

## **ORDINANCE NO. 5145**

### **AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE MCMINNVILLE MUNICIPAL CODE TO AMEND SECTION 17.06.045 "TREE RELATED DEFINITIONS" AND CHAPTER 17.58 "TREES," AND APPROVING THE DECISION, FINDINGS, AND CONCLUSIONARY FINDINGS FOR DOCKET G 3-23.**

#### **RECITALS:**

**WHEREAS**, Docket G 3-23 is a legislative action amending provisions related to trees in Title 17 (Zoning) of the McMinnville Municipal Code.

**WHEREAS**, Docket G 3-23 was initiated on April 3, 2023 with notice of the proposed amendments and a June 15, 2023 Planning Commission public hearing submitted to DLCD on April 3, 2023 and May 9, 2023.

**WHEREAS**, on June 9, 2023, notice of the application and the June 15, 2023 Planning Commission public hearing was published in the News Register in accordance with Section 17.72.120 of the Zoning Ordinance.

**WHEREAS**, on June 15, 2023, the Planning Commission held a duly noticed public hearing to consider the request. The hearing was continued to July 20, 2023. The hearing was subsequently continued to September 7, 2023, February 15, 2024, and April 18, 2024

**WHEREAS**, on April 18, 2024, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission recommended City Council approve the proposed amendments, subject to additional revisions to add definitions of "Complex Tree Removal Permit Application" and "Simple Tree Removal Permit Application" to the tree-related definitions of Section 17.06.045 of the Zoning Ordinance, and to correct typographical and scrivener errors. The proposed amendments also update the provisions for administration of tree permits.

**WHEREAS**, notice of the May 28, 2024 City Council meeting was posted on the City website in accordance with Oregon public meetings law.

**WHEREAS**, the City Council received the Planning Commission recommendation and staff report, and has deliberated.

**WHEREAS**, the City Council, being fully informed about said request, found that the requested amendments attached as Exhibit A conform to the applicable criteria, including the Comprehensive Plan goals and policies, as well as the McMinnville Zoning Ordinance, based on the material submitted by the Planning Department and the findings of fact and conclusionary findings for approval in Exhibit B.

#### **NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:**

1. The McMinnville Zoning Ordinance is amended as provided in Exhibit A; and

2. The Council adopts the Decision, Findings, and Conclusionary Findings for Docket G 3-23 attached as Exhibit B; and
3. This Ordinance will take effect 30 days after passage by the City Council.

Passed by the McMinnville City Council this 28th day of May 2024, by the following votes:

Ayes: Geary, Garvin, Menke, Chenoweth, Peralta

Nays: \_\_\_\_\_



\_\_\_\_\_  
MAYOR

Approved as to form:

Attest:



\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Recorder

EXHIBITS:

- A. Amendments to McMinnville Zoning Ordinance (Title 17 of McMinnville Municipal Code)
- B. Decision, Findings, and Conclusionary Findings for Docket G 3-23

McMinnville Zoning Ordinance  
Amendments to Provisions Relating to Trees

New text is in ***bold, italic, underline text***. Deleted text is in ~~strikethrough text~~

Chapter 17.06

DEFINITIONS

(as adopted by Ord. 5106, 2021; Ord. 5034, August 8, 2017)

Sections:

17.06.010	Generally.
17.06.015	General Definitions.
17.06.020	Special Definitions.
17.06.025	Airport Overlay Zone Related Definitions.
17.06.030	Flood Area Zone Related Definitions.
17.06.035	Landscaping Related Definitions.
17.06.036	Marijuana Activities Related Definitions.
17.06.040	Sign Related Definitions.
17.06.045	Tree Related Definitions.
17.06.050	Wireless Communication Facilities Related Definitions.
17.06.060	Historic Preservation Related Definitions.

17.06.020 Special Definitions.

...

17.06.045 Tree Related Definitions. For the purpose of Trees (Chapter 17.58), the following definitions shall apply.

...

**Complex Tree Removal Permit Application – An application for a tree removal permit for a tree subject to the requirements of Chapter 17.58, which is not related to the issues addressed in the criteria for a “Simple Tree Removal Permit” specified in Chapter 17.58, and which is related to the criteria for a “Complex Tree Removal Permit” specified in Chapter 17.58.**

...

