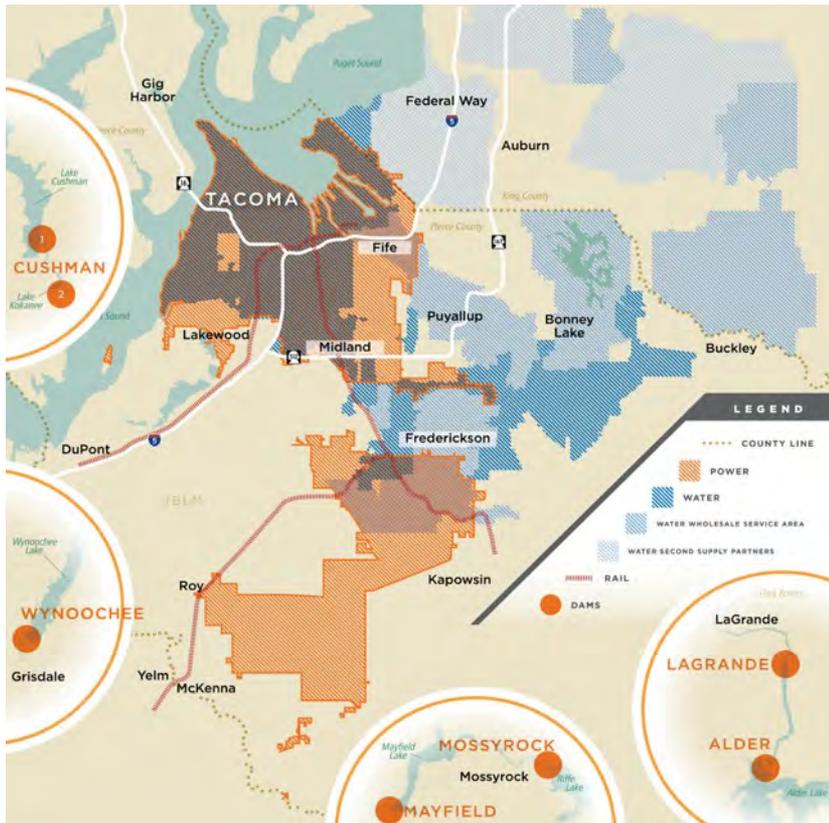




About us:

- **Public, not-for-profit, cost-of-service organization; we don't pay investors**
- **Part of the community since 1893**
- **Led by a 5-member Public Utility Board**
- **Jackie Flowers, Director of Public Utilities**

Tacoma Public Utilities Service Area



- 180 square miles of Power & Water service
- Power provides carbon free electric service
- Water provides clean, reliable water throughout Pierce and King counties
- Tacoma Rail providing short line rail services since 1914

TPU is committed to achieving equity in our...

- Service delivery: Equitable service delivery
- Workforce: Our workforce reflects the community we serve
- Community and Stakeholder Engagement: Purposeful community outreach and engagement

Our Service Portfolio



- Tacoma Power is one the cleanest utilities in the world, our portfolio is nearly carbon free
- We have an ample, sustainable water supply
- We manage our water and power supplies so we can meet customers' needs for decades to come
- Our water system relies primarily on gravity, minimizing the electricity needed
- We are stewards of our environment by protecting lands, fish and wildlife

Rate Principles



- We are committed to gradual, consistent, stable, and predictable rate changes over the long term and to avoiding sudden or large changes
- We bill customers only for the costs required to serve each customer

Why adjust rates?

- Inflationary costs
- Supply chain delays and increases
- On-going costs
 - Capital cost
 - Regulatory compliance

Managing cost and affordability



- Asset and project management
- Workforce planning and development
- Payment assistance programs

Adjustments are per year for both 2023 and 2024

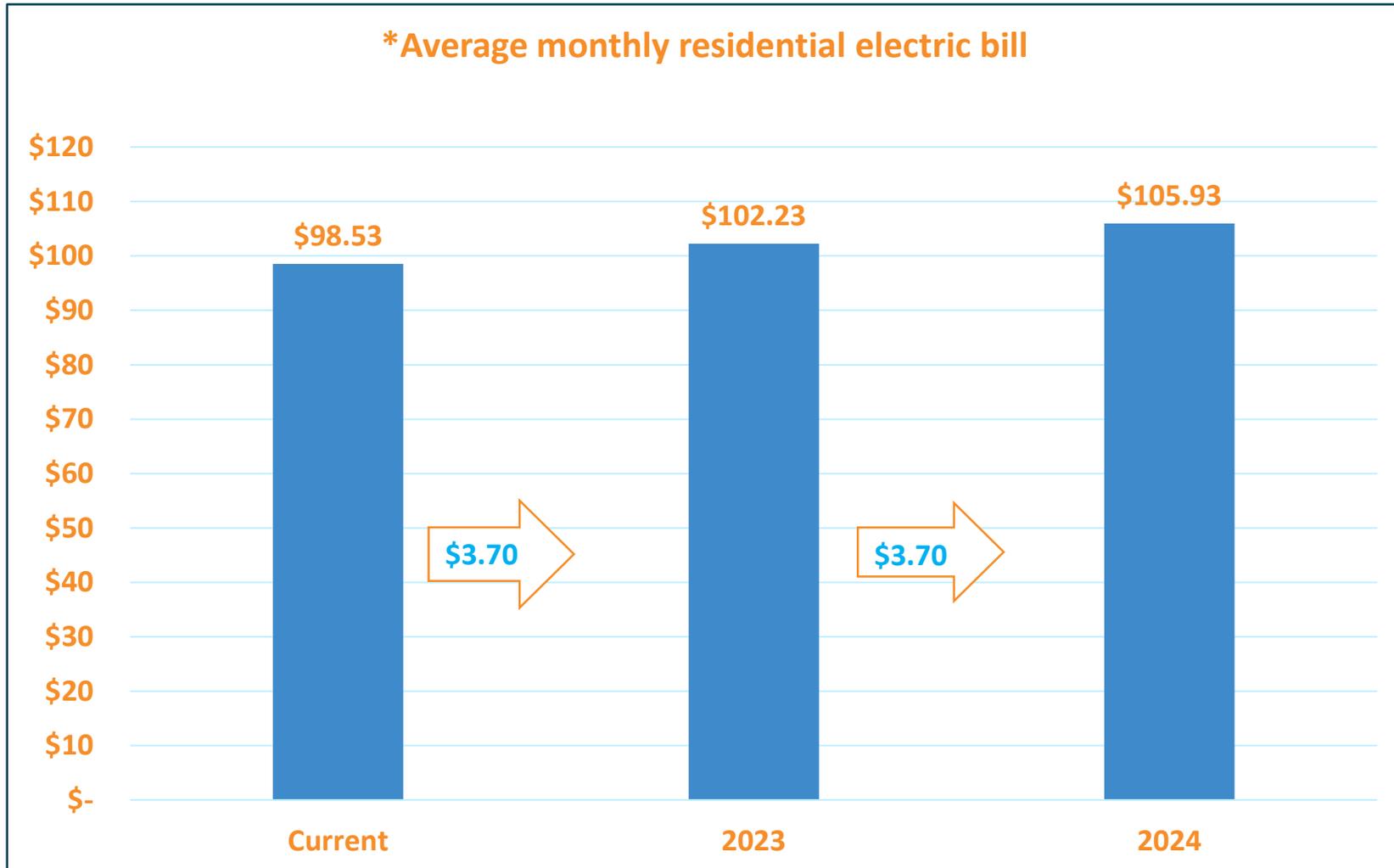
Power

- **3.5% System-average increases in 2023 and 2024**
 - Residential Customers
 - 3.9% average increase in 2023; \$3.70 average monthly increase
 - 3.9% average increase in 2024; \$3.70 average monthly increase

