SECTION 9.1000
TREE REGULATIONS

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General

9.1010 Purpose and General Standards

The city of Gresham benefits from a large number of trees consisting both of natural growth and those planted throughout the years. The retention and establishment of trees adds to the livability of the community by enhancing its aesthetic beauty, minimizing surface water and groundwater run-off and diversion, filtering noise and air pollution, and promoting soil stability. Because uncontrolled cutting or destruction of trees within the city decreases the community's livability, it is in the public interest to preserve significant trees, to control the cutting of trees, and to protect trees from damage during construction and from improper pruning.

9.1011 Applicability

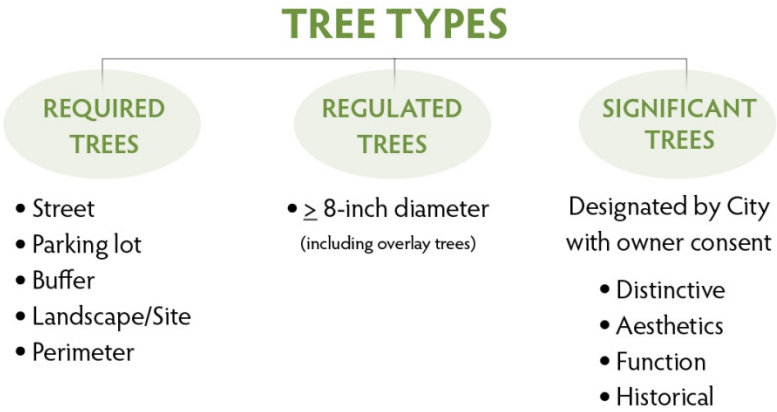
It is the intent of this section to provide for tree protection and the safe, orderly removal and replacement of trees on developed and undeveloped sites, and to provide for good stewardship of the urban forest. All land within the city of Gresham is subject to the Tree Protection, Removal and Replacement regulations of **Sections 9.1012-9.1040**. References to the term Special Purpose Overlay Districts in **Section 9.1000** refer to the Floodplain Overlay District, Hillside Physical Constraint Overlay District, the Gresham Butte Scenic View Overlay District, and the Habitat Conservation Area Overlay District.

Note: Most images, including photographs and illustrations that follow, are not part of the Development Code and do not act as Standards, unless labeled with a Development Code section number. These images are provided to assist the readers in envisioning the intent of the Standards.

9.1012 Required, Regulated and Significant Tree Types

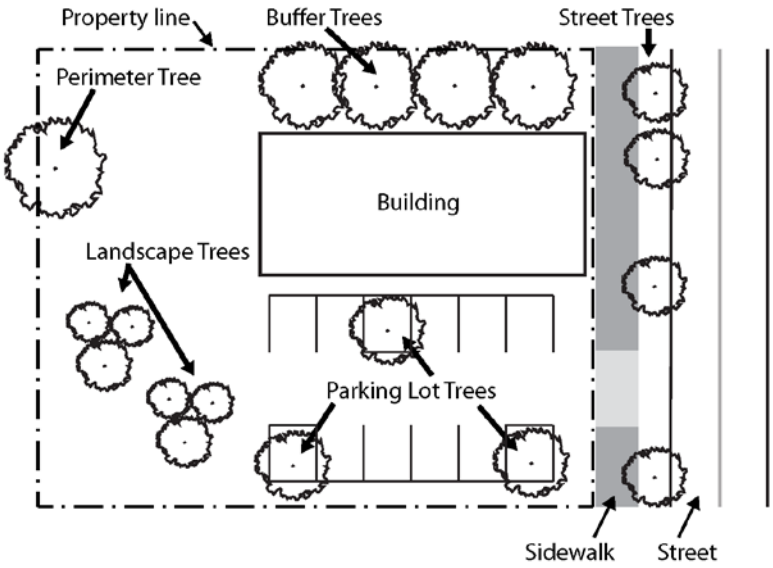
The category of protected trees referenced throughout the Development Code primarily include those listed in Diagram 1.

Diagram 1. Development Code Protected Tree Types



A. Required Trees, as defined in **Article 3**, are illustrated in **Diagram 2.A**.

Diagram 2.A. Illustration of Required Trees in Gresham's Development Code

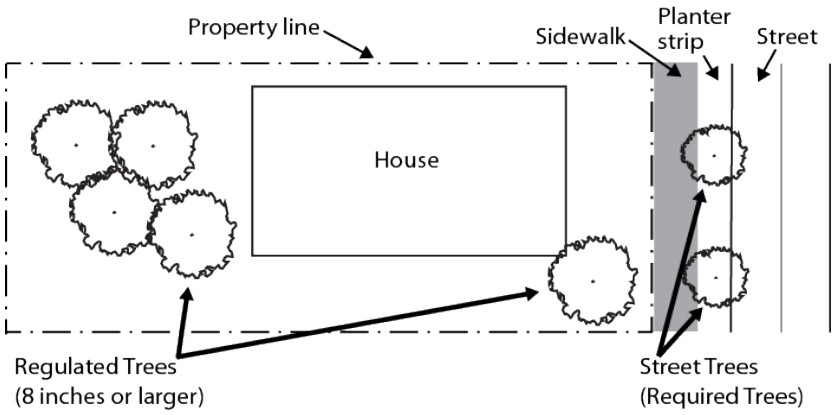


KEY

- **Street Tree** – A tree within the right of way between the curb or edge of roadway, and the property line and trees located in a median.
- **Buffer Tree** – An evergreen or deciduous tree that has been approved as part of a buffering and screening plan.
- **Perimeter Tree** – A tree located within 5 feet of either side of a property line. Does not include trees in the public right-of-way or within 5 feet of the public right-of-way.
- **Landscape Tree** – A tree that was approved as part of a landscaping plan, including "site" trees per Article 7.
- **Parking Lot Tree** – A tree that was approved as part of a parking lot plan.

B. Regulated Trees, as defined in **Article 3**, are illustrated in **Diagram 2.B**.

Diagram 2.B. Illustration of Regulated Trees in Gresham's Development Code



Key

Regulated Tree – A tree that has a Diameter at Breast Height (DBH) of 8 inches or greater, including trees located in the Special Purpose Overlay Districts. Regulated Trees are not Required or Significant Trees.

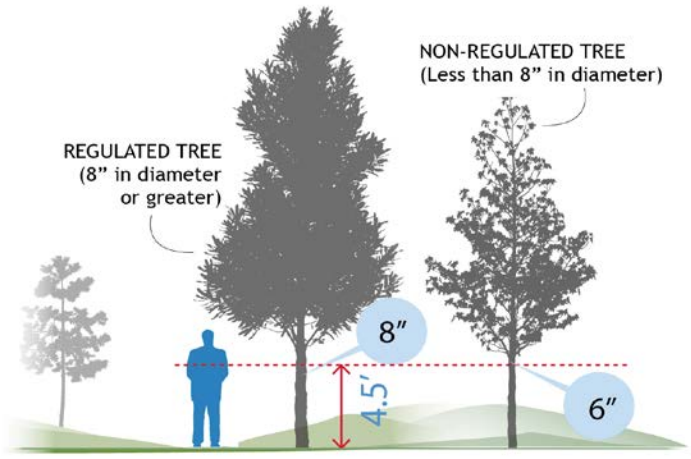


Illustration of Regulated Tree size, which is an 8-inch diameter tree measured at breast height (DBH) (4.5 feet); and what is considered a Non-Regulated Tree (less than 8 inches in diameter).