**Simple Tree Removal Permit Application - An application for a tree removal permit for a tree subject to the requirements of Chapter 17.58, which is related to one or more of the issues addressed in the criteria for a “Simple Tree Removal Permit” specified in Chapter 17.58.**

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Chapter 17.58

TREES  
(as adopted by Ord. 4654B Dec. 9, 1997)

Sections:

- 17.58.010 Purpose.
- 17.58.020 Applicability.
- 17.58.030 Definitions.
- 17.58.040 Tree Removal/Replacement.
- 17.58.045 Downtown Trees.
- 17.58.050 **Application** Review **and** Criteria.
- 17.58.060 Permit Exemptions.
- 17.58.070 Topping.
- 17.58.075 Protection of Trees.
- 17.58.080 Street Tree Planting - When Required.
- 17.58.090 Street Tree Standards.
- 17.58.100 Street Tree Plans.
- 17.58.110 Street Tree Planting.
- 17.58.120 Street Tree Maintenance.

17.58.010 Purpose. The purpose of this ordinance is to establish and maintain the maximum amount of tree cover on public and private lands in the city; reduce costs for energy, stormwater management, and erosion control; provide tree-lined streets throughout the city; select, situate and maintain trees appropriately to minimize hazard, nuisance, damage, and maintenance costs; to enhance the appearance, beauty and charm of the City; to increase property values and build stronger ties within neighborhoods; to implement applicable adopted Downtown Improvement Plan provisions; to promote a diverse, healthy, and sustainable community forest; and to educate the public regarding community forest issues. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.020 Applicability. The provisions of this ordinance shall apply to:

- A. Individual significant or historic trees as defined in this ordinance.
- B. All trees with trunks located completely or partially within any public area or right-of-way;
- ~~C. All trees with trunks located completely within any private property which directly affect public infrastructure including but not limited to sewers, water mains, sidewalks, streets, public property, or clear vision distances at street intersections;~~
- C.** ~~D.~~ All trees on developable land and subject to or undergoing development review such as site plan review, tentative subdivision review, or partition review; (Ord. 5027 §2, 2017; Ord. 4654B §1, 1997).

17.58.030 Definitions. For the purpose of this section, refer to Section 17.06.045 for Tree related definitions. (Ord. 4952 §1, 2012).

17.58.040 Tree Removal/Replacement

- A. The removal or major pruning of a tree, if applicable under Section 17.58.020, shall require City approval, unless specifically designated as exempt by this ordinance. Persons wishing to remove or prune such trees shall file an application for a permit with the ~~McMinnville Planning Department~~. City. The applicant shall include information describing the location, type, and size of the subject tree or trees, and the reasons for the desired action, and the costs associated with tree removal, replacement, and repair of any other public infrastructure impacted by the tree removal or major pruning. ~~Requests for tree removal or pruning of trees outside of the Downtown Tree Zone~~. **Applications shall be reviewed by the City Manager or City Manager's Designee (hereafter "Manager") or the Landscape Review Committee as provided in this Chapter, including Section 17.58.050. Only applications for Complex Tree Removal Permits** shall be forwarded to the McMinnville Landscape Review Committee for a decision within 30 (thirty) days of submittal, **except as authorized in Section 17.58.050**. Requests for tree removal within the Downtown Tree Zone shall be submitted to the ~~McMinnville Planning Department~~ City. Such requests shall be acted upon as soon as practicable, with consideration given to public safety, value of the tree to the public, and work schedules. The ~~Planning Director or their designee~~ **Manager** should attempt to make decisions on such requests within five calendar days of submittal. The Landscape Review Committee or ~~Planning Director~~ **Manager**, as appropriate, may approve, approve with conditions, or deny the request based on the criteria stated in Section 17.58.050. A decision of the committee or ~~Director~~ **Manager** may be appealed to the Planning Commission if written notice of the appeal is filed with the ~~Planning Department~~ City within 15 (fifteen) days of the committee's or ~~Director's~~ **Manager's** decision. A decision made by the ~~Planning Director~~ **Manager** in response to a request to remove an unsafe tree, or a tree causing repeated and excessive damage to sidewalks or other public or private improvements or structures shall be final, unless appealed by the applicant; no other party shall have standing to appeal.
- B. Trees subject to this ordinance **which are approved for removal or pruning** shall be removed or pruned following accepted **arboricultural pruning standards practices, such as those published by the International Society of Arboriculture (ISA) and any standards** adopted by the City. The ~~Planning Director~~ **Manager**, after consultation with appropriate city staff and/or a certified arborist, shall direct removal of downtown trees that are identified in a current Downtown Tree Zone inventory assessment as unhealthy, dangerous to the public, inappropriate for the downtown area, or otherwise in need of removal.
- C. The applicant shall be responsible for all costs associated with the tree removal or pruning, or as otherwise required by this ordinance, and shall ensure that all work is done in a manner which ensures safety to individuals and public and private property.
- D. Approval of a request to remove a tree may be conditioned upon replacement of the tree with another tree approved by the city, or a requirement to pay to the city an amount sufficient to fund the planting and establishment by the city of a tree, or trees, of similar value. The value of the existing tree to be removed shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of

Tree Landscape Appraisers. Every attempt should be made to plant replacement trees in the same general location as the tree being removed. In the event that a replacement tree cannot be planted in the same general location, a condition of approval may be required to allow for the replacement tree to be planted in another location in the City as part of the City's annual tree planting program.