Water

- **4.0% System-average increases in 2023 and 2024**
 - Residential Customers (outside Tacoma)
 - 4.2% average increase in 2023; \$2.05 average monthly increase
 - 4.2% average increase in 2024; \$2.10 average monthly increase

Tacoma Power average monthly bill



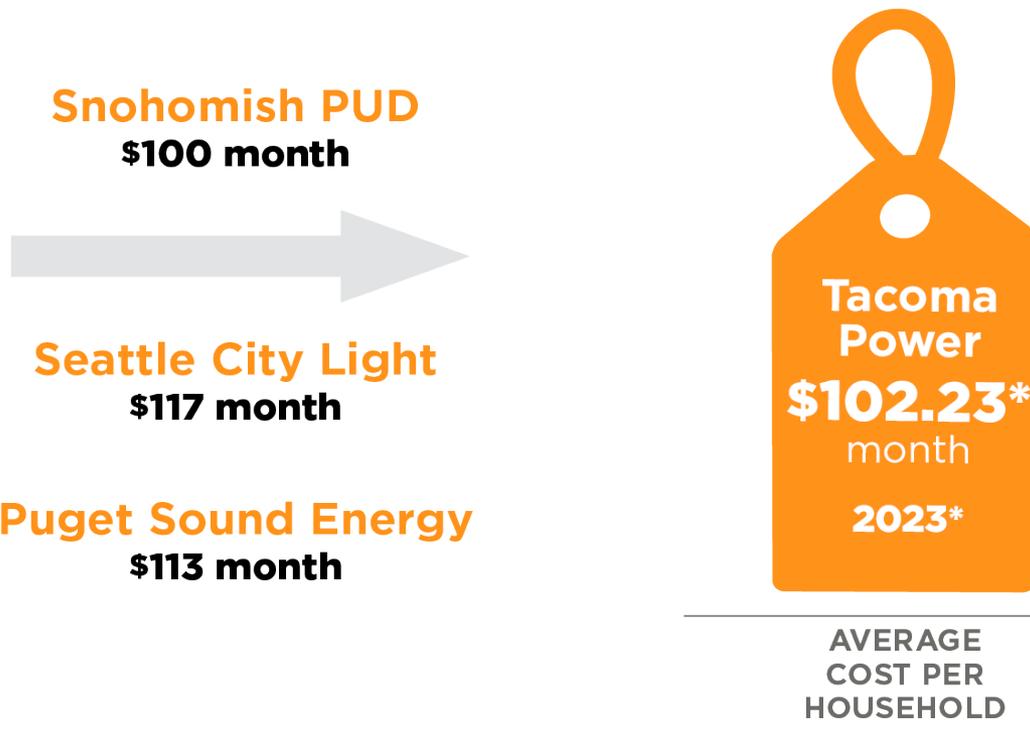
**Rates in University Place are slightly higher due to a 6% utility tax from the City of UP*

Power Graphic with comparison



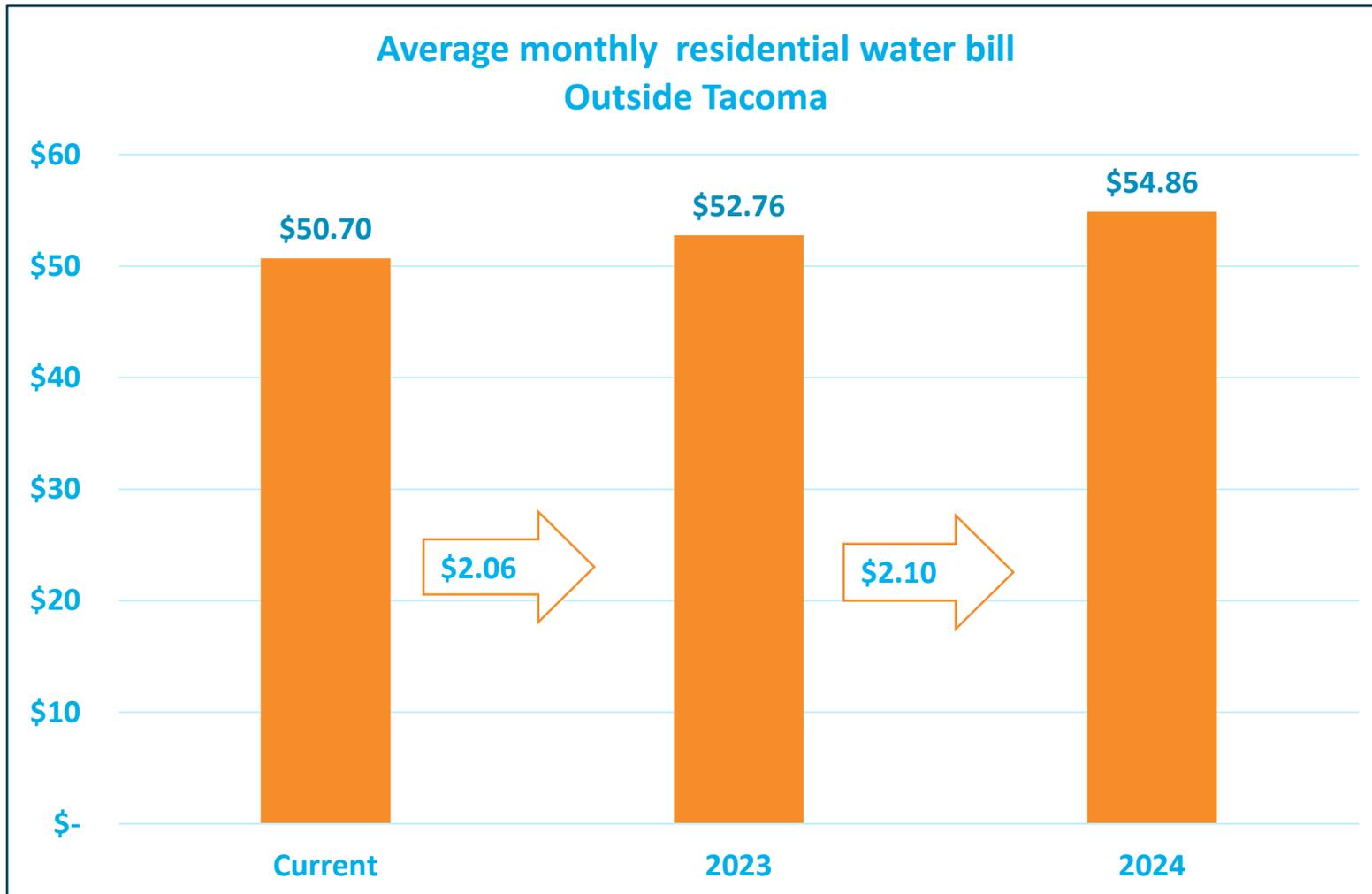
POWER RATES

We are proud to say that our rates are among the lowest in the region.