9.1013 Tree Dimension Standards

For all types of trees referenced in the Development Code, there are a number of dimension provisions related to tree replacement size as well as mature height and spread. The common tree dimension standards are listed in **Table 9.1013** of this subsection and only apply to trees that are required to be planted. The table is frequently referenced by standards in **Section 9.1000** and those found in the Design Districts. The trees must meet the minimum size requirements or approved by the Manager and shall be capable of meeting the minimum height and spread dimensions at maturity.

Table 9.1013 Minimum Size, Height and Spread Standards for Trees Planted in Accordance with the Development Code

Tree Type	**Minimum Size (caliper inches, unless noted otherwise)**	**Minimum Height at Maturity (feet)**	**Minimum Spread at Maturity (feet)**
Street	1.75	Per Approved Tree List	Per Approved Tree List
Street (intersection clear vision)	2.0	Per Approved Tree List	Per Approved Tree List
Parking Lot	2.0	35	35
Buffer	Deciduous= 2.5 Evergreen = 8 feet	Deciduous = 25 Evergreen = none	Deciduous = 25 Evergreen = none
Perimeter	1.75	none	none
Significant	2.0	none	none
Landscape /Site (single-family attached)	1.5 Evergreen = 6 feet	25	none
Landscape/Site (deciduous / design district)	2.5	25	none
Landscape/Site (ornamental/ design district)	2.0	none	none

9.1014 Approved Tree List for Required Trees

To encourage trees to be planted in the right place where they can thrive and not cause unintended property damage, all Required Trees planted within the city shall be selected from the Approved Tree List and be appropriate for the location, as approved by the Manager. Manager approval is required when a tree that is not on the Approved Tree List is proposed to be planted.

9.1020 Standards for Single-Family Detached Dwellings, Duplexes and Single-Family Attached Dwellings

This section provides rules for tree protection, removal and replacement that apply to the following uses or other similar uses as determined by the Manager.

- Single-family detached dwellings
- Duplexes
- Single-family attached dwellings
- Residential Homes

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1021**, tree removal provisions of **Section 9.1026** and tree replacement provisions of **Section 9.1027**.

9.1021 Exemptions

A. Removal of Regulated Trees (not "Required Trees" or "Significant Trees") for lots developed with or in a land use district designated for development of uses listed in 9.1020 are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:

1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and

2. The Regulated Trees are not in an overlay district; and

3. The Regulated Trees are not designated as Significant Trees.

4. The number of Regulated Trees removed does not exceed the following thresholds per 12-month period from the time a permit is issued:

a. For commonly owned, contiguous parcels less than 35,000 square feet: up to three Regulated Trees; or

b. For commonly owned, contiguous parcels equal to or greater than 35,000 square feet: up to six Regulated Trees.

B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks, trails and open space. Trees may be removed, or pruned in accordance with the pruning standards in **Subsection 9.1040(A)**, when the tree removal or pruning is necessary to accomplish a public purpose, including but not limited to the installation of public facilities and utilities in the right-of-way or general utility easement, habitat restoration activities, or for construction of a public street, public trail or path, public park or public urban plaza.

C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or general utility easement, if such pruning is necessary and in accordance with state law to avoid contact with the electric facilities.

During Development

9.1022 Tree Protection During Development

A. Regulated, Required and Significant Trees. An applicant for a development permit that involves construction, installation or alteration of building or other structures, including a home addition or accessory structure, that leads to construction equipment inside the protected area of Regulated, Required, or Significant Trees to remain on the site, or:

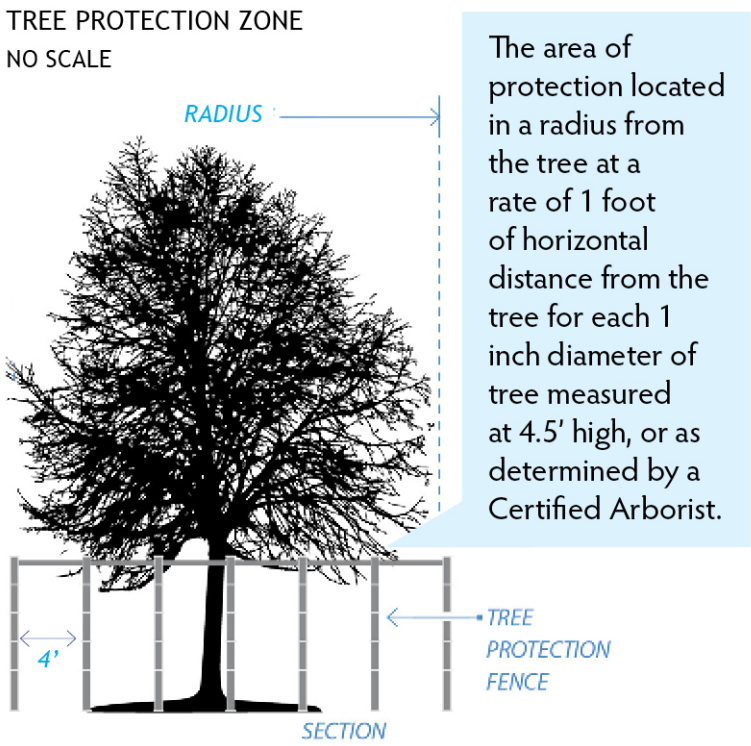
- an increase in building area or impervious surface;
- a new driveway;
- drilling, dredging, paving, excavating or clearing; or
- other activities that involve construction;

shall provide facts and evidence sufficient to enable the approval authority to make a determination in compliance with the criteria set forth in **Section 9.1022 (B)** through **(F)**, including submittal requirements requested on relevant submittal checklists maintained by the Manager.

B. Regulated, Required and Significant Trees/Significant Grove to Remain. A Tree Protection Plan shall designate as protected all Regulated, Required and Significant Trees/Significant Groves that are to remain on the site after development is complete and other trees recommended for protection by the Certified Arborist preparing the plan, if a Certified Arborist is required below. The Tree Protection Plan demonstrating all proposed tree protection is required by all applicants but only required to be prepared by a Certified Arborist if activity (including but not limited to: construction equipment traffic/maneuvering, material storage, and grading) is proposed within the tree protection zone.

A tree protection zone shall be installed with protective fencing around all Regulated, Required, and Significant Trees/Significant Grove to remain on site and shall be located in a radius from the tree at a rate of 1 foot of horizontal distance from the tree for each 1-inch diameter of tree, or as determined by a Certified Arborist. For a Significant Grove, the perimeter of the grove shall be where the area of protection is located with the radius measured from each tree located along the perimeter of the grove, or as determined by a Certified Arborist.

Figure 9.1022 Illustration of a Tree Protection Zone



C. Significant Tree(s). When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s) abutting the site shall be preserved and protected as specified in Subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s) on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a Certified Arborist determines that the tree can be protected adequately with less distance.

1. The Manager, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to 50 percent if necessary to retain a Significant Tree or Trees. The adjustment shall be the minimum necessary to accomplish preservation of trees on site and shall not conflict with other conditions placed on the property.

2. The Manager, pursuant to a Type II procedure, may grant a five percent reduction to the lot size and ten percent reduction to the lot width and lot depth standards in approving a subdivision or partition if necessary to retain a Significant Tree or Trees.

3. The Manager, pursuant to a Type II procedure, may allow a property owner to cut a specific number of trees within a Significant Grove of trees if preserving those trees would:

   a. Cause the loss of ten percent or more of the total number of allowed lots or units, or

   b. Cause an increase of five percent or more in the cost of installing on-site utilities.