- E. The applicant is responsible for grinding stumps and surface roots at least six inches below grade. At least a two inch thick layer of topsoil shall be placed over the remaining stump and surface roots. The area shall be crowned at least two inches above the surrounding grade to allow for settling and shall be raked smooth. The applicant shall restore any damaged turf areas and grades due to vehicular or mechanical operations. The area shall be re-seeded.
- F. The applicant shall complete the tree removal, and tree replacement if required, within six months of receiving notification of the Manager's or Landscape Review Committee's decision. The Manager or Landscape Review Committee may allow for additional time to complete the tree replacement to allow for planting in favorable seasons and to promote tree survivability.
- G. Other conditions may be attached to the permit approval by the Manager or McMinnville Landscape Review Committee as deemed necessary.
- H. The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014, as may be subsequently amended. Specific design drawings and specifications have been developed for trees outside the Downtown Tree Zone. Such design specifications may be periodically updated by the City to include specifications such as tree root barriers, watering tubes or structures, tree grates, and removable pavers, and shall graphically describe the proper method for planting trees to minimize the potential for sidewalk / tree root conflict. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

#### 17.58.045 Downtown Trees.

- A. The pruning and removal of street trees within the Downtown Tree Zone shall be the responsibility of the City, and shall be undertaken at public expense.
- B. The planting of street trees shall be subject to the design drawings and specifications developed by the City in May 2014, as may be subsequently amended. Specific design drawings and specifications have been developed for trees within the Downtown Tree Zone. Such design specifications may be periodically updated by the City to include specifications such as tree root barriers, watering tubes or structures, tree grates, and removable pavers, and shall graphically describe the proper method for planting trees within the Downtown Tree Zone to minimize the potential for sidewalk / tree root conflict.
- C. The City shall adopt implementation measures that cause, through rotation over time, the development of a variable aged stand of trees within the Downtown Tree Zone. In order to implement this policy, the ~~Planning Director~~ Manager shall authorize, but shall limit, annual tree removal within the downtown to no more than three (3) percent of the total number of existing downtown trees in the Downtown Tree Zone.
- D. A street tree within the Downtown Tree Zone may be removed if the ~~Planning Director~~ Manager determines that the tree is causing repeated and excessive

damage to sidewalks or other public or private improvements or structures. (Ord. 5027 §2, 2017).

~~17.58.050 — Review Criteria. A permit for major pruning or tree removal shall be granted if any of the following criteria apply:~~

- ~~A. The tree is unsafe, dead, or diseased as determined by a Certified Arborist.~~
- ~~B. The tree is in conflict with public improvements.~~
- ~~C. The proposed removal or pruning is part of an approved development project, a public improvement project where no alternative is available, or is part of a street tree improvement program.~~
- ~~D. Verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).~~

**17.58.050 Application Review and Criteria.**

**A. Application for Simple Tree Removal Permit.**

- 1. Review. Applications for simple tree removal permits shall be reviewed by the Manager in accordance with the requirements of this Chapter on a form containing information required by the Manager.**
- 2. Criteria. Each tree proposed for removal must meet at least one of the following criteria:**
  - a. The tree is a hazard as determined by a Certified arborist, and the arborist has demonstrated that less intensive options than removal, such as pruning, cabling, or bracing of limbs would not abate the hazard or would have a significant adverse effect on the health of the tree.**
  - b. The tree is dead or in an advanced state of decline.**
  - c. The tree species is on the nuisance list for Oregon or the list of invasive trees published by OSU Extension.**
  - d. Tree is infested with pests or disease.**
  - e. The tree roots are causing damage to sidewalks or other infrastructure, and the damage can't reasonably be abated without removing the tree. In evaluating whether the damage can be reasonably abated without removing the tree, consideration shall be given to impacts of the necessary abatement on the tree's health, further damage to infrastructure that would occur if the tree is retained, and alternative methods of abatement that would retain and protect the tree and prevent further damage. When considering reasonable abatement methods, greater priority shall be placed on retention of larger, healthy trees.**
  - f. The tree has sustained physical damage to an extent that necessitates its removal to address an issue of safety or tree health and aesthetics.**
  - g. The proposed removal is part of an approved development project, a public improvement project where no reasonable alternative is available, or is part of a street tree improvement program. When considering reasonable alternatives, greater priority shall be placed on retention of larger, healthy trees.**
  - h. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list**

the decision shall also meet any applicable requirements related to the protection of such trees.