*Rates for other utilities are from 2021

Tacoma Water average monthly bill



Water graphic comparison



RATES

We are proud to say that our rates are among the lowest in the region.



\$
3.7
PER CCF

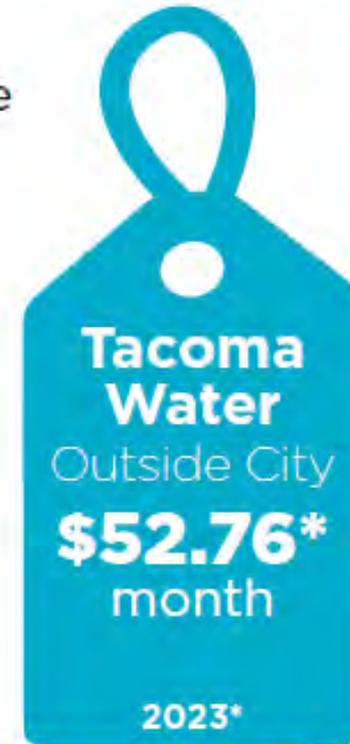
1 CCF
=
748 GALLONS

748 GALLONS

City of Puyallup
\$26 month

City of Bellevue
\$53 month

City of Seattle
\$58 month



**Tacoma
Water**
Outside City
\$52.76*
month

2023*

**AVERAGE COST
PER HOUSEHOLD**

*Rates for other utilities are from 2021

How is TPU assisting customers?

- Increased Discount Rate
- Long term payment plans for balances during COVID moratorium
- Bill Credit Assistance Plan (BCAP) & BCAP Plus
- Visit mytpu.org/assistance or call 253.502.8600

Current BCAP



Current BCAP

(Households with full, on-time payments can achieve monthly credits)

Service	BCAP <u>Achievable</u> Credit	
	Monthly	Annual
Power	\$21	\$252
Water	\$9	\$108
Wastewater	\$11	\$132
Surface Water	\$5	\$60
Solid Waste	\$10	\$120
Total	\$56	\$672

BCAP Proposed Enhancements



Proposed

BCAP Plus

Automatic and Achievable Credits for 2023

(Households would receive an automatic credit regardless of payment.
Additional BCAP Plus credit could be achieved with full, on-time payments)

Service	BCAP <u>Automatic</u> Credit	BCAP Plus <u>Achievable</u> Credit	BCAP/BCAP Plus Annual Credit
Electricity	\$22	\$21	\$516
Drinking Water	\$4	\$5	\$108
Wastewater	\$6	\$7	\$156
Surface Water	\$3	\$3	\$72
Solid Waste	\$5	\$5	\$120
Total	\$40	\$41	\$972

How to lower your costs



- Conservation — lowers your cost and good for the environment, visit: MyTPU.org/Rebates
- Zero-interest and deferred loans - support for energy efficient home improvement projects
- Payment assistance – programs available for income qualifying customers, including seniors and people living with a disability visit: MyTPU.org/Assistance

Want to learn more or get involved?



Visit our website: MyTPU.org/Rates

- Review information about our rates
- Attend public meetings and provide comments or submit written public comments
 - **Rates Public Hearing on September 28th, 6:30pm**
- Subscribe to rates email notifications

Contact



LaTasha Wortham

Regional Relations Manager

LWortham@cityoftacoma.org

C: 253-753-6858

Tacoma Public Utilities

2023-2024 Residential Rate Proposals

We present our 2023-2024 budgets for approval to the Public Utility Board and Tacoma City Council this fall. Our proposals include rate adjustments for Tacoma Power and Tacoma Water.

The Tacoma City Council will review rate proposals for Environmental Services (Wastewater, Solid Waste, and Stormwater) after receiving recommendations from the Environmental Services Commission.



Tacoma Power

Average increases: 3.9% in 2023; 3.9% in 2024

- \$3.70 average monthly increase in 2023*
- \$3.70 average monthly increase in 2024*

Rates go into effect in April of each year.



Tacoma Water

Average increases: 4.2% in 2023; 4.2% in 2024

- \$1.73 average monthly increase in 2023 (inside the City of Tacoma)
- \$1.80 average monthly increase in 2024 (inside the City of Tacoma)
- \$2.05 average monthly increase in 2023 (outside the City of Tacoma)*
- \$2.11 average monthly increase in 2024 (outside the City of Tacoma)*

Rates go into effect in January of each year.

**Rates in University Place are slightly higher due to a 6% utility tax from the City of U.P.*



Environmental Services



Stormwater

Average increases: 6.6% in 2023; 6.7% in 2024

- \$1.81 preliminary average monthly increase in 2023
- \$1.96 preliminary average monthly increase in 2024



Wastewater

Average increases: 8.3% in 2023; 7.5% in 2024

- \$4.88 preliminary average monthly increase in 2023
- \$4.81 preliminary average monthly increase in 2024

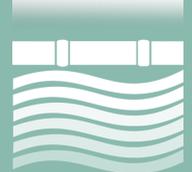


Solid Waste

Average increases: 4.4% in 2023; 4.4% in 2024

- \$2.16 preliminary average monthly increase in 2023
- \$2.26 preliminary average monthly increase in 2024

Rates go into effect in January of each year.



ENVIRONMENTAL
SERVICES
DEPARTMENT

These rates are preliminary and subject to change.

Why adjust rates?

Increased costs from inflation are the primary factors affecting our rates for 2023 and 2024. Our rates cover the cost of providing safe, reliable services, maintaining our system, protecting natural resources near our facilities, complying with regulations, and investing in upgrades that improve your services.

While we do everything we can to keep costs down, our increased costs are significant enough that our rates must also be increased to cover them. By gradually increasing rates over time, we can prevent large increases while still providing the services you rely on.

Increase costs from inflation

Like our customers, we are experiencing increased costs for equipment, fuel, personnel, and other expenses.

Supply chain shortages

Delays and difficulty buying equipment also result in increased costs and limited resources.

Postponed projects

We reduced costs during the pandemic by delaying maintenance projects that now need to continue.

Impacts of COVID-19

During the pandemic, we reduced our budget and rate increases for 2021 and 2022. Many customers also have outstanding balances following the pandemic.

Expanded payment assistance

To help our customers having difficulty paying their bills, we are also expanding our assistance programs for those who qualify.

- More customers will be able to meet the eligibility requirements.
- Income-qualified households may qualify for increased assistance of up to \$888 annually. The assistance amount depends on the number of utility services the customer receives.
- Assistance funds will cover the majority of rate increases in 2023 and 2024.

We hope this expanded assistance will help those most in need.

How we address equity when planning rates

- Providing payment assistance programs for those in need.
- Delivering equitable services to customers and visitors.
- Working to reflect the community we serve by hiring and retaining diverse employees.
- Coordinating with community groups to share information.

How we manage costs and affordability

We know rates affect you. We work hard to keep our costs down, which keeps our rates some of the lowest in the country and more affordable for everyone in our community.