D. No trees designated for protection or conservation shall be removed without prior written approval from the Manager.

E. Tree protection measures can be recommended by a Certified Arborist or, shall as a minimum, include the following protective measures:

1. Prior to any grubbing, clearing, grading, parking, preparation or storage of materials or machinery, or other construction activity on the site, all trees to be protected on the project site and adjacent to the site shall be clearly identified and temporary fencing shall be installed at the perimeter of the Tree Protection Zone. Protective fencing shall be of a material that cannot easily be moved, removed, or broken during construction activities. Chain link fencing a minimum of 4 feet in height is preferred. An alternative Tree Protection Zone fencing material secured by metal posts staked at no more than 4 feet on center around the Tree Protection Zone, as illustrated in **Figure 9.1022**, of the tree or grove may be used with the approval of the Manager.
2. No soil compaction or removal of vegetation or tree branches within the Tree Protection Zone shall be allowed during construction, except as outlined by a Certified Arborist in a submitted Tree Protection Plan.
3. No machinery repair or cleaning shall be performed within 10 feet of the Tree Protection Zone of any trees identified for protection.
4. Digging a trench for placement of public or private utilities or other structure within the tree protection zone of a tree to be protected is prohibited.
5. The City may require that a Certified Arborist be present during any construction or grading activities that may affect trees within the tree protection zone.

F. Changes in soil hydrology and site drainage within the tree protection zone shall be minimized. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.

9.1023 Street Tree Planting During Development

A. A street tree plan shall be submitted for approval with a tentative partition, subdivision plan, Planned Development or design review. The street tree plan shall show tree spacing, number of trees and their location and meet all required characteristics noted in the submittal requirements provided by the Manager.

B. Street trees of a minimum 1.75-inch caliper are required when a land use or building permit requires street trees.

C. Except for single-family attached dwellings, street trees shall be planted every 30 feet on all street classifications, with the following additional standards:

1. On streets with a collector or higher classification, each lot, except flag lots, shall have a minimum of two trees if an interior lot and three trees if a corner lot.

2. On Local Streets: a tree is required to be planted every 30 feet along the outer curve of a cul-de-sac right-of-way.

D. For single-family attached dwellings, each lot, except flag lots, shall have a minimum of one street tree per frontage.

E. Street trees shall be located at least 15 feet from street lights, 15 feet from stormwater catch basins, and 5 feet from driveway cuts or underground public utilities.

F. No street trees shall be planted in the right-of-way within 12 feet of the nearside of the crosswalk on the vehicular approach side of the street at street intersections.

G. Street trees shall be selected from the City's Approved Tree List or other varieties as approved by the Manager.

H. The intent of the Code is that required Street Trees are planted when feasible. If site constraints make it infeasible to plant all required Street Trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required Street Tree not planted. The fee contribution shall be established by Council resolution. A tree fund contribution shall be approved by the Manager only when:

1. One of the following conflicts exists that makes planting infeasible:

a. One or more of the standards in **Section 9.1023(E)** through **(F)** make it infeasible to plant a tree because insufficient room remains; or

b. The development does not include planter strips that are at least 3 feet wide to accommodate the required street trees; or

c. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or

d. Other similar site constraints make it physically infeasible to plant the Street Tree(s), as determined by the Manager; and

2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering the sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

9.1024 Tree Removal During Development

A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.

B. Regulated and Required Trees within 10 feet of the footprint of a proposed single-family dwelling, addition or improvement may be removed with the issuance of a building permit.

C. Removal of Required and Significant Trees not removed in accordance with **Section 9.1024(B)**, except for trees in the Special Purpose Overlay Districts, shall meet the following standards:

1. Buffer trees and street trees may be removed during construction but shall be replaced in accordance with **Section 9.1025**.

2. Significant Trees shall be preserved unless the Manager determines under a Type II procedure that the tree may be removed by meeting at least one of the following criteria:

a. The tree needs to be removed to construct proposed improvements (including but not limited to the buildings; access for construction equipment; essential grade changes needed to implement standards common to standard engineering or architectural practices; space for driveways or other improvements; solar energy equipment) and no practical alternative exists without increasing the cost by more than 5 percent or reducing construction or development safety; or

b. The tree needs to be removed consistent with good urban forestry practices or cannot be maintained because of its health and has become a hazard to public safety, to the subject property or adjacent property, to personal property or to any improvements as stated in a Certified Arborist report; or

c. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance as stated in a certified arborist report; or

d. The tree needs to be removed due to a disease as stated in a certified arborist report and to accomplish a public purpose and no practical alternative exists.

D. Regulated Trees to be removed, which includes topping, during construction in excess of the thresholds in **Section 9.1021(A)**, except trees in the Special Purpose Overlay Districts, shall be reviewed under a Type II procedure.

E. All Type II tree removal permits shall adhere to the following retention criteria:

1. Trees shall be retained along Water Quality Resource Areas (as described in **Section 5.0417)** and within Habitat Conservation Area Class 1 riparian areas (as described in **Table 5.0414(A)** according to disturbance limits described within **Section 5.0400)**. A mitigation plan, prepared by a qualified natural resource specialist such as a botanist, ecologist, geomorphologist or professional wetland scientist, shall accompany any tree removal or grading plan proposed along a Water Quality Resource Areas (as described in **Section 5.0417**).

2. Conifers shall be retained in sufficiently large areas and in dense stands to ensure against wind throw.

3. The Manager may require a proposed structure to be relocated to retain trees if the relocation can be accomplished within the required setbacks and without increasing costs to the proposed development by more than 2 percent of the total improvement value, excluding land cost.

4. Any required mitigation shall be guaranteed prior to issuance of a grading permit for any portion of the site.

5. The Manager may require a mitigation plan or wind throw assessment to be provided by a Certified Arborist or a registered landscape architect.

F. When tree removal proposed is clear cutting, such clear cutting shall be allowed only when development occurs concurrently under the following conditions:

1. Shall be reviewed under a design review tree removal permit or with the issuance of a building permit when the use does not require the design review process.

2. Clear cutting shall not begin until after the applicant has obtained all development permits including the issuance of any building permits, and/or any other applicable permits necessary to ensure completion of the proposed development, and after the applicant has filed with the City a financial guarantee for landscape mitigation based on an approved plan; and

a. Erosion control measures as required under **Section 9.0514** and the Building Code shall be implemented on the site prior to the commencement of any clear cutting; and

b. Landscaping shall be required and reviewed during the design review process to mitigate the loss of existing vegetation that provides erosion control and tree canopy.

G. Tree removal in a Special Purpose Overlay District shall meet the applicable removal standards of **Section 9.1000**. All replacement requirements shall comply with applicable provisions of the Special Purpose Overlay Districts:

1. Street trees, buffer trees and landscape trees may be removed in accordance with **Subsection 9.1024(C)(1)** and shall be replaced when applicable in accordance with **Section 9.1025**; and

2. Significant Trees may be removed in accordance with **Section 9.1024(C)(2)**; and

3. For Regulated Trees:

a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List; and

b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure; and

c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure; and

d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure; and

e. Type II tree removals shall meet the standards of **Section 9.1024 (E**), and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading; and

f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1026(D**). The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision

and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

9.1025 Tree Replacement for Trees Removed During Development

A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in **Section 9.1013**:

1. Buffer trees and landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager; and

2. Street trees shall meet the street tree plan or the spacing requirements in **Section 9.1023**. If replanting is not feasible because of site constraints, the standards of **Section 9.1023(H)** would apply.

