

ORDINANCE NO. XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LAKE FOREST PARK, WASHINGTON, AMENDING
CHAPTER 16.14 OF THE LAKE FOREST PARK
MUNICPAL CODE (LFPMC), TREE CANOPY
PRESERVATION AND ENHANCEMENT; PROVIDING FOR
SERVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Click here to enter text.; and

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WHEREAS, ; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act, Chapter 43.21C RCW, pursuant to Chapter 197-11 WAC, and a _____ was issued on _____, 2022; and

WHEREAS, in accordance with the requirements set forth in RCW 36.70A.106, the City provided the Washington State Department of Commerce (Commerce) notice of the City's intent to adopt the proposed amendments on _____, and received notice that Commerce had granted expedited review on _____; and

WHEREAS, the City Council held public meetings to review amendments to Chapter 16.14 LFPMC during a City Council study session and regular meetings on _____, 2022; _____; and

WHEREAS, the City Council held a public hearing on _____, 2022, regarding the proposed amendments; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST PARK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.010 LFPMC, Policy, as follows:

Trees in Lake Forest Park serve an important role in mitigating climate change and its effects on our community, by simultaneously removing CO₂ from the air and minimizing the “urban heat island” effect. Exceptional trees are the foundations that anchor our forest canopy; they sequester the most carbon and contribute the most seed to the next generation of forest trees. Groves of trees, anchored by exceptional trees, buffer most effectively against high winds, soil erosion and fluctuating surface temperature, provide canopy continuity for wildlife migration corridors, and are necessary for the ecological processes that integrate the canopy with the soil and the understory vegetation that make a viable ecosystem. As a “Tree City,” our community does not simply value trees for their aesthetic beauty, but for the ecological processes they provide

It is the policy of the city to:

- A. Provide more diverse, healthier, and greater, predominantly evergreen tree canopy coverage to future generations of residents while protecting and respecting private property rights.
- B. Maximize the storm and surface water, wildlife, climate change, human health, and other benefits provided by trees and their understory vegetation, including everything from their canopy to their roots.
- C. Mitigate the economic, environmental, and community consequences of tree loss on public and private lands.
- D. Implement canopy-based regulatory and permitting strategies that result in at least no net loss in tree canopy coverage and is grounded in a 30-year maturity cycle for trees.
- E. Allow property owners to make reasonable use of their property while managing the trees, stands of trees and urban forests and their inter-related benefits.
- F. Promote and prefer the retention of viable existing trees and mature tree canopy coverage over removal and replacement through encouraging project designs that utilize existing trees in the landscape, or allow replacement of select native or acceptable substitute tree species (as defined on the city’s general tree list) to maintain the urban forests of Lake Forest Park.
- G. Protect exceptional trees that, because of their unique combination of species, age, size, location, and health, constitute an important community resource.

Section 2. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.020 LFPMC, Purpose and intent, as follows:

16.14.020 Purpose and intent.

The purpose and intent of this chapter is to:

- A. Implement certain strategies for the management and protection of Lake Forest Park's urban forest resources described in those goals and policies of the Lake Forest Park community forest management plan that were accepted by the city council;
- B. Preserve and enhance the tree canopy of Lake Forest Park by encouraging the protection of existing trees and groves~~stands~~ of trees, and the replanting of new trees to replace those lost to old age, storms, development and other maladies;
- C. Mitigate the economic, environmental, and aesthetic consequences of tree loss through protection and tree planting on public and private lands;
- D. Provide guidelines to protect trees from adverse impacts during construction;
- E. Encourage project designs that utilize existing trees in the landscape, or allow replacement of select native tree species to maintain the urban forests of Lake Forest Park;
- F. To protect private property rights and allow property owners to make reasonable use of their property while protecting suitable and appropriate trees for that site; and
- G. Maintain and protect the public health, safety, and general welfare.

Section 3. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.030 LFPMC, Definitions, as follows:

...