- Equipment costs – we look for less expensive ways to repair or buy equipment.
- Personnel costs – we review open positions to prioritize when and where to replace or add staff.
- Payment assistance programs – customers can qualify for more funds.
- New payment resources – we added better tools to our online account systems.

How to manage your utility bills

- Budget Billing can help you manage your monthly budget. MyTPU.org/BudgetBilling
- Online payment resources provide several new options. MyTPU.org/MyAccount
- Power and water conservation can lower your costs and are good for the environment. MyTPU.org/Rebates
- Payment assistance is available, if you qualify. MyTPU.org/Assistance
- Zero-interest loans can support your energy-efficient home improvement projects. MyTPU.org/ZeroInterest
- Sewer conservation loans can help with private-side sewer repair. CityofTacoma.org/SideSewer

How you can get involved

- Read our budget proposals online.
- Attend our public meetings and outreach events.
- Submit your questions and comments through our online form.
- Subscribe to our email newsletter.

Visit MyTPU.org/Rates for details.

5206 0922





TO: Mayor and City Council

FROM: Mary Dodsworth, Parks, Recreation & Community Services Director

THROUGH: John Caulfield, City Manager 

DATE: September 26, 2022

SUBJECT: Nisqually Tribe Partnership Update

ATTACHMENTS: State legislative Information Draft
Nisqually Letter of Support
Discovery Trail sign with interpretive locations

Summary: The City and the Nisqually Tribe are engaged in a partnership project at Fort Steilacoom Park which will highlight the Nisqually Indian Tribes history and culture. The proposed project package includes interpretive signage, art and seating areas.

Background: The City and the Nisqually Indian Tribe have a positive history of collaboration and partnership. The City has been working on this particular partnership project for several years. What started as an interpretive bench project connected to the Angle Lane improvements has blossomed into a more comprehensive heritage project. After months of site visits, information sharing and planning meetings with staff and honored members of the Nisqually Indian Tribe to include the Parks Commission and Tribal Council, a package of improvements has been prepared. The various improvements will not only inform park visitors of the tribes vibrant past but also note the important current work the tribe is doing in our community.

Current Status: Improvements are planned at the following areas:

- Plaza Area: a new sign will be added to the kiosk and benches with tribal artwork will be located in the plaza area near the dog park and Waughop Lake parking lot. The sign may include historic territory map, land acknowledgement statement, photos and introduction to the Nisqually Tribe.
- Interpretive Markers: Educational information will be placed along the 1.7 mile Nisqually Loop Trail located within the park (see map on legislative document) and may include markers, artwork and other types of interpretive information to include Lushootseed language, traditional and important flora and fauna located at the park along with past and current seasonal and cultural practices.

- Chief Leschi Trailhead: The new trailhead area located at the south side of the park was identified 12 years ago on our Discovery Trail signs as the location to tell the Chief Leschi story. A new kiosk sign, artwork (which may include a sculpture) and other site amenities such as carved or steel back benches displaying tribal artwork will honor the past and present legacy of Chief Leschi and the Nisqually Indian Tribe.

Project Cost: Cost estimates for all interpretive installations including design development, fabrication, installation, and cost escalation total \$300,000. We will work with various consultants on the project to include tribal artists. The City anticipates a State Legislative request of \$250,000 with the City contributing \$50,000 towards the project.

Interpretive Concepts

Item scope	# Units	Unit cost	Construction	Casting	Design
PLAZA					
8' Wood/ NIT Steel Back Benches	4	8,000	\$25,000		\$5,000
8' Wood backless bench	5	3,000	\$15,000		\$3,000
Interpretive sign	1		\$850		\$2,500
CHIEF LESCHI TRAILHEAD					
Chief Leschi sculpture	1		\$10,000	\$100,000	\$13,000
Interpretive sign	1		\$850		\$2,500
NISQUALLY TRAIL					
Interpretive sign to include	7	8,000	\$50,000		\$30,000
Social Media Interpretive photo installation	1		\$10,000		\$5,000
Sum Total			\$111,700	\$100,000	\$61,000
Sum Total Project Costs					\$272,700
Cost escalation 2023-24 (5% / year)					\$27,300
Total Project Cost Estimate					\$300,000
State Legislative Ask		\$250,000			
City of Lakewood Allocated Funds		\$50,000			

Next Steps: If approved by Council this project will be included in the 2023-2024 State Legislative Agenda and Policy. If approved a memorandum of understanding (MOU) between the City and Nisqually Tribe will be created to formalize our partnership. Based on available funding, we will finalize the project scope, start the design process and anticipate implementing project elements in late 2023.

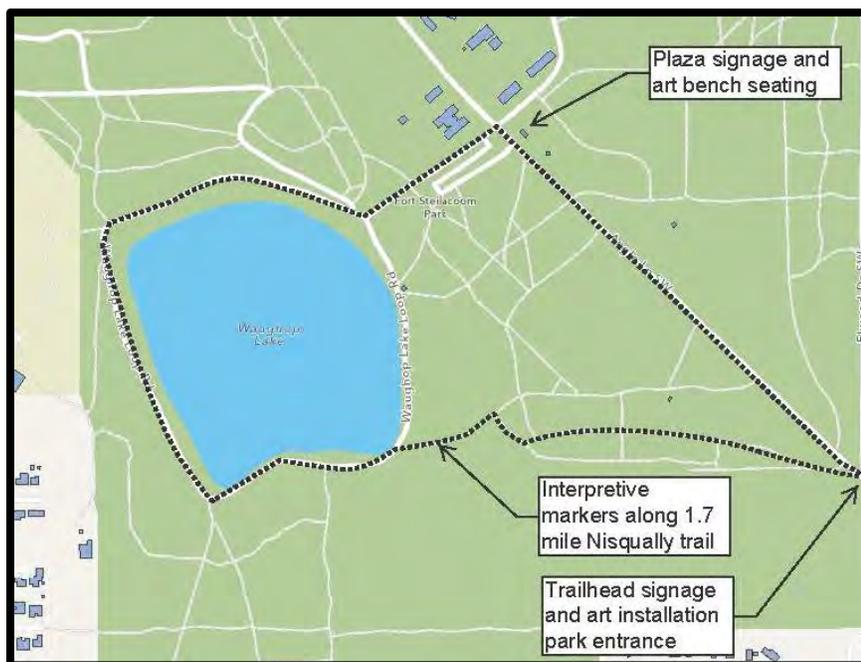


Capital Budget Request Partnership with Nisqually Indian Tribe for Fort Steilacoom Park Improvements

Request: The City requests \$250,000 for art and signage improvements at Fort Steilacoom Park related to the history and culture of the Nisqually Indian Tribe.

Background: The City of Lakewood and the Nisqually Indian Tribe are engaged in a collaborative partnership to develop interpretive installations on public lands within the City featuring the unique culture and history of the Nisqually Indian Tribe. The City and Nisqually Indian Tribe's partnership pilot project at Ft. Steilacoom Park intends to add signage, art, and interpretive information throughout the park that will provide an introduction to the Nisqually people and will include Lushootseed language. The installations incorporate information regarding Chief Leschi's legacy. Cultural interpretive markers will be installed along the 1.7 mile Nisqually Loop Trail.

Plaza Area: A new kiosk sign with historic territory map, land acknowledgement statement and introduction to Nisqually Tribe (**Figure 1**), along with new benches that include tribal artwork.