B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

Post Development

9.1026 Tree Removal Post Development

A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.

B. The removal of the following Required Trees shall follow a Type I procedure and meet the following standards:

1. Street trees may be removed at the property owners' discretion and shall be replaced in accordance with **Section 9.1027**. Replacement is required if the planter strip is at least 3 feet wide and tree planting is feasible given the tree spacing and locational standards of **Section 9.1023**. If the planter strip is less than 3 feet or planting is not feasible, no replacement is required.

2. Buffer trees may be removed at the property owners' discretion and shall be replaced in accordance with **Section 9.1027**.

3. Landscape/site trees may be removed at the property owners' discretion and shall be replaced in accordance with **Section 9.1027**.

C. Removal of Regulated Trees, which includes topping, that exceed the thresholds in **Section 9.1021** shall follow a Type II procedure.

D. Removal of Required and Regulated Trees that meet the definition of Imminent Hazard Tree or Hazard Tree, and which cannot be retained as a Habitat Tree due to proximity of a target, such as a person or property, or that cannot be moved or altered shall meet the following standards:

1. Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning or other horticultural methods may be removed immediately. Within 10 business days after the tree is removed, an application shall be filed for a Type I tree removal permit that is accompanied by documentation of the imminent hazard, such as a photograph, a report from a Certified Arborist, a signed statement from a public safety official (such as a police or fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. An Imminent Hazard Tree removed shall not count toward the number of trees removed in a 12-month period used to determine if tree removals are exempt from a development permit in **Section 9.1021**.
2. Removal of Required or Regulated Trees that are hazardous but do not present an imminent hazard to the safety of people or protection of property shall be reviewed under a Type I procedure, except for Significant Trees, the removal of which shall be reviewed under a Type II procedure as required by **Section 9.1026(E)**.

E. Tree Removals in a Special Purpose Overlay District shall meet the standards of the overlay districts and the following standards:

1. Street trees, buffer trees and landscape trees may be removed in accordance with **Section 9.1026(B)** but shall be replaced when applicable in accordance with **Section 9.1027**.
2. Significant Trees may be removed in accordance with **Section 9.1024(C)(2)**.
3. For Regulated Trees:
   - **a.** Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List.
   - **b.** Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure.
   - **c.** Removal of native and non-hazardous trees shall be reviewed under a Type II procedure.
   - **d.** Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure.
   - **e.** Type II tree removals shall meet the standards of **Section 9.1024(E**), and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading.
   - **f.** Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1026(D**). The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not

required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

F. Significant Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning less than 20 percent of the tree's foliage area or other horticultural methods may be removed immediately. The following standards apply:

1. Such trees shall be automatically removed from the City's Significant Tree List by the Manager.

2. If a Significant Tree receives major pruning or is removed, the property owner shall notify the Manager within two business days and an application shall be filed for a Type I tree removal permit. The applicant shall provide documentation of the emergency, such as a photograph, a report from a certified arborist, a signed statement from a public safety official (such as a police officer, fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. When documentation is provided by someone other than a City employee, photographic evidence of the emergency and written documentation of the imminent hazard is required.

3. If a Significant Tree receives major pruning or is removed, the Manager shall notify the relevant Council Advisory Committee(s) or subcommittee(s).

G. Except for trees removed in accordance with imminent hazard provisions in subsection (F) above, no person may remove a Significant Tree without obtaining a development permit through a Type II procedure. The application shall meet at least one of the following criteria:

1. The tree needs to be removed to construct proposed improvements and no practical alternative exists without significantly increasing cost or inconvenience, or reducing safety.

2. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance.

3. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

9.1027 Tree Replacement Post Development

A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in **Section 9.1013**:

1. For buffer trees and landscape/site trees, one tree shall be planted for each tree removed in accordance with the originally approved landscape or buffer plan or consistent with those plans and the current Code as approved by the Manager.

2. For street trees, one tree shall be planted for each tree removed in accordance with the street tree master plan or the spacing requirements in **Section 9.1023**. If replanting is not feasible because of site constraints, as determined by the Manager, no replanting is required.

B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

9.1030 Standards for Other Uses (Not Including Single-Family Detached Dwellings, Duplexes and Single-Family Attached Dwellings) and Parking Lots

This section provides rules for tree protection, removal and replacement that apply to parking lots, all land divisions and other uses than those listed in **Section 9.1020**, including but not limited to:

- Attached dwellings on a single lot
- Elderly housing and residential facilities
- Manufactured dwelling parks
- Commercial uses
- Industrial uses
- Institutional uses

This section also provides rules for land designated for the uses described above, which are covered under the exemption provisions in **Section 9.1031**, tree removal provisions of **Section 9.1036** and tree replacement provisions of **Section 9.1037**.

9.1031 Exemptions

A. Removal of Regulated Trees for lots developed with or in a land use district designated for development of uses listed in 9.1030 are exempt from a development permit requirement, but a tree removal exemption form is required to be filed with the Manager, under the following conditions:

1. The Regulated Trees are not subject to conditions of approval from a previous development permit; and

2. The Regulated Trees are not in an overlay district; and

3. The Regulated Trees are not designated as Significant Trees; and

4. The number of Regulated Trees removed shall not exceed the following thresholds per 12-month period from the time a permit is issued:

a. For commonly owned, contiguous parcels less than 35,000 square feet: up to three Regulated Trees; or

b. For commonly owned, contiguous parcels equal to or greater than 35,000 square feet: up to six Regulated Trees.

B. The City of Gresham is exempt from permit requirements when it undertakes activities that are necessary for the protection of public health, safety and welfare; and when it performs maintenance of street trees in the public right-of-way and trees within designated City parks, trails and open space. Trees may be removed, or pruned in accordance with the pruning standards of **Subsection 9.1040(A)**, when the tree removal or pruning is necessary to accomplish a public purpose, including the installation of public facilities and utilities in the right-of-way or general utility easement, habitat restoration activities, or for construction of a public street, public trail or path, public park or public urban plaza.

C. An electric utility is exempt from permit requirements when pruning trees growing in the public right of way or general utility easement, if such pruning is necessary and in accordance with state law to avoid contact with the electric facilities.

During Development

9.1032 Tree Protection During Development

A. Regulated, Required and Significant Trees. An applicant for a development permit that involves construction, installation or alteration of building or other structures, including a home addition or accessory structure, that leads to construction equipment inside the protected area of Regulated, Required, or Significant Trees to remain on the site, or:

- an increase in building area or impervious surface;
- a new driveway;
- drilling, dredging, paving, excavating or clearing; or
- other activities that involve construction;

shall provide facts and evidence sufficient to enable the approval authority to make a determination in compliance with the criteria set forth in **Section 9.1032 (B)** through **(F)**, including submittal requirements requested on relevant submittal checklists maintained by the Manager.

B. Regulated, Required and Significant Trees/Significant Grove to Remain. A Tree Protection Plan shall designate as protected all Regulated, Required and Significant Trees/Significant Groves that are to remain on the site after development is complete and other trees recommended for protection by the Certified Arborist preparing the plan, if a Certified Arborist is required below. The Tree Protection Plan demonstrating all proposed tree protection is required by all applicants but only required to be prepared by a Certified Arborist if activity (including but not limited to: construction equipment traffic/maneuvering, material storage, and grading) is proposed within the tree protection zone.