“Exceptional tree” means a viable tree, which because of its unique combination of size and species, age, location, and health is worthy of long-term retention, as determined by the city’s qualified arborist. To be considered exceptional, a tree must meet the following criteria:

1. The tree must be included in and have a diameter at breast height (DBH) that is equal to or greater than the threshold diameters listed in Table 1;
2. The tree shall exhibit healthful vigor for its age and species;
3. The tree shall not be considered a significant risk in regard to existing utilities and structures as evaluated per the tree risk assessment defined in LFPMC 16.14.080(A)(1);

4. The tree shall have no visual structural defects that cannot be mitigated by one or more measures outlined in the International Society of Arboriculture Best Management Practices; and
5. If retained under current tree growth conditions, the tree can be expected to remain viable with reasonable and prudent management and care.

Table 1: Exceptional Tree Species and Their Threshold Diameters

Species	Threshold Diameter (DBH)
Bigleaf MAPLE – Acer macrophyllum	42 inches
Douglas FIR – Pseudotsuga menziesii	42 inches
Grand FIR – Abies grandis	33 inches
MADRONA – Arbutus menziesii	12 inches
Western HEMLOCK – Tsuga heterophylla	36 inches
Western Red CEDAR – Thuja plicata	42 inches
Western White PINE – Pinus monticola	36 inches

“Grove:” a contiguous grouping of trees with overlapping canopies that are 12” DBH or greater and that occupy no less than 7,000 square feet or more in size.

“Topping” means the cutting back of limbs to stubs within the tree’s crown or the cutting back of limbs or branches to lateral branches that are less than one third of the diameter of the limb or branch that is cut the removal of the primary leader or the whole top of a tree.

“Tree” means a self-supporting woody plant characterized by one main trunk or, for certain species, multiple trunks, typically reaching at least 2012 to 15 feet in height at maturity that is recognized as a tree in the nursery and arboricultural industries.

Section 4. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.040 LFPMC, Tree removal – Application for permits and posting required, as follows:

...

C. Application Requirements.

1. All tree removal permit applications, except utility forest management permits, shall include the completed permit application supplemented by a general site plan showing:

- a. The name, address, email, and phone number of the applicant and owner of the property;
- b. The locations of tree(s) to be removed;
- c. Nearby structures and streets;
- d. Locations of other significant trees surrounding the tree(s) to be removed;
- e. Locations of critical areas or buffers;
- f. A tree replacement plan if required by LFPMC 16.14.090; and
- g. Authorization for the city's qualified arborist to access the site for the purpose of evaluating the viability of replacement trees.

2. Major tree permits and proactive forest management permit applications shall include the following:

- a. A site map (to scale) with a north arrow depicting accurate location of site features including buildings, driveways, environmentally critical areas and buffers, forest stands-groves or open-grown single or clusters of significant trees; the CRZ of the standgrove, cluster, or individual tree, along with any off-site trees that may be impacted by tree removal, excavation, grading, or other development activity proposed; and
- b. A tree inventory and assessment report prepared by a qualified arborist that includes at a minimum: trees to be removed and protected (including CRZ), trees in the vicinity of construction or that could be impacted by the proposed development activity, tree protection fence location, timeline for tree protection activities, list of protection measures and conditions to be taken during all development activities to ensure code compliance during development activities; and

c. A report including, at a minimum, information on tree species, diameter at breast height, condition (health), risk level, existing and proposed canopy coverage, and when applicable, design of a land use proposal that prioritizes healthy trees in accord with LFPMC 16.14.070(D)(3).

...

Section 5. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.070 LFPMC, Tree permit approval criteria conditions, as follows:

16.14.070 Tree permit approval criteria and conditions.

The criteria by which minor tree permits, major tree permits, proactive forest management permits, and utility forest management permits are approved, conditioned, or denied.