Nisqually Loop Trail: 6-8 interpretive markers featuring seasonal tribal cultural practices and/or highlighting flora and fauna endemic to the park with Lushootseed language along the trail.

Chief Leschi Trailhead: Trailhead kiosk signage (**Figure 1**) and a significant sculptural art installation at newly established park entrance honoring the past and present legacy of the tribe and Chief Leschi.



John J. Caulfield, City Manager
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NISQUALLY INDIAN TRIBE
4820 SHE-NAH-NUM DRIVE S.E.
OLYMPIA, WA 98513
Phone: (360) 456-5221

September 14, 2022

Mary Dodsworth, Director
City of Lakewood Parks, Recreation and Community Services
6000 Main Street SW, Lakewood WA 98499

Dear Mary,

The Nisqually Parks and Recreation Commission supports the City of Lakewood's proposal for funding for Fort Steilacoom Park Improvements related to the history and culture of the Nisqually Indian Tribe.

The proposed project would create artistic and interpretive installations at Fort Steilacoom that would interpret the site's importance in Nisqually history and culture.

Specific topics we anticipate including in the interpretive facilities include:

- The life and legacy of Chief Leschi;
- Cultural stewardship practices involving indigenous food and medicine plants;
- Seasonal tribal ancestral activities throughout the Tribe's Usual and Accustomed Area.

The proposed project supports a Nisqually tribal priority to tell the Tribe's story to the public throughout our ancestral homeland, which includes the area known today as Fort Steilacoom Park.

We look forward to collaborating with the City of Lakewood as this project develops.

Sincerely,

A handwritten signature in black ink that reads "Anthony Sanchez". The signature is written in a cursive, flowing style.

Anthony Sanchez, Chair
Parks and Recreation Commission

cc: Willie Frank III, Chair

DISCOVERY TRAIL

Fort Steilacoom Park



FORT STEILACOOM STORY

The land that is now Fort Steilacoom Park has been a hunting and gathering ground, a Hudson's Bay Company farm, a military base, a hospital farm and now a recreational area. The site was leased from the state for public use in 1970 and named Fort Steilacoom Park.

DISCOVERY TRAIL LEGEND

- | | |
|-------------------------------|---|
| 1 Hudson's Bay Company | 8 Native Plants |
| 2 Farming Legacy | 9 Ornamental Plant History |
| 3 Patient Cemetery | 10 Native Wildlife |
| 4 Poultry Farm | 11 Waughop Lake Geology & Plants |
| 5 Old Military Road | 12 Hill Ward Memorial |
| 6 Chief Leschi's Story | 13 Orchard |
| 7 Prairie | 14 Ethnobotany |
| Discovery Trail | Orienteering [www.CascadeOc.org] |

The Discovery Trail is a work in progress. For more information and educational material, visit www.discoverfortsteilacoom.com

FORT STEILACOOM PARK





To: Mayor and City Councilmembers
From: Heidi Ann Wachter, City Attorney
Through: John J. Caulfield, City Manager 
Date: September 26, 2022
Subject: Review of City Council Rules of Procedure

By request of the City Council, this memo addresses potential amendment of the City Council Rules of Procedure to revert to the practice of accepting Public Comment only when presented in person or via timely correspondence. While this would comport with the State officially lifting the State of Emergency implemented to address the impact of COVID, it risks violation of recent state legislation.

The statutory provisions of [chapter 42.30 RCW](#) (the Open Public Meetings Act or OPMA) as modified by the Washington State Legislature in [ESHB 1329](#), became effective on June 9, 2022.¹ The City Council received advice regarding this legislation on May 31, 2022, memorandum attached.

There are two components for consideration: First, feasibility of remote comment and second, the difficulty an individual will have attending the meeting. Because the City has been providing for remote comment at City Council and Community Board and Commission meetings for approximately two years the feasibility of remote comment is well established.

The second component puts the City in the position of demonstrating that an individual does not have sufficient difficulty attending a meeting in person to deny them virtual or telephonic access. When virtual access is feasible, it is required when an individual will have difficulty attending the meeting “by reason of disability, limited mobility, or *for any other reason* that makes physical attendance at a meeting difficult.” RCW 42.30.

Should the City discontinue virtual access it may become subject to challenge for violation of state law and the City will have to show that the person denied access had no difficulty attending the meeting in person. The “catchall” language in the statute makes it very unlikely that the City can prevail on such a challenge.

¹ <https://mrsc.org/Home/Stay-Informed/MRSC-Insight/May-2022/HB-1329-Answers-to-Your-OPMA-Questions.aspx>



TO: Mayor and City Council

THROUGH: John Caulfield, City Manager

FROM: Heidi Ann Wachter, City Attorney

RE: Requirements for remote access upon expiration of OPMA/PRA Proclamation

DATE: May 31, 2022

This is to answer a question paraphrased as follows:

Is the City required to provide virtual access to meetings upon expiration of the OPMA/PRA Proclamation under the City Council's own rules and/or ESHB 1329?

Answer:

Yes, the City is required to provide virtual access to meetings upon expiration of the OPMA/PRA Proclamation by its own rules as well as the provisions of [ESHB 1329](#).

Discussion:

During the period subject to the Governor's order to provide remote access to meetings of the City Council, the City Council considered and adopted within its own rules the requirement for remote access to all City Council meetings.¹ Thus, the requirement stands regardless of state rules.

Arguably, the City Council could rescind the locally adopted requirement for remote access to City Council meetings. However, the state law in this area has changed. While not requiring remote access, the state law now provides for such access more broadly than before. An advisory regarding the requirement to provide remote access to meetings has been offered by [Municipal Research Services Center](#):

Effective June 1, meetings subject to the Open Public Meetings Act (OPMA) are no longer required to be held remotely. The default is that meetings will again be held at a physical location. However, as MRSC's Managing Attorney Flannery Collins wrote in her blog, *The OPMA Gets an Update from the Legislature*, there are some new nuances to this based on ESHB 1329, which was enacted by the Washington State Legislature this year.

¹ [Resolution No. 2021-12 City Council Rules of Procedure](#)

Telephonic or video access to public meetings is no longer required once the proclamation expires, though it is encouraged by ESHB 1329. However, if the agency allows verbal public comment during a regular meeting, ESHB 1329 *requires* the agency — “when feasible” — to provide an option for verbal public comment to be submitted by telephonic or videoconferencing means during the meeting to:

...any individual who will have difficulty attending a meeting of the governing body of a public agency by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult...

The statute does not define what is or is not “feasible,” so agencies will need to review their meeting spaces and technology set-up in order to justify a decision to not allow remote commenting.²

The City Council has always provided public comment at Regular meetings, thus the City is required to provide a virtual option for public comment going forward. This would similarly mean that public hearings must provide a virtual option to accept public comment.

Conclusion:

Although the Governor’s order requiring that meetings be remote has been lifted, the City’s rules require remote access and recent state legislation requires remote options for public comment whenever such is allowed in person.

² [‘OPMA/PRA Proclamation Will Expire June 1,’ May 2, 2022 by Steve Gross, Municipal Research Services Center.](#)

RESOLUTION NO. 2021-12

A RESOLUTION of the City Council of the City of Lakewood, Washington, approving and authorizing an amendment to the City Council Rules of Procedure.