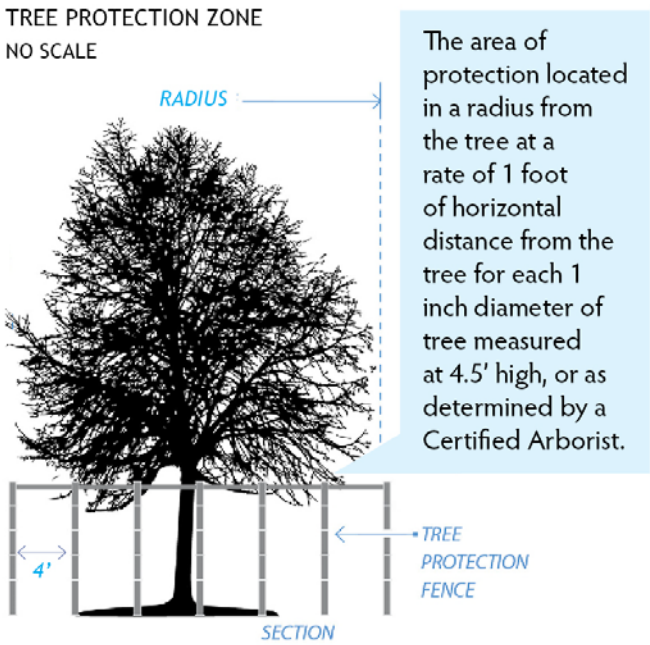
A tree protection zone shall be installed with protective fencing around all Regulated, Required, and Significant Trees/Significant Grove to remain on site and shall be located in a radius from the tree at a rate of 1 foot of horizontal distance from the tree for each 1 inch diameter of tree, or as determined by a Certified Arborist. For a Significant Grove, the perimeter of the grove shall be where the area of protection is located with the radius measured from each tree located along the perimeter of the grove.

C. Significant Trees/Significant Grove. When development is proposed for property that includes or abuts the dripline of a Significant Tree(s) on an abutting site, the Significant Tree(s)/Significant Grove abutting the site shall be preserved and protected, as specified in Subsection (B) during all development activities, including preliminary grubbing and clearing. A conservation easement shall be imposed on the site of the development to ensure ongoing protection of the Significant Tree(s)/Significant Grove on the abutting property. The conservation easement shall be located at the dripline in a radius from the tree at the rate of 1 foot of horizontal distance from the tree for each 1 inch of diameter of the tree unless a Certified Arborist determines that the tree can be protected adequately with less distance, or as determined by a Certified Arborist.

1. The Manager, pursuant to a Type II procedure, may grant an adjustment to the side, front and rear yard setback standards by up to 50 percent if necessary to retain a Significant Tree or Trees. The adjustment shall be the minimum necessary to accomplish preservation of trees on site and shall not conflict with other conditions placed on the property.

2. The Manager, pursuant to a Type II procedure, may grant a five percent reduction to the lot size and ten percent reduction to the lot width and lot depth standards in approving a subdivision or partition if necessary to retain a Significant Tree or Trees.
3. The Manager, pursuant to a Type II procedure, may allow a property owner to cut a specific number of trees within a Significant Grove of trees if preserving those trees would:
    a. Cause the loss of ten percent or more of the total number of allowed lots or units, or
    b. Cause an increase of five percent or more in the cost of installing on-site utilities

Figure 9.1032 Illustration of a Tree Protection Zone



D. No trees designated for protection or conservation shall be removed without prior written approval from the Manager.

E. Tree protection measures can be recommended by a Certified Arborist or, shall as a minimum, include the following protective measures:

1. Prior to any grubbing, clearing, grading, parking, preparation or storage of materials or machinery, or other construction activity on the site, all trees to be protected on the project site and adjacent to the site shall be clearly identified and temporary fencing shall be installed at the perimeter of the Tree Protection Zone. Protective fencing shall be of a material that cannot easily be moved, removed, or broken during construction activities. Chain link fencing a minimum of 4 feet in height is preferred. An alternative Tree Protection Zone fencing material secured by metal posts staked at no more than 4 feet on center around the Tree Protection Zone, as illustrated in **Figure 9.1032**, of the tree or grove may be used with the approval of the Manager.

2. No soil compaction or removal of vegetation or tree branches within the Tree Protection Zone shall be allowed during construction, except as outlined by a Certified Arborist in a submitted Tree Protection Plan.
3. No machinery repair or cleaning shall be performed within 10 feet of the Tree Protection Zone of any trees identified for protection.
4. Digging a trench for placement of public or private utilities or other structure within the critical root zone of a tree to be protected is prohibited.
5. The City may require that a Certified Arborist be present during any construction or grading activities that may affect trees within the tree protection zone.

F. Changes in soil hydrology and site drainage within the tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drainage facilities and away from trees designated for conservation or protection.

9.1033 Street Tree Planting During Development

A. A street tree plan shall be submitted for approval with a tentative partition, subdivision plan, Planned Development or design review. The street tree plan shall show tree spacing, number of trees and their location and meet all required characteristics noted in the submittal requirements on relevant submittal checklists maintained by the Manager.

B. Street trees of a minimum 1.75-inch caliper are required when a land use or building permit requires street trees.

C. The number and spacing of required street trees shall meet the following standards:

1. Number: On all street classifications, one tree shall be required for every 30 feet of frontage minus the clear vision area and driveways.
2. Spacing: Trees shall be placed a minimum of 20 feet and a maximum of 40 feet apart. The spacing requirement may be modified by the Manager.

D. Street trees shall be located at least 15 feet from street lights, 15 feet from stormwater catch basins, and 5 feet from driveway cuts or underground public utilities.

E. No street trees shall be planted in the right-of-way within 12 feet of the nearside of the crosswalk on the vehicular approach side of the street at street intersections.

F. Street trees shall be selected from the City's Approved Tree List or other varieties as approved by the Manager.

G. For new development, if site constraints make it infeasible to plant all required street trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required street tree not planted. For applications related to non-conforming development, as determined by the Manager, a contribution shall be made for each required street tree not planted, but the contribution shall be limited by the 10 percent cost limitation found in **Section 8.0202** Design Review Standards. The fee contribution shall be established by Council resolution.

H. The intent of the Code is that required Street Trees are planted when feasible. If site constraints make it infeasible to plant all required Street Trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of street tree planting. A contribution shall be made for each required Street Tree not planted. The fee contribution shall be established by Council resolution. A tree fund contribution shall be approved by the Manager only when:

1. One of the following conflicts exists that makes planting infeasible:

a. One or more of the standards in **Section 9.1033(D)** and **(E)** make it infeasible to plant a tree because insufficient room remains; or

b. The development does not include planter strips that are at least 3 feet wide to accommodate the required street trees; or

c. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or

d. Other similar site constraints make it physically infeasible to plant the Street Tree(s), as determined by the Manager; and

2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering the sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

9.1034 Tree Removal During Development

A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.

B. Removal of Required and Significant Trees, except for trees in the Special Purpose Overlay Districts, shall meet the following standards:

1. Buffer trees, parking lot trees, landscape/site and street trees may be removed during construction in accordance with an approved land use permit but shall be replaced in accordance with **Section 9.1035**.

2. Perimeter Trees may be removed during construction in accordance with an approved land use permit. If no land use permit has been acquired, Perimeter Tree removal shall be reviewed under a Type I procedure. Applicants shall meet the removal standards in **Section 9.1034(D)(6)** and **(7)**. Perimeter trees removed as a result of land division shall be replaced in accordance with **Section 9.1035**.