A. The tree canopy coverage goal for the lot sizes and land use types is set forth in Table 2 below. Tree canopy coverage is measured by the percentage of canopy provided by existing trees or the projected canopy coverage to be provided by newly planted or immature trees (when such trees reach 30 years of age).

Table 2: Canopy Coverage Goal

Zoning and Lot Size	Canopy Coverage Goal
Single-family lots greater than 15,000 square feet	58%
Single-family lots 10,000 – 15,000 square feet	39%
Single-family lots less than 10,000 square feet	28%
Multifamily	15%
Commercial	15%
Southern Gateway Single Family	15%
Southern Gateway Transition	10%
Southern Gateway Corridor	5%

B. A lot's canopy coverage shall be calculated by the city's qualified arborist for all permits requiring arborist review.

C. Minor Tree Permits. A minor tree permit shall be granted if conditioned on at least one tree replacing each tree removed, to provide canopy coverage equal to or greater than the tree(s) being removed.

D. Major Tree Permits. A major tree permit shall be granted if the application satisfies or approval is conditioned to satisfy the following:

1. When the proposed tree removal is not associated with major development activity, trees may be removed if a tree replacement plan is approved that, at a minimum, does the lesser of the following:
 - a. Maintains the canopy coverage at or above the applicable canopy coverage goal; or
 - b. Maintains canopy coverage at or above the percentage existing prior to tree removal.
2. When the proposed tree removal is associated with major development activity, the trees may be removed if a tree replacement plan is approved that, at a minimum, brings canopy coverage to the applicable canopy coverage goal.
3. Development proposals associated with a tree permit shall:
 - a. Incorporate trees as a site amenity and to reflect a strong emphasis on tree protection.
 - b. Demonstrate the following prioritized factors for retention:
 - i. Existing viable trees in groups or stands groves;
 - ii. Exceptional trees or other high quality open-grown, windfirm trees;
 - iii. Landmark trees;
 - iv. Trees in critical area buffers, or adjacent to critical area buffers;
 - v. Trees that are interdependent with and therefore critical to the integrity of stands groves of other protected trees;
 - vi. Other individual trees that will be windfirm, high quality trees if retained;
 - vii. Other trees that provide wildlife or riparian habitat, screening, buffering or other amenities;
 - viii. Trees that help to protect neighbors' trees from windthrow, or other trees within required yard setbacks or on the perimeter; and
 - ix. Trees next to parks or other open space areas.
 - c. Retain a forested look, value, and function after development or modification. Trees should be protected within vegetated islands and stands-groves rather than as individual, isolated trees scattered throughout the site.
 - d. Consider tree protection opportunities in the design and location of building footprints, parking areas, roadways, utility corridors and other structures.
 - e. Provide grading plans that accommodate existing trees and avoid alteration to grades around existing significant trees.
4. Conditions necessary to safeguard trees identified for protection.

5. A notice on title, in the form required by LFFMC 16.16.190, shall be recorded by the applicant disclosing the permit and associated tree retention conditions as required by this chapter. A notice on title is required for all major permits associated with major development activity, and for major permits which would cause the property's canopy coverage to fall below the canopy coverage goal.
6. Conditions required by the city's qualified arborist to safeguard at-risk trees throughout the development process.
7. Conditions that require sidewalks, structures, utilities, and roadways to be set back at least five feet from the CRZ, except where such structure is cantilevered or otherwise raised above the ground's surface so as not to disrupt the tree's roots, and the proposed construction is not likely to result in conflicts between the tree and the sidewalk, driveway, structure, or utility that would necessitate the tree's removal during its normal lifespan.
8. Conditions to allow trenching, construction, or an alteration of grades between the five-foot setback from the critical root zone (CRZ) and the interior critical root zone (ICRZ) of a protected tree; provided, that the tree protection plan approved by the city's qualified arborist demonstrates that the proposed activity will not adversely affect the long-term viability of the tree.