3. Arborist Verification. In order to meet any of the above criteria for removal verification of tree health or a tree's impacts on infrastructure shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City. The Manager may waive the requirement for verification by an Arborist if it is reasonable to determine a tree is dead by inspection or other documentation required by the Manager. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).
4. At the Manager's discretion, any simple tree removal permit application may be referred to the Landscape Review Committee for review, to be reviewed by the Committee within 30 days of submittal of the application.

**B. Application for Tree Major Pruning Permit.**

1. Review. Applications for major pruning of trees shall be reviewed by the Manager in accordance with the requirements of this Chapter on a form containing information required by the Manager.
2. Criteria. Each tree proposed for major pruning shall meet all of the following criteria.
  - a. The pruning is necessary to reduce risk of hazard, maintain or improve tree health and structure, or improve aesthetics in accordance with accepted arboricultural practices, or to achieve compliance with public standards such as vision clearance, vertical clearance above sidewalks or roadways, or separation from overhead utilities.
  - b. The proposed pruning shall be consistent with the public purposes of Section 17.58.010 and shall not adversely affect the health of the tree. When pruning is necessary to reduce risk of hazard or achieve compliance with public standards, the tree structure and aesthetics shall be maintained to the extent practicable.
  - c. The proposed pruning will be performed consistent with accepted arboricultural practices, such as those published by the International Society of Arboriculture (ISA).
  - d. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list, the decision shall also meet any applicable requirements related to the protection of such trees.
3. Arborist Verification. In order to meet any of the above criteria for major pruning, verification of the need and consistency with the criteria for the proposed pruning shall be required, at the expense of the applicant, by a Certified Arborist acceptable to the City.
4. At the Manager's discretion, any application for major pruning of a tree may be referred to the Landscape Review Committee for review, to be reviewed by the Committee within 30 days of submittal of the application.



**C. Application for Complex Tree Removal Permit.**

- 1. Review. Applications for complex tree removal permits shall be reviewed by the Landscape Review Committee in accordance with the procedures of this Chapter on a form containing information required by the Manager.**
- 2. Criteria. An application for a complex tree removal permit shall meet all of the following criteria:**
  - a. The tree removal is necessary to address a public purpose that is not addressed by the criteria for a Simple Tree Removal Permit, and the application does not merely circumvent the requirements for a Simple Tree Removal Permit.**
  - b. The tree removal is necessary to promote the public health, safety, welfare, and/or to accomplish a public purpose or program identified in the City's adopted plans, goals, and/or policies.**
  - c. The tree removal will be consistent with the overall furtherance of a healthy urban forest, including healthy, attractive street trees.**
- 3. The Landscape Review Committee may apply conditions of approval as specified in this Chapter and as may be necessary to offset the impact of the tree removal.**
- 4. If the tree is on an adopted list or inventory of trees identified by the City as part of an adopted tree protection program, such as a Heritage Tree list, the decision shall also meet any applicable requirements related to the protection of such trees.**

**17.58.060 Permit Exemptions.**

- A. **Emergency Removal of** Hazardous Tree - If an imminent danger exists to the public or any private property owner or occupant, the City may issue an emergency removal permit. The removal shall be in accordance with International Society of Arboriculture (ISA) standards.
- B. Tree Impacting Public Infrastructure – If a tree is causing damage to or impacting public infrastructure that the adjacent property owner is not responsible for repairing, such as pedestrian ramps, utility vaults, or public storm or sanitary sewer lines, the tree removal may be approved by the ~~Planning Director or their designee~~ **Manager**. The removal shall be in accordance with International Society of Arboriculture (ISA) standards. In the event that a replacement tree cannot be planted in the same general location as the tree removed, the replacement tree may be planted in another location in the City as part of the City's annual tree planting program.
- C. Maintenance - Regular pruning maintenance which does not require the removal of over 20 percent of the tree's canopy, tree topping, or the disturbance of over 10 percent of the tree's root system is exempt from the provisions of this ordinance.
- D. Removal of downtown trees at the direction and initiative of the ~~City Planning Director~~ **Manager**. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

17.58.070 Tree Topping It shall be unlawful for any person, firm, or the City to top any tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where normal pruning practices are impractical may be exempted at the determination of the **Manager or McMinnville** Landscape Review Committee, applying criteria developed by the City. (Ord. 4654B §1, 1997).