3. Significant Trees shall be preserved unless the Manager determines under a Type II procedure that the tree may be removed by meeting at least one of the following criteria:

a. The tree needs to be removed to construct proposed improvements (including but not limited to the buildings; access for construction equipment; essential grade changes needed to implement standards common to standard engineering or architectural practices; space for driveways or other improvements; solar energy equipment); and no practical alternative exists without increasing the cost by more than 5 percent or reducing construction or development safety; or

b. The tree needs to be removed consistent with good urban forestry practices or cannot be maintained because of its health and has become a hazard to public safety, to the subject property or adjacent property, to personal property or to any improvements as stated in a Certified Arborist report; or

c. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance; or

d. The tree needs to be removed due to a disease as stated in a certified arborist report and to accomplish a public purpose and no practical alternative exists.

C. Regulated Trees to be removed, which includes topping, during construction in excess of the thresholds in **Section 9.1031(A)**, except for trees in the Special Purpose Overlay Districts, shall be reviewed under a Type II procedure.

D. All Type II tree removal permits shall adhere to the following retention criteria:

1. Trees shall be retained along Water Quality Resource Areas (as described in **Section 5.0417)** and within Habitat Conservation Area Class 1 riparian areas (as described in **Table 5.0414(A)** according to disturbance limits described within **Section 5.0400)**. A mitigation plan, prepared by a qualified natural resource specialist such as a botanist, ecologist, geomorphologist or professional wetland scientist, shall accompany any tree removal or grading plan proposed along a Water Quality Resource Area (as described in **Section 5.0417**).

2. Conifers shall be retained in sufficiently large areas and in dense stands to ensure against wind throw.

3. The Manager may require a proposed structure to be relocated to retain trees if the relocation can be accomplished within the required setbacks and without increasing costs to the proposed development by more than 2 percent of the total improvement value, excluding land cost.

4. Any required mitigation shall be guaranteed prior to issuance of a grading permit for any portion of the site.

5. The Manager may require a mitigation plan or wind throw assessment to be provided by a Certified Arborist or a registered landscape architect.

6. Health reasons to remove a Required Tree include:

a. The tree shows an advanced state of decline with insufficient live foliage, branches, roots or other tissue to sustain life.

b. The tree is infested with pests or disease that left untreated can lead to death.

c. The tree has sustained physical damage that will cause the tree to die or enter an advanced state of decline.

7. Non-Health reasons to remove a Required Tree include:

a. The tree blocks vision for motorists.

b. The tree causes sidewalk upheaval.

c. There is a crime prevention concern associated with the Required Tree that cannot be ameliorated with proper pruning techniques.

d. The tree interferes with right-of-way objects, such as driveways and light poles.

e. The tree presents a potential hazard for property or people.

f. Other reason as approved by the Manager.

E. When tree removal proposed is clear cutting, such clear cutting shall be allowed only when development occurs concurrently under the following conditions:

1. Shall be reviewed under a design review tree removal permit or with the issuance of a building permit when the use does not require the design review process.

2. Clear cutting shall not begin until after the applicant has obtained all development permits including the issuance of any building permits, and/or any other applicable permits necessary to ensure completion of the proposed development, and after the applicant has filed with the City a financial guarantee for landscape mitigation based on an approved plan; and

a. Erosion control measures as required under **Section 9.0514** and the Building Code shall be implemented on the site prior to the commencement of any clear cutting; and

b. Landscaping shall be required and reviewed during the design review process to mitigate the loss of existing vegetation that provides erosion control and tree canopy.

F. When the tree removal proposed is clear cutting for Industrial uses when development does not occur concurrently, such clear cutting shall only be allowed under the following conditions:

1. Shall be reviewed under a Type II Development Permit for tree removal and if needed, a grading permit. When the tree removal does not include grading, such as in the case of cutting trees to stumps but not removing them, then a grading permit is not required.

2. Clear cutting shall not begin until after the applicant has:

a. Filed with the City a financial guarantee for landscape mitigation based on an approved plan; and

b. Landscaping shall be required and reviewed during the Type II procedure to mitigate the loss of existing vegetation that provides erosion control and tree canopy; and

c. Erosion control measures as required under **Section 9.0514** and the Building Code shall be implemented on the site prior to the commencement of any clear cutting; and

d. Erosion control measures, such as spraying the site with hydroseed, will be required after the trees are removed.

G. Tree removal in a Special Purpose Overlay District shall meet the applicable removal standards of **Section 9.1000**. All replacement requirements shall comply with applicable provisions of the Special Purpose Overlay Districts:

1. Street trees, parking lot trees, buffer trees, perimeter trees and landscape trees may be removed in accordance with **Subsection 9.1034(B)** and shall be replaced when applicable in accordance with **Section 9.1035**.

2. Significant Trees may be removed in accordance with **Section 9.1034(B)(3)**.

3. For Regulated Trees:

a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List.

b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure.

c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure.

d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure.

e. Type II tree removals shall meet the standards of **Section 9.1034(D**), and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading.

f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1026(D**). The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

9.1035 Tree Replacement During Development

A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in **Section 9.1013**:

1. For trees less than 24 inches in diameter:

a. Buffer trees, parking lot trees and landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager.

b. For Perimeter Trees, each tree removed shall be replaced by one replacement tree.

c. Street trees shall be replaced in accordance with a street tree plan or the spacing requirements in **Section 9.1033**.

2. For trees 24 inches in diameter or larger:

a. Buffer trees and parking lot trees shall be replaced at the rate of 1 caliper inch per 4 inches of tree removed, although in no case shall that calculation result in fewer than one replacement tree for each tree removed.

b. Landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager.

c. For Perimeter Trees, each tree removed shall be replaced at the rate of 1 caliper inch per 4 inches of tree removed, although in no case shall that calculation result in fewer than one replacement tree for each tree removed.

d. Street trees shall be replaced in accordance with a street tree plan or the spacing requirements in **Section 9.1033**.

B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

C. The intent of the Code is that Required Trees are planted when feasible. If site constraints make it infeasible to plant all required trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of tree planting. A contribution shall be made for each required tree not planted. The fee contribution shall be set by Council resolution. Tree fund contributions related to standards in **Section 9.1035** shall be approved by the Manager only when:

1. One of the following conflicts exists that makes the planting infeasible:

a. Infrastructure (such as but not limited to water lines, sewer lines, catch basins, and light poles) conflicts make it infeasible to plant a tree because insufficient room remains; or

b. For Street Trees, the development does not include planter strips that are at least 3 feet wide to accommodate required street trees; or

c. Planting all the Required Trees would create tree crowding that would affect tree health or interfere with the use of the property in a way that cannot be not be avoided by pruning or other accepted arboricultural practices; or

d. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or

e. Other similar site constraints make it physically infeasible to plant the required trees, as determined by the Manager; and

2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering a sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

Post Development

9.1036 Tree Removal Post Development

A. All tree removal that would result in clear cutting on slopes in excess of 15 percent within the Hillside Physical Constraint Overlay District is prohibited.

B. Removal of the following Required Trees shall follow a Type I procedure and meet the following standards:

1. Street trees may be removed in accordance with the health and non-health related reasons in **Section 9.1034 (D)(6)** and **(D)(7)** and shall be replaced in accordance with **Section 9.1037**. Replacement is required if the planter strip is at least 3 feet wide and tree planting is feasible given the tree spacing and locational standards of **Section 9.1033**. If the planter strip is less than 3 feet or planting is not feasible, no replacement is required.