WHEREAS, in connection with the need of the City Council of the City of Lakewood, Washington to provide for the orderly handling of its business, the City Council has developed Rules of Procedure; and

WHEREAS, adopted by Resolution No. 1995-26 and amended several times since, most recently via Resolution No. 2017-02 in January 2017; and

WHEREAS, the Rules of Procedure which the City Council developed address a number of issues involved in handling business coming before the City Council and in processing agenda items at City Council meetings in a way that provides consistency and clarity in handling City Council action; and

WHEREAS, since the adoption and implementation of the Rules of Procedure, it has been suggested that some areas of the rules could be refined to further enhance the consistency, clarity and understanding of City Council action.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, HEREBY RESOLVES, as follows:

Section 1. That the City Council Rules of Procedure are hereby amended as reflected in the document marked as "Exhibit A," a copy of which is attached hereto, and incorporated herein by this referenced.

Section 2. This Resolution shall be in full force and effect upon passage and signatures hereon.

PASSED by the City Council this 1st day of November, 2021.

CITY OF LAKEWOOD



Don Anderson, Mayor

Attest:



Briana Schumacher, City Clerk

Approved as to form:


Heidi Ann Wachter, City Attorney



CITY COUNCIL RULES OF PROCEDURE

Adopted December 18, 1995
Amended July 15, 1996
Amended October 4, 2004
Amended March 5, 2007
Amended February 19, 2008
Amended July 16, 2012
Amended March 2, 2015
Amended January 17, 2017
Amended November 1, 2021

**CITY OF LAKEWOOD
COUNCIL RULES OF PROCEDURE**

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RULES OF PROCEDURE **CITY COUNCIL OF LAKEWOOD**

SECTION 1 - AUTHORITY

The Lakewood City Council hereby establishes the following rules for the conduct of Council meetings, proceedings and business. These rules shall be in effect upon adoption by resolution of Council and until amended or new rules are adopted in the manner provided by these rules.

SECTION 2 - COUNCIL MEETINGS

All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting of this body, except as provided in RCW Chapter 42.30.¹

The City Clerk shall be responsible for preparing agendas for all City Council meetings.

The City Clerk shall cause to be prepared action minutes of all of the Council meetings, which minutes shall contain an account of all official actions of the Council. Council meetings shall be electronically recorded and retained for the period of time as provided by State law.

2.1 Regular Meetings

The regular meetings of the City Council shall be held on the first and third Mondays of every month at sites designated by action of the City Council, in Lakewood, Washington. Regular meetings are the formal meeting of the City Council held for the purpose of conducting business, passing legislation and authorizing action by the City.

2.2 Study Sessions

Study Sessions shall constitute regular meetings pursuant to the Open Meetings Act, but shall not be considered regular meetings for the purposes of RCW 35A.12.060. Study Sessions shall be held on the second and fourth Mondays of every month at sites designated by action of the City Council. Study Sessions will be informal meetings for the purpose of discussing, investigating, reviewing or studying matters of City business with City staff for informational purposes.

Regular Council meetings and Study Sessions will begin at the hour of 7:00 p.m.

1. RCW 42.30.140 sets out four situations where a governing body may meet and not be subject to the OPMA. The most common is 42.30.140(a) Collective Bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the implementation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

If any Monday on which a meeting is scheduled falls on a legal holiday, the meeting shall be held at 7:00 p.m. on the first business day following the holiday.

Four or more Councilmembers present for the transaction of business shall constitute a quorum. Attendance and/or voting by telephone or video conference constitutes presence at the meeting.

No final action can be conducted at a Study Session.² Decisions on those issues requiring a vote will be scheduled for a Regular or Special Council meeting. The Council can, in a Study Session, provide feedback and direction to the City Manager, as needed for staff to implement properly the will of the Council.

The seating arrangement for the Council shall be by position number beginning with the lowest number from right to left as viewed from behind the dais except for the positions of Mayor and Deputy Mayor. The Mayor will be seated in the center with the Deputy Mayor seated to the Mayor's left.

Verbatim transcripts of any part or portion of the proceedings shall be made a part of the written minutes only when authorized by a majority vote of the entire Council made at the meeting or study session wherein such request for a verbatim report is made.

2.3 Special Meetings

A Special Meeting is any Council meeting other than the Regular Council meetings or Study Sessions. A Special Council meeting may be scheduled by the City Manager or Mayor at the request of a majority of the Councilmembers upon notification to the City Manager or City Clerk. Notice of special meetings shall comply with the law of the State of Washington in effect at the time of the meeting.

2.4 Emergency Meetings

An emergency meeting deals with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of a 24-hour notice would make notice impractical and increase the likelihood of such injury or damage. Emergency meetings may be called by the City Manager or the Mayor without the minimum 24 hours advance notice that would otherwise apply.

2. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance. 'The Open Public Meetings Act- How it Applies to Washington Cities, Counties, and Special Purpose Districts', citing RCW 42.30.020 (3) at page 6, MRSC Report No. 60, revised, June 2014.

2.5 Executive Sessions

An Executive Session is that part of a Council meeting that is closed except to the City Council, City Manager, and authorized staff members and/or consultants authorized by the City Manager in accordance with the Open Public Meetings Act (OPMA). The public is restricted from attendance. Executive Sessions may be held during Regular, Study Sessions, or Special Council meetings and will be announced by the Mayor.

Before convening an Executive Session, the Mayor or Presiding Officer shall announce the purpose of the meeting, cite and announce the OPMA exemption to which the purpose applies and the anticipated time when the session will be concluded. Should the session require more time, a public announcement shall be made that the meeting is being extended.³

All matters discussed in an Executive Session are strictly confidential. RCW 42.23.070 prohibits disclosure of confidential information learned by reason of the official position of a City officer.

2.6 Cancellation of Meetings

Meetings may be canceled by the Mayor or a majority vote of the Council and proper notice given by the City Clerk.

SECTION 3 - ORDER OF BUSINESS OF REGULAR MEETING COUNCIL AGENDA

All items to be included on the Council's agenda for consideration should be submitted to the City Clerk, in full by 3:00 p.m. on the Tuesday preceding each regular Council meeting. The City Clerk and City Manager shall then prepare a proposed agenda according to the order of business, for approval by the Mayor, or his/her designee. A final agenda will then be prepared by the City Clerk and distributed to Councilmembers as the official agenda for the meeting.

An item may be placed on a Council meeting agenda by any of the following methods:

1. Council consensus as determined by the Mayor.
2. By the City Manager.
3. By the Mayor.
4. By any two (2) Councilmembers.

The agenda format of the Regular City Council meeting shall be as follows except that if an agenda section contains no scheduled items, that section will be deleted from a particular agenda.

3. RCW 42.30.110 Executive Sessions.

3.1 Call to order

The Mayor shall call the meeting to order. Councilmembers may request to be excused from a meeting by requesting the same of the Mayor and so notifying the City Clerk.

3.2 Roll call

The City Clerk will call the roll.

3.3 Pledge of Allegiance

Councilmembers and, at times, invited guests will lead the Pledge of Allegiance to the Flag.

3.4 Proclamations and Presentations

A proclamation is defined as an official announcement made by the Mayor or the City Council.