17.58.075 Protection of Trees

- A. It shall be unlawful for any person to remove, destroy, break, or injure any street tree or public tree. Individuals convicted of removing or destroying a tree without City approval shall be subject to paying to the City an amount sufficient to fund the planting and establishment of a tree, or trees, of similar value. The value of the removed or destroyed tree shall be calculated using the methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers.
- B. It shall be unlawful for any person to attach or keep attached to any street or public tree or to the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device, except as a support for such tree.
- C. During the construction, repair, alteration or removal of any building or structure it shall be unlawful for any owner or contractor to leave any street tree or public tree in the vicinity of such building or structure without a good and sufficient guard or protectors as shall prevent injury to such tree arising out of or by reason of such construction or removal.
- D. Excavations shall not occur within the drip line of any street tree or public tree without approval of the City, applying criteria developed by the Landscape Review Committee. Utility pole installations are exempted from these requirements. During such excavation or construction, any such person shall guard any street tree or public tree within the drip line, or as may be required by the **Manager or** Landscape Review Committee.
- E. All building material or other debris shall be kept outside of the drip line of any street tree or public tree. (Ord. 4654B §1, 1997).

17.58.080 Street Tree Planting—When Required. All new multi-family **residential** development, commercial or industrial development, subdivisions, partitions, or parking lots fronting on a public roadway which has a designated curb-side planting strip or planting island shall be required to plant street trees in accordance with the standards listed in Section 17.58.090. (Ord. 4654B §1, 1997).

17.58.090 Street Tree Standards.

- A. The species of the street trees to be planted shall be chosen from the McMinnville Street Tree List, as approved by Resolution ~~2016-22~~ **2019-26, and as may have been subsequently amended,** unless approval of another species is given by the McMinnville Landscape Review Committee. The Landscape Review Committee may periodically update the McMinnville Street Tree List as necessary to reflect current arborist practices and industry standards.
- B. Street trees shall be a minimum of two (2) inches in caliper measured at six (6) inches above ground level. All trees shall be healthy grown nursery stock with a single straight trunk, a ~~well~~ **well-**developed leader with tops and roots characteristic

- of the species cultivar or variety. All trees must be free of insects, diseases, mechanical injury, and other objectionable features when planted.
- C. Small or narrow stature trees (under 25 feet tall and less than 16 feet wide branching) should be spaced no greater than 20 feet apart; medium sized trees (25 feet to 40 feet tall, 16 feet to 35 feet wide branching) should be spaced no greater than 30 feet apart; and large trees (over 40 feet tall and more than 35 feet wide branching) should be spaced no greater than 40 feet apart. Within residential developments, street trees should be evenly spaced, with variations to the spacing permitted as approved by the City for specific site limitations and safety purposes. Within commercial and industrial development staggered, or irregular spacing is permitted, as may be approved by the McMinnville Landscape Review Committee. When planting replacement trees within the Downtown Tree Zone, consideration shall be given to the height of adjacent buildings.
- D. **Except as provided in this Section, street trees shall be planted within a curbside planter strip or tree wells consistent with the applicable standards and dimensions of the City's adopted Complete Street standards, with the street trees centered between back of curb and front of sidewalk. However, where a street with sidewalk was previously constructed to a different standard, the Manager may authorize deviation to the street tree planting standards, with street trees planted in a narrower planter strip or behind the sidewalk.** When located adjacent to a local residential street or minor collector street, **Except when authorized by the Manager,** street trees shall **not** be planted within a curbside landscape strip measuring a minimum of three (3) **narrower than four (4)** feet in width **between the sidewalk and curb.** **When nonconforming conditions do not allow for trees to be planted in tree wells or planter strips along major collector or arterial streets per the adopted Complete Street standards,** ~~Street trees adjacent to major collector streets or arterial streets shall be placed a minimum of four (4)~~ **five (5)** feet from the back edge of the sidewalk. **Except when authorized by the Director,** ~~In no case shall a~~ **a street** tree **shall not** be planted closer than two and one-half (2 1/2) feet from the face of a curb. These standards may be superseded by design drawings and specifications as periodically developed and adopted by the City.
- E. Street trees shall not be planted within ten (10) feet of fire hydrants, utility poles, sanitary sewer, storm sewer or water lines, or within twenty (20) feet of street light standards or street intersections, or within five (5) feet of a private driveway or alley. New utility poles shall not be located within five (5) feet of an existing street tree. Variations to these distances may be granted by the Public Works Director and as may be required to ensure adequate clear vision.
- F. Existing street trees shall be retained unless approved by the ~~Planning Director~~ **Manager** for removal during site development or in conjunction with a street construction project. Sidewalks of variable width and elevation may be utilized as approved by the ~~Planning Director~~ **Manager** to save existing street trees. Any street tree removed through demolition or construction within the street right-of-way, or as approved by the City, shall be replaced within the street right-of-way at a location approved by the city with a tree, or trees, of similar value. As an alternative the property owner may be required to pay to the City an amount sufficient to fund the planting and establishment by the city of a tree of similar value. The value of the existing street tree to be removed shall be calculated using the