2. Parking lot trees may be removed in accordance with the health and non-health related reasons in **Section 9.1034 (D)(6) and (D)(7)** and shall be replaced in accordance with **Section 9.1037**.

3. Buffer trees may be removed in accordance with the health and non-health related reasons in **Section 9.1034 (D)(6) and (D)(7)** and shall be replaced in accordance with **Section 9.1037**.

4. Landscape trees may be removed in accordance with the health and non-health related reasons in **Section 9.1034 (D)(6) and (D)(7)** and shall be replaced in accordance with **Section 9.1037**.

C. Removal of Regulated Trees, which includes topping, that exceed the thresholds in **Section 9.1031** shall be reviewed under a Type II procedure.

D. Removal of Required or Regulated Trees that meet the definition of Imminent Hazard Tree or Hazard Tree, and which cannot be retained as a Habitat Tree due to proximity of a target, such as a person or property, that cannot be moved or altered, shall meet the following standards:

1. Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning or other horticultural methods may be removed immediately. Within 10 business days after the tree is removed, an application shall be filed for a Type I tree removal permit that is accompanied by documentation of the imminent hazard, such as a photograph, a report from a Certified Arborist, a signed statement from a public safety official (such as a police or fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. An Imminent Hazard Tree removed shall not count toward the number of trees removed in a 12-month period used to determine if tree removals are exempt from a development permit in **Section 9.1031**.

2. Removal of Required or Regulated Trees that are hazardous but do not present an imminent hazard to the safety of people or protection of property shall be reviewed under a Type I procedure, except for Significant Trees, the removal of which shall be reviewed under a Type II procedure, as required by **Section 9.1036(E)**.

E. Tree removal in a Special Purpose Overlay District shall meet the applicable removal standards of **Section 9.1000**. All replacement requirements shall comply with applicable provisions of the Special Purpose Overlay Districts:

1. Street trees, buffer trees, parking lot trees and landscape trees may be removed in accordance with **Section 9.1036(B)** but shall be replaced when applicable in accordance with **Section 9.1037**.

2. Significant Trees may be removed in accordance with **Subsection 9.1034(B)(3)**.

3. For Regulated Trees:

a. Up to three non-native or invasive trees may be removed per 12-month period, with the start of the 12-month period defined by the issuance of the permit to remove the first tree. This tree removal shall be reviewed under a Type I procedure, and an arborists report is not required. Non-native and invasive trees are identified on the official City Invasive Species List.

b. Removal of more than three non-native or invasive trees, as shown on the official City Invasive Species List, per 12-month period from the time a permit is issued shall require an arborist report and be reviewed under a Type II procedure.

c. Removal of native and non-hazardous trees shall be reviewed under a Type II procedure.

d. Removal of Regulated Trees not specifically allowed as a Type I procedure shall follow a Type II procedure.

e. Type II tree removals shall meet the standards of **Section 9.1034(D**), and applicants shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that accomplishes the purpose of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading.

f. Removal of native or non-native trees that are determined to be hazardous or causing property damage, must follow the procedures outlined in **Section 9.1036(D**). The applicant shall provide a mitigation/revegetation plan prepared at the expense of the applicant and approved by the Manager that meets the revegetation standards of the applicable overlay district or districts, such as slope stabilization, habitat provision and/or environmental benefits such as stream shading. A revegetation plan is not required if the tree was removed on land with a zero slope located within the Hillside Physical Constraint Overlay District.

F. Significant Trees that present an imminent hazard to the safety of people or protection of property where the hazard cannot be ameliorated through pruning less than 20 percent of the tree's foliage area or other horticultural methods may be removed immediately. The following standards apply:

1. Such trees shall be automatically removed from the City's Significant Tree List by the Manager.

2. If a Significant Tree receives major pruning or is removed, the property owner shall notify the Manager within two business days and an application shall be filed for a Type I tree removal permit. The applicant shall provide documentation of the emergency, such as a photograph, a report from a certified arborist, a signed statement from a public safety official

(such as a police officer, fire official), a signed statement from a City employee with responsibility for tree maintenance or other evidence as determined by the Manager. When documentation is provided by someone other than a City employee, photographic evidence of the emergency and written documentation of the imminent hazard is required.

3. If a Significant Tree receives major pruning or is removed, the Manager shall notify the relevant Council Advisory Committee(s) or subcommittee(s).

G. Except for trees removed during development or in accordance with imminent hazard provisions in subsection (F) above, no person may remove a Significant Tree without obtaining a development permit through a Type II procedure. The application shall meet at least one of the following criteria:

1. The tree needs to be removed to construct proposed improvements and no practical alternative exists without significantly increasing cost or inconvenience, or reducing safety.

2. The tree has lost its significance as a Significant Tree due to damage from natural or accidental causes, or for some other reason it can be established that it is no longer of historic or natural significance.

3. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

9.1037 Tree Replacement Post Development

A. Replacement of Required Trees shall meet the following standards as well as the replacement size, height at maturity, and spread at maturity standards in **Section 9.1013**.

1. For trees less than 24 inches in diameter:

a. Buffer trees, parking lot trees and landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or in accordance with a new buffer or landscape/buffer plan approved for the new development as determined by the Manager.

b. Street trees shall be replaced in accordance with a street tree master plan or the spacing requirements in **Section 9.1033**.

2. For trees 24 inches in diameter or larger:

a. Buffer trees and parking lot trees shall be replaced at the rate of 1 caliper inch per 4 inches of tree removed, although in no case shall that calculation result in fewer than one tree.

b. Landscape/site trees shall be replaced in accordance with the originally approved landscape/buffer plan or as determined by the Manager.

c. Street trees shall be replaced in accordance with a street tree master plan or the spacing requirements in **Section 9.1033**.

B. Replacement of Required Trees shall be selected from the Approved Tree List or shall be trees appropriate for the available growing space, climate conditions, soil conditions and site constraints as approved by the Manager.

C. The intent of the Code is that Required Trees are planted when feasible. If site constraints make it infeasible to plant all required trees as demonstrated by the applicant and approved by the Manager, the Manager may approve contributions to the tree fund in lieu of tree planting. A contribution shall be made for each required street tree not planted. The fee contribution shall be set by Council resolution. Tree fund contributions related to standards in **Section 9.1037** shall be approved by the Manager only when:

1. One of the following conflicts exists that makes the planting infeasible:

a. Infrastructure (such as but not limited to water lines, sewer lines, catch basins, and light poles) conflicts make it infeasible to plant a tree because insufficient room remains; or

b. For Street Trees, the development does not include planter strips that are at least 3 feet wide to accommodate required street trees; or

c. Planting all the Required Trees would create tree crowding that would affect tree health or interfere with the use of the property in a way that cannot be not be avoided by pruning or other accepted arboricultural practices; or

d. The applicant demonstrates that the tree planted at the location would create a potential traffic, fire safety or building structural hazard; or

e. Other similar site constraints make it physically infeasible to plant the required trees, as determined by the Manager; and

2. The applicant provides evidence that generally accepted arboricultural methods to make tree planting feasible have been considered but are not appropriate in this situation. Arboricultural practices include but are not limited to meandering a sidewalk; using permeable and/or flexible pavement; incorporating structural soil; root channels (soil volumes under pavement that connect to larger soil areas); and/or enhanced drainage.