City Council proclamations are made for the purpose of recognition of an individual, group or event. City Council Proclamations shall be publicly read at a City Council meeting and presented to a representative(s) of the event during the Council meeting.

Mayor's Proclamations are made for the purpose of recognition of an individual, group or event and which are typically requested by and for a special interest group within the City. Mayor's Proclamations are signed by the Mayor and forwarded to a representative of the event.

The Mayor and City Manager shall determine if the Proclamation request is for a City Council Proclamation or a Mayor's Proclamation.

A presentation is defined as an official report presented by an individual(s) and/ or special interest group at a City Council meeting. This may also include specific items brought forward at the request of the City Manager in order to properly brief the City Council and public about City business and/or matters of public concern.

3.5 Public Comments

Members of the audience may comment on items relating to any matter related to City business under the "Public Comments" period. Comments are limited to three (3) minutes per person, but may be shortened to accommodate a large number of speakers in the time set by the Mayor. If the amount of time per person is shortened, this will be announced at the outset of the Public Comment portion of the agenda and will apply to all members of the audience. The Mayor shall determine the overall amount of time set for "Public Comments."

Public comments sign-up forms will be available at the City Clerk's desk at each meeting for use of those who wish to address the Council in person.

Individuals making comments by phone or video conference will be called upon from the virtual queue. The City Clerk shall serve as timekeeper.

At the first regular meeting each month, in-person comments will be called to speak first and at the second regular meeting each month phone and video conference comments will be called to speak first.

In addressing the Council, each person should give his/her name and city of residence, and unless further time is given by the presiding officer, shall limit his/her comments to three minutes. Meeting minutes of comments shall reflect identification of speakers as speakers identify themselves. All remarks shall be made to the Council as a body and not to any individual member.

No person shall be permitted to enter into any discussion from the floor without first being recognized by the Presiding Officer.

Written comments may be provided in advance by mail or email. Send comments to the City Clerk for distribution to the City Council. Comments received up to one hour before the meeting will be provided to the City Council in advance of the meeting and meeting minutes shall reflect receipt of these comments.

3.6 Consent Agenda

Approval of the Consent Agenda is considered to be routine and non-controversial, may be approved by a majority vote after a motion and a second. Items on the Consent Agenda include but are not limited to the following:

- a. Approval of minutes.
- b. Fixing dates for public hearings, when such is required by law.
- c. Fixing dates for hearings on appeals.
- d. Approval of claims and vouchers, bid awards and contracts.
- e. Passage of resolutions and/or ordinances which the City Council has given direction to place on the consent agenda.
- f. Items Filed in the Office of the City Clerk (minutes and/or reports of Committees, Boards and Commissions).
- g. Appointments of individuals to committees, boards and commissions.
- h. Other items designated by the City Council.

Any Councilmember may remove any item from the Consent Agenda for separate discussion and action. The City Clerk or designee shall read the Consent Agenda.

3.7 Regular Agenda

3.8 Public Hearings and Appeals

Public hearings shall be held as required by law and shall follow the legally proscribed process. Public hearings may also be held at the request of the Council even though not legally required. In such instance, the process shall be as proscribed for that hearing by Council.

3.9 Ordinances

All ordinances shall be prepared or reviewed by the City Attorney. No ordinance shall be prepared for presentation to the Council, unless requested by a majority of the Council, or requested by the City Manager or City Attorney.

Ordinances will be introduced and enacted by an Ordinance Number.

The City Clerk or designee shall read the title of the ordinance prior to voting unless the ordinance is on the Consent Agenda.

Upon enactment of the ordinance, the City Clerk shall obtain the signature of the City Attorney and the Mayor. After the Mayor's signature, the City Clerk shall sign the ordinance.

Ordinances, or ordinance summaries, shall be published in the official newspaper as provided by law.

3.10 Resolutions

Introduction, reading by agenda title and voting upon resolutions. A resolution is adoption of a City policy or decision.

3.11 Unfinished Business

Motions and other unfinished business of a general nature.

3.12 New Business

Motions and business which has not previously been before the City Council.

3.13 Reports by the City Manager

The City Manager may update Councilmembers on current issues or items of Council interest.

3.14 City Council Comments

The Mayor and Councilmembers may take this opportunity to make comments, extend compliments, express concerns, report to the Council as Board, Committee and Commission liaisons, or make announcements concerning any topic they wish to share.

3.15 Adjournment

Recess - The foregoing agenda may be interrupted for a stated time as called by the Presiding Officer to recess for any reason, including executive sessions.

SECTION 4 - ORDER OF BUSINESS OF COUNCIL STUDY SESSION AGENDA

4.1 Call to Order

4.2 Items for Discussion

4.3 Reports by the City Manager

4.4 City Council Comments

4.5 Adjournment

SECTION 5 - COUNCILMEMBER ATTENDANCE AT MEETINGS

Councilmembers will inform the Mayor, City Manager or City Clerk if they are unable to attend any Council meeting, or if they knowingly will be late to any meeting. The minutes will show the Councilmember as having an excused absence. Attendance at Council Study Sessions are not mandatory and will not be considered for purposes of RCW 35A.12.060.

SECTION 6 - PRESIDING OFFICER - DUTIES

6.1 Conduct of Meetings

The Presiding Officer at all meetings of the Council shall be the Mayor and in the absence of the Mayor, the Deputy Mayor will act in that capacity. In the absence of the Mayor appointing a temporary Presiding Officer, if both the Mayor and Deputy Mayor are absent and a quorum is present, the Council shall elect one of its members to serve as Presiding Officer until the return of the Mayor or Deputy Mayor.

6.2 The Presiding Officer:

- a. Shall preserve order and decorum at all meetings of the Council and to cause the removal of any person from any meeting for disorderly conduct;
- b. Shall observe and enforce all rules adopted by the Council;

- c. Shall decide all questions on order, in accordance with Roberts Rules of Order or, if not applicable, with these rules, subject to appeal by any Councilmember;
- d. Shall recognize Councilmembers in the order in which they request the floor. The Presiding Officer, as a Councilmember, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Councilmembers;
- e. May affix approximate time limit for each agenda item;
- f. When matters on the agenda are placed under more than one classification, as defined by "Order of Business," and involve or are closely related to the same subject matter, then and in that event, the Presiding Officer may, within the presiding officer's discretion, without the necessity of any vote thereon, consider and vote on all of such matters, notwithstanding their different places on the agenda.

SECTION 7 - COUNCILMEMBERS

7.1 Speaking

Councilmembers desiring to speak shall address the Presiding Officer, and when recognized, shall confine him/herself to the question under debate and avoid repetitive discussion or arguments.

7.2 Questioning

Any member of the Council, including the Presiding Officer, shall have the right to question an individual, including members of the staff, on matters germane to the issue properly before the Council for discussion. Under no circumstances shall such questioning be conducted in a manner to the extent that such would constitute a cross-examination of or an attempt to ridicule or degrade the individual.

7.3 Conflict of Interest

Councilmembers are subject to the provisions of the City of Lakewood's Code of Ethics and should refer to that document in questions of Conflict of Interest.

SECTION 8 - DEBATES

8.1 Interruption

No member of the Council, including the Presiding Officer, shall interrupt or argue with any other member while such member has the floor, other than the Presiding Officer's duty to preserve order during meetings as provided in Section 6.2a of these rules.