methods set forth in the edition then in effect of the "Guide for Plant Appraisal" published by the International Society of Arboriculture Council of Tree Landscape Appraisers. The developer or applicant shall be responsible for the cost of the planting, maintenance and establishment of the replacement tree.

- G. Sidewalk cuts in concrete for tree planting shall be a minimum of four feet by six feet, with the long dimension parallel to the curb, and if located within the Downtown Tree Zone shall follow the design drawing or updated design drawings and specifications as periodically developed and adopted by the City. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).

#### 17.58.100 Street Tree Plans

##### A. Submittal.

1. Subdivisions and Partitions: Street tree planting plans shall be submitted to the Landscape Review Committee for review and approval prior to the filing of a final subdivision or partition plat.
2. Commercial, Industrial, Parking Lots, and ~~Multi-family~~ **Multi-dwelling** Residential Development: Landscape plans, to include street tree planting as may be required by this ordinance, shall be submitted to the Landscape Review Committee for review and approval prior to the issuance of a building permit.

##### B. Street Tree Plan Content. At a minimum, the street tree planting plan should:

1. Indicate all existing trees, noting location, species, size (caliper and height) and condition;
2. Indicate whether existing trees will be retained, removed or relocated;
3. Indicate the measures to be taken during site development to ensure the protection of existing trees to be retained;
4. Indicate the location, species, and size (caliper and height) of street trees to be planted;
5. Indicate the location of proposed and existing utilities and driveways; and
6. Indicate the location of rights-of-way, existing structures, driveways, and existing trees including their species, size, and condition, within twenty feet of the subject site. (Ord. 4654B §1, 1997).

#### 17.58.110 Street Tree Planting

##### A. Residential subdivisions and partitions.

1. Planting Schedule: Street trees required of residential subdivisions and partitions shall be installed prior to submittal of a final subdivision plat or partition plat. As an alternative the applicant may file a surety bond or other approved security to assure the planting of the required street trees, as prescribed in Section 17.53.153.

##### B. Commercial, Industrial, ~~Multi-family~~ **Residential**, Parking Lot Development.

1. Planting Schedule: Street trees required of a commercial, industrial, ~~multi-family~~ **residential**, or parking lot development shall be installed at the time all other required landscaping is installed. (Ord. 4654B §1, 1997).

#### 17.58.120 Street Tree Maintenance.

- A. Street trees shall be continually maintained, including necessary watering, weeding, pruning and replacement, by the developer or property owner for one full growing season following planting, or as may be required by the City.
- B. Street tree plans, or landscape plans including street trees, shall be maintained in perpetuity. In the event that a street tree must be replaced, the adjacent property owner or developer shall plant a replacement tree of a species from the approved street tree or landscape plan.
- C. Maintenance of street trees, other than those located in the Downtown Tree Zone shall be the continuing obligation of the abutting property owner. The City shall undertake regular maintenance of street trees within the Downtown Tree Zone in accordance with appropriate horticultural practices including pruning and fertilizing to properly maintain the health of such trees. (Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).
- D. Street trees, as they grow, shall be pruned to provide at least eight (8) feet of clearance above sidewalks and thirteen (13) feet above local streets, fifteen (15) feet above collector streets, and eighteen (18) feet above arterial streets. This provision may be waived in the case of newly planted trees so long as they do not interfere with public travel, sight distances, or endanger public safety as determined by the City. Major pruning, as defined in Section 17.58.020, of a street tree must be approved by the City in accordance with Sections 17.58.040 **and 17.58.050**. (Ord. 5027 §2, 2017; Ord. 4654B §1, 1997).