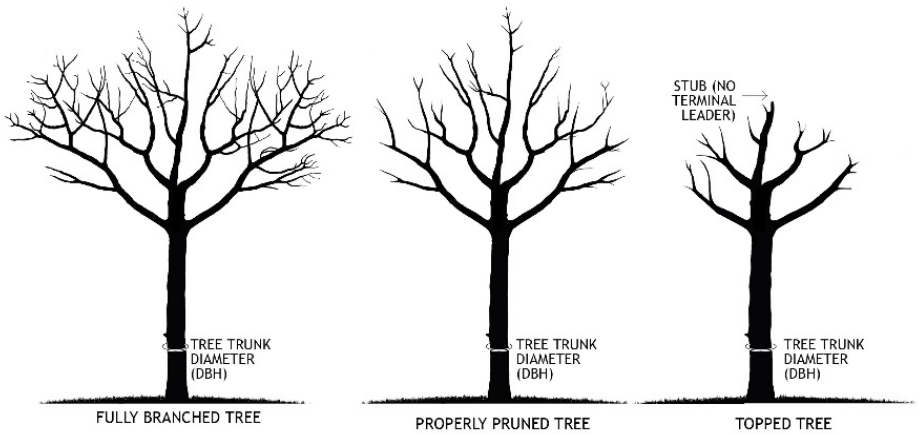
9.1040 Pruning of Required and Significant Trees

A. Street trees shall be pruned in accordance with the most recent ANSI (American National Standards Institute) A300-1995 standards or other more recent standard arboricultural practices approved by the City. Major pruning (as identified in **Article 3**) of any street tree within the public right-of-way may be required by the Manager to be performed by a Certified Arborist.

B. Significant Trees may not be pruned more than 20% of their limb structure, nor may the root system be disturbed by more than 10% in any 12-month period without a development permit. All pruning of a Significant Tree shall be performed by a Certified Arborist in accordance with ANSI (American National Standards Institute) A300-1995 standards or other more recent standard arboricultural practices approved by the City.

C. Tree Topping, as defined in **Article 3,** of Required Trees must be replaced through the applicable Type I Permit.

Diagram 3: Tree Pruning Diagram



9.1050 Significant Trees

9.1051 Purpose

The City has developed standards and procedures to protect trees that have been determined to be of significant value to the community because of their exceptional beauty, distinctive size or shape, association with an historic person or event, or a functional aesthetic relationship to a visual or natural resource.

The following provisions are intended to help protect the natural beauty of the City for future generations and to enhance the long-term value of those trees that meet the criteria for inclusion in the Significant Tree Inventory. Significant Tree protection rules are located in **Sections 9.1022** and **9.1032**. Significant Tree removal rules are located in **Sections 9.1024, 9.1026, 9.1034** and **9.1036.** Significant Tree pruning rules are in **Section 9.1040**.

9.1052 Procedures for Designating, Maintaining, and De-Listing of Significant Trees and Groves

A. The City has developed a list of Significant Trees, which may be updated on a periodic basis.

B. The Significant Tree designation may be applied to a tree or a grove of trees and may be nominated by any person, agency, or group, with property owner's consent.

C. The Significant Tree list shall be reviewed by the Urban Forestry Subcommittee to consider modifications. The review shall address any potential new candidates and may include a consideration criterion for inclusion on the list.

D. The Urban Forestry Subcommittee shall complete the following steps as part of the review and update:

1. Solicit Significant Tree nominations.

2. Make a physical evaluation of each potential new nominee.

3. Develop findings that evaluate the new candidates for conformance with the criteria found in **Section 9.1053**.

4. Solicit written consent from affected property owners for the proposed final recommendations.

5. Develop a list of recommended Significant Trees, to include any potential new candidates. The recommended list may also address the potential de-listing of any Significant Trees that no longer meet standards for inclusion on the list (see also emergency removal provisions below).

6. The Committee's recommendations shall be submitted to the Manager for review and approval pursuant to the Type II procedures.

7. In the event that a property owner wishes to remove a tree from the Significant Tree List at any time other than during the Urban Forestry Subcommittee review and update, the property owner shall be subject to a Type II procedure unless one of the following occurs:

a. A majority of the Urban Forestry Subcommittee determines that the tree can be removed with the written withdrawal of the owner consent, in which case the tree will automatically be de-listed.

b. A majority of the Urban Forestry Subcommittee determines that the tree has become a hazard in need of immediate removal, in which case the tree will automatically be de-listed; or

c. The tree meets the criteria for immediate removal as an imminent hazard under the provisions of **Section 9.1026 or 9.1036**.

8. To ensure that trees are qualified to remain on the list once designated, the Urban Forestry Subcommittee shall make a partial physical inventory and review of all trees with each Tree and Grove to receive an on-site visit and analysis at least every four years.

9.1053 Criteria for Designation of Significant Trees

A. An individual tree may be considered Significant if it is apparently in a healthy growing condition and one of the following exist:

1. The tree has a distinctive size, shape, or location, or is of a distinctive species or age which warrants a Significant status; or

2. The tree possesses exceptional beauty which warrants a Significant status; or

3. The tree is Significant due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks or trees located along ridgelines; or

4. The tree has a documented association with a historical figure, property, or significant historic event.

B. A grove may be considered Significant if it is apparently in a healthy growing condition and one of the following exist:

1. The grove is relatively mature and evenly aged and has a purity of species composition or is of a rare or unusual nature; or

2. The grove has a crucial functional and/or aesthetic relationship to a natural resource; or

3. The grove has a documented association with a historic figure, property, or significant historic event.

C. In addition to subsections (A) and (B) above, the designation of the tree or grove of trees as Significant will not unreasonably interfere with the use of the property upon which it is located.

9.1054 Significant Tree Education and Promotion

The Council may establish public information and education programs to encourage the protection of trees. At a minimum, the City shall review its inventory of Significant Trees and notify property owners at four-year intervals by first class mail of the existence of a Significant Tree or Trees on their property. The notice shall include a description of the tree preservation regulations and suggested maintenance standards for the tree or trees.

Although not mandatory, owners of Significant Trees or Groves are encouraged to file a document with Multnomah County Deed Records that identifies the presence of the Significant Tree or Trees on their property.

The City's updated list of Significant Trees and Groves shall be maintained on-line and shall also be available to the public in printed form.

9.1060 Civil Penalties

A. A violation shall have occurred when any requirement or provision of **Section 9.1000** has not been complied with. Violation of any provision of **Section 9.1000** may be subject to enforcement action by the Manager, and may be enforced pursuant to **Gresham Revised Code Article 7.50**.

B. Each day a violation continues to exist shall constitute a separate violation for which a separate civil penalty may be assessed. The provisions of **Gresham Revised Code 7.50.730** through **Gresham Revised Code 7.50.760** shall apply to the imposition of civil penalties under **Section 9.1000**.

C. In addition to any other penalty provided by law and the remedies established in **Article 2** of the **Gresham Community Development Code**, any person determined to be responsible for violation of any of the provisions of **Section 9.1000** may be required to pay a penalty in the amount of up to three times the arboricultural value of the lost tree or trees, as determined by an independent consulting arborist and pay for the cost of the arborist review and report. The person determined to be responsible for violation of the provisions of **Section 9.1000** shall also replace the removed trees with like trees as specified by the City or pay into the City's designated tree fund the equal replacement value of removed trees.

D. The Manager may enter any property in accordance with **Gresham Revised Code 7.50.500** through **Gresham Revised Code 7.50.520**, to perform an inspection in order to ensure compliance with any provision of **Section 9.1000**.