8.2 Courtesy

All speakers, including members of the Council, which includes the Presiding Officer, in the discussion, comments, or debate of any matter or issue shall address their remarks to the Presiding Officer, be courteous in their language and deportment, and shall not engage in or discuss or comment on personalities, or indulge in insinuations with respect to any other member of the Council, or any member of the staff or the public, but shall at all times confine their remarks to those facts which are germane and relevant to the question or matter under discussion.

8.3 Transgression

If a member of the Council shall transgress these rules on debates, the Presiding Officer shall call such member to order, in which case such member shall be silent except to explain or continue in order. If the Presiding Officer shall transgress these rules on debate or fail to call such member to order, any other member of the Council may, under a point of order, call the Presiding Officer or such other member to order, in which case the Presiding Officer or such member, as the case may be, shall be silent except to explain or continue in order.

8.4 Challenge to Ruling

Any member of the Council, including the Presiding Officer, shall have the right to challenge any action or ruling of the Presiding Officer, or member, as the case may be, in which case the decision of the majority of the members of the Council present, including the Presiding Officer, shall govern.

8.5 City Manager

The City Manager shall have the right to enter into a discussion of any matter coming before the City Council.

SECTION 9 - PARLIAMENTARY PROCEDURES AND MOTIONS

Questions of parliamentary procedure, not covered by these rules, shall be governed by Robert's Rules of Order.

SECTION 10 - VOTING

10.1 Voice Vote

A generalized verbal indication by the Council as a whole of "yea" or "nay" vote on a matter, the outcome of which vote shall be recorded in the official minutes of the Council. Silence of a Councilmember during a voice vote shall be recorded as a vote with the prevailing side. Each member present must vote on all questions before the Council and may abstain only for reasons acceptable to a majority of the Council such as stated conflict of interest of an issue of appearance of fairness.

SECTION 11 - MAYOR/DEPUTY MAYOR/COUNCILMEMBER PRO TEMPORE SELECTION PROCESS

Biennially at the first regularly scheduled meeting in January, the Councilmembers shall choose by majority vote, a chairperson from among themselves, and such person shall be titled Mayor. The Mayor shall continue to have all rights, privileges and immunities of a member of the Council and shall serve for a two-year term.

Biennially at the first regularly scheduled meeting in January, the Councilmembers shall choose a Deputy Mayor from the members thereof, by majority vote. The Deputy Mayor shall serve in the absence or temporary disability of the Mayor.

In the event of extended excused absences or disability of a Councilmember, the remaining members by majority vote may appoint a Councilmember Pro Tempore to serve during the absence or disability.

SECTION 12 - COUNCIL POSITION VACANCY

In the event that an unexpired Council position becomes vacant, the City Council has ninety (90) days from the occurrence of the vacancy to appoint, by majority vote of a quorum of the Council, a qualified person to fill the vacancy pursuant to State law. The Council may make such appointment at its next regular meeting, or at a special meeting called for that purpose. If the Council does not appoint a person within the ninety day period, the Mayor may make the appointment from among the persons nominated by members of the Council.

SECTION 13 - COUNCIL MEETING STAFFING

13.1 City Manager

The City Manager shall attend all meetings of the Council unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in the discussions of the Council, but shall have no vote. When the City Manager has an excused absence, the designated Acting City Manager shall attend the meeting. The City Manager shall notify Council who will be the Acting City Manager in his/her absence.

13.2 City Attorney

The City Attorney shall attend all meetings of the Council unless excused, and shall upon request; give an opinion, either written or oral, on legal questions. The City Attorney shall act as the Council's parliamentarian. The Acting City Attorney shall attend meetings when the City Attorney has been excused.

13.3 City Clerk

The City Clerk, or designee, shall attend all meetings of the Council, keep the official journal (minutes), and perform such other duties as may be needed for the orderly conduct of the meeting. The Acting City Clerk shall attend meetings when the City Clerk has been excused.

SECTION 14 - COUNCIL RELATIONS WITH STAFF⁴

There will be mutual respect from both City staff and Councilmembers of their respective roles and responsibilities when, and if, expressing criticism in a public meeting. City staff will acknowledge the Council as policy makers, and the Councilmembers will acknowledge City staff as administering the Council's policies.

All written informational material requested by individual Councilmembers shall be transmitted after approval of the City Manager, to all Councilmembers. RCW 35A.13.120 prohibits any Councilmember from directing staff in any way.

Councilmembers shall not attempt to coerce or influence City staff in the selection of personnel, the awarding of contracts, the selection of consultants, the processing of development applications or the granting of City licenses or permits.

Councilmembers shall not attempt to change or interfere with the operating rules and practices of any City department.

No Councilmember shall direct the City Manager to initiate any action or prepare any report that is significant in nature, or initiate any project or study without the consent of a majority of the Council.

Individual requests for information can be made to the City Manager with a copy to the appropriate Department Director. If the request has any potential to create a change in work assignments or City staffing levels, the City Manager may refer the individual Councilmember to the full Council.

Council shall direct citizen inquiries to the City Manager for referral to the appropriate department(s) for a response. The City Manager shall keep the Council informed on the disposition of citizen inquiries.

SECTION 15 - COUNCIL REPRESENTATION

If a Councilmember appears on behalf of the City before another governmental agency, a community organization, or through the media, for the purpose of commenting on an issue, the Councilmember must state the majority position of the Council, if known, on such issue. Personal opinions and comments which differ from the Council majority may be expressed if the Councilmember clarifies that these statements do not represent the Council's position.

⁴ RCW 35A.13.120 City Manager – Interference by councilmembers.

Councilmembers need to have other Councilmember's concurrence before representing another Councilmember's view or position with the media, another government agency or community organization.

SECTION 16 - CONFIDENTIALITY

RCW 42.23.070 prohibits disclosure of confidential information learned by reason of the official position of a City officer. Councilmembers must keep information provided to them in their official capacity confidential to ensure that the City's position is not compromised.

Any and all requests for public disclosure directed to Councilmembers, either individually or collectively, must be referred to the City Attorney and Council members are expected to coordinate legally compliant responses with the City Attorney.

SECTION 17 – ELECTRONIC MEDIA AND COMMUNICATION

City business shall be conducted exclusively on City issued equipment. Such equipment shall be maintained by the City. Councilmembers shall not use their email accounts to deliberate, discuss, consider, review, evaluate and take final actions, as amongst themselves, on any official business of the City.

Emails which request a Councilmember's attendance at a public event, or which may be potentially deliberative shall be forwarded to the City Manager's Office for distribution to the Council and/or placed on the Council's agenda, as appropriate.

City Council Rules of Procedure:

Adopted December 18, 1995	Resolution No. 1995-26
Amended July 15, 1996	Resolution No. 1996-24
Amended October 4, 2004	Resolution No. 2004-22
Amended March 5, 2007	Resolution No. 2007-04
Amended February 19, 2008	Resolution No. 2008-06
Amended July 16, 2012	Resolution No. 2012-24
Amended March 2, 2015	Resolution No. 2015-07
Amended January 17, 2017	Resolution No. 2017-02
Amended November 1, 2021	Resolution No. 2021-12