**City of McMinnville  
Community Development**  
231 NE Fifth Street  
McMinnville, OR 97128  
503-434-7311  
[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE ZONING ORDINANCE, DOCKET G 3-23, RELATING TO TREE PROVISIONS AND AMENDING SECTION 17.06.045 "TREE RELATED DEFINITIONS" AND CHAPTER 17.58 "TREES"**

**DOCKET:** G 3-23

**REQUEST:** The City of McMinnville is proposing amendments to Section 17.06.045 "Tree Related Definitions" and Chapter 17.58 "Trees" of the Zoning Ordinance regarding trees. The proposal would create categories of "simple" and "complex" permits for removal of trees which are subject to Chapter 17.58. Applications for simple permits and major pruning would now be reviewed by staff, while applications for complex permits would continue to be reviewed by the Landscape Review Committee. Provisions of Chapter 17.58 are also updated for internal consistency with the City's Complete Street Standards, and the provisions for administration of tree permits are updated.

**LOCATION:** N/A. The proposal is a legislative text amendment.

**ZONING:** N/A. The proposal is a legislative text amendment.

**APPLICANT:** City of McMinnville

**STAFF:** Tom Schauer, Senior Planner

**HEARINGS BODY:** McMinnville Planning Commission

**DATE & TIME:** April 18, 2024, 6:30pm (last continued from February 15, 2024).  
Hybrid In-Person and Zoom Online Meeting:

**In Person:** Kent Taylor Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville

**Zoom Meeting:**

<https://mcminnvilleoregon.zoom.us/j/89368634307?pwd=M0REY3RVSzFH eFdmK2pZUmJNdkdSZz09>

**Zoom Meeting ID:** 893 6863 4307

**Zoom Passcode:** 989853

Or you can call in and listen via zoom: 1-253-215-8782

ID: 893 6863 4307

**DECISION-MAKING**

**BODY:** McMinnville City Council

**DATE & TIME:** May 28, 2024, 7:00pm  
 Hybrid In-Person and Zoom Online Meeting:

**In Person:** Kent Taylor Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville

**Zoom Meeting:**  
<https://mcminnvilleoregon.zoom.us/j/86446399879?pwd=RuMxpsb22WITVWZ4fPZRqaCobwciU9.1>

**Zoom Meeting ID:** 864 4639 9879  
**Zoom Password:** 528172

Or you can call in and listen via zoom: 1-253- 215- 8782  
 ID: 864 4639 9879

**PROCEDURE:** The application is subject to the legislative land use procedures specified in Sections 17.72.120 - 17.72.160 of the McMinnville Municipal Code.

**CRITERIA:** Amendments to the McMinnville Zoning Ordinance must be consistent with the Goals and Policies in Volume II of the Comprehensive Plan and the Purpose of the Zoning Ordinance.

**APPEAL:** The Planning Commission makes a recommendation to the City Council. The City Council's decision on a legislative amendment may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code.

**DECISION**

Based on the findings and conclusionary findings, the City Council **APPROVES** the legislative amendments to the Zoning Ordinance (Docket G 3-23).

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**DECISION: APPROVAL**

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City Council: \_\_\_\_\_ Date: 05/28/2024  
 Remy Drabkin, Mayor



Planning Commission: \_\_\_\_\_ Date: 06/03/2024  
 Sidonie Winfield, Chair of the McMinnville Planning Commission



Planning Department: \_\_\_\_\_ Date: 06/03/2024  
 Heather Richards, Planning Director

## **I. APPLICATION SUMMARY**

This docket originally included amendments to Chapter 17.57 of the Zoning Ordinance addressing landscape plans and landscaping and proposed amendments to Chapter 17.58 of the Zoning Ordinance addressing provisions for tree removal, major pruning of trees, and tree standards.

This work is now being addressed in two separate parts: the landscaping provisions of Chapter 17.57 and the tree provisions of Chapter 17.58 of the Zoning Ordinance. The current proposal is the amendments to the tree provisions of Chapter 17.58. The landscape provisions of Chapter 17.57 will be considered separately at a future date following additional work with the Landscape Review Committee.

This application is a legislative proposal for proposed amendments to Chapter 17.58 of the McMinnville Zoning Ordinance adopting amended procedures and provisions for processing of applications for permits for tree removal and major pruning of trees subject to Chapter 17.58 of the Zoning Ordinance.

The amendment creates categories of “simple” and “complex” permits for removal of trees which are subject to Chapter 17.58. Applications for simple permits and major pruning would now be reviewed by staff, while applications for complex permits would continue to be reviewed by the Landscape Review Committee. Provisions of Chapter 17.58 are also updated for internal consistency with the City’s Complete Street Standards.

Based on the recommendation of the Planning Commission, the amendment also adds definitions of “Complex Tree Removal Permit Application” and “Simple Tree Removal Permit Application” to the tree-related definitions of Section 17.06.045 of the Zoning Ordinance, and it includes corrections to typographical and scrivener errors. The proposed amendments also update the provisions for administration of tree permits.

A revised draft of amendments to Section 17.06.045 and Chapter 17.58 is attached as ***Attachment 1 (See Exhibit A to Ordinance 5145)***. Staff is recommending approval of the proposed amendments to Section 17.06.045 and Chapter 17.58 consistent with the Planning Commission recommendation, incorporating the definitions, addressing the typographical and scrivener errors, and also updating the provisions for administration of tree permits.

## **II. ATTACHMENTS**

- Attachment 1. Chapter 17.58. Proposed Amendments (on file with Planning Division, see also Attachment A to Ordinance 5145)

## **III. FINDINGS OF FACT - PROCEDURAL FINDINGS**

1. On April 3, 2023 and May 9, 2023, notice of the application and the June 15, 2023 Planning Commission public hearing was provided to DLCD.
2. On June 9, 2023, notice of the application and the June 15, 2023 Planning Commission public hearing was published in the News Register in accordance with Section 17.72.120 of the Zoning Ordinance.



3. On June 15, 2023, the Planning Commission held a duly noticed public hearing to consider the request. The hearing was continued to July 20, 2023. The hearing was subsequently continued to September 7, 2023, February 15, 2024, and April 18, 2024.
4. On April 18, 2024, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission recommended City Council approve the proposed amendments, subject to additional revisions to add definitions of “Complex Tree Removal Permit Application” and “Simple Tree Removal Permit Application” to the tree-related definitions of Section 17.06.045 of the Zoning Ordinance, and to correct typographical and scrivener errors. The proposed amendments also update the provisions for administration of tree permits.
5. Notice of the May 28, 2024 City Council meeting was posted on the City website in accordance with Oregon public meetings law.
6. On May 28, 2024, the City Council held a duly noticed public meeting to consider the recommendation of the Planning Commission and the proposal.

#### **IV. CONCLUSIONARY FINDINGS:**

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application.

#### **Zoning Ordinance**

The Purpose Statement of the Zoning Ordinance serves as a criterion for Zoning Ordinance amendments:

##### *Chapter 17.03. General Provisions.*

*17.03.020 Purpose.* *The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare.*

**FINDING: SATISFIED.** The proposed amendments continue to promote the public health, safety, convenience, and general welfare. The proposed amendments allow for procedures that provide efficient utilization of resources in processing routine permit applications, while ensuring the purposes and policies implemented through the standards continue to be achieved.

**Chapter 17.58. Trees.**

*17.58.010 Purpose. The purpose of this ordinance is to establish and maintain the maximum amount of tree cover on public and private lands in the city; reduce costs for energy, stormwater management, and erosion control; provide tree-lined streets throughout the city; select, situate and maintain trees appropriately to minimize hazard, nuisance, damage, and maintenance costs; to enhance the appearance, beauty and charm of the City; to increase property values and build stronger ties within neighborhoods; to implement applicable adopted Downtown Improvement Plan provisions; to promote a diverse, healthy, and sustainable community forest; and to educate the public regarding community forest issues. (Ord. 5027 §2, 2017; Ord. 4816 §2, 2004; Ord. 4654B §1, 1997).*

**FINDING: SATISFIED.** The proposed amendments continue to achieve the purposes of Section 17.58.010, while streamlining the process for processing of routine tree permits.

**Comprehensive Plan**

As described in the Comprehensive Plan, the Goals and Policies of the Comprehensive Plan serve as criteria for land use decisions. The following Goals and Policies from Volume II of the McMinnville Comprehensive Plan are applicable to this request:

***CHAPTER X. CITIZEN INVOLVEMENT AND PLAN AMENDMENT***

***GOAL X 1 TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.***

**FINDING: SATISFIED.** The proposal is consistent with this applicable Goal of Chapter X of the Comprehensive Plan.

Proposed amendments were developed with the appointed Landscape Review Committee, and the public hearing process provided further opportunity for consideration of citizen involvement and input and associated deliberation.

The proposed amendments make adjustments to the current review procedures so that routine tree removal and pruning permits would be reviewed by staff, while providing for review of more complex applications by the appointed Landscape Review Committee, providing a higher level of engagement for those more complex and less routine applications.