E. Proactive Forest Management Permits. A proactive forest management permit shall be granted if the application satisfies or can be conditioned to satisfy the following:

1. All recommendations by the city's qualified arborist for maintenance, management, preservation and enhancement of the viability of trees on a lot or lots must be incorporated into the proactive forest management plan prior to approval.
2. The proposed tree removal and replacement plan, at minimum, does the lesser of the following:
 - a. Maintains canopy coverage at or above the applicable canopy coverage goal; or
 - b. Maintains canopy coverage at or above the percentage existing prior to tree removal.
3. If major development activity is proposed while a proactive forest management permit is active, then tree replacement must comply with subsection (D)(2) of this section and bring the parcel(s) up to the canopy coverage goal.
4. Tree removal shall not exceed tree replacement on an annual basis unless otherwise authorized by the city's qualified arborist due to risks to viability of existing or replacement trees during the removal process.
5. Amendments to the approved proactive forest management plan may only be made with approval of both the administrator and the city's qualified arborist.
6. The standard duration of an active proactive forest management permit is five years, unless otherwise authorized by the city's qualified arborist.

7. Conditions necessary to safeguard trees identified for protection.
8. A notice on title, in the form required by LFPMC 16.16.190, shall be recorded by the applicant, disclosing the permit and associated tree retention conditions as required by this chapter.
9. A contract with a qualified arborist to undertake annual site visits at the expense of the applicant and submit annual progress reports to the administrator for each year that the permit is valid.

F. Utility Forest Management Permits. A utility forest management permit shall be granted if the application satisfies or can be conditioned to satisfy the following:

1. Establishes a commitment for collaboration between a utility provider's qualified arborist and the city's qualified arborist that results in a utility forest management plan which includes approaches, strategies, and timelines that are in keeping with the city policies of LFPMC 16.14.010; and
2. Establishes that tree removal shall be granted for safety and service related issues, conditioned on at least one tree replacing each tree removed, either through on-site planting, a voucher program, or other agreement between the city and the utility and that tree replacement is not required when tree removal is associated with emergency action; and
3. Establishes that the city is the recipient for all tree replacement required for tree removal in the right-of-way, either through on-site planting, a voucher program, or other agreement between the city and the utility; and
4. Establishes that tree removal in critical areas and their buffers, when necessary for safety and continuity of service related issues, is exempt from requirements of LFPMC 16.14.080 when confirmed by the city's qualified arborist; and
5. Establishes that tree removal defined as emergency actions according to LFPMC 16.14.050 is exempt from permitting requirements when necessary for safety and continuity of service related issues; and
6. Includes criteria acceptable to the city's qualified arborist for providing inventory of trees removed for emergency actions being regularly submitted to the city and, at minimum, including information describing the species and DBH; and
7. Includes a commitment that all tree removal and pruning shall be performed under the supervision of a qualified arborist using best management practices (BMPs).
8. Amendments to the approved utility forest management plan may only be made with approval of both the administrator and the city's qualified tree professional.
9. The standard duration of an active utility forest management permit is based on each utility provider's unique cycle of maintenance, not to exceed five years, unless otherwise authorized by the city's qualified arborist.

G. Notice of Decision. ~~The approved tree permit must be Tree removal may commence immediately upon posting of an approved tree permit~~ on the subject site in the same manner described in LFPMC 16.14.040(D)(1) and on the same day the permit is issued. For major tree permits, removal may commence 15 days after the issuance of the approved tree permit. For minor tree permits, removal may commence immediately upon posting of the approved tree permit. The tree permit shall remain posted at least one week (seven calendar days) after the approved activity has been completed.

H. Appeals. Appeals of tree permit decisions shall be processed under Chapter 16.26 LFPMC as appeals of ministerial administrative decisions. Appeals must be filed within 14 days following the Notice of Decision pursuant to LFPMC 16.26.055.

I. Minor amendments to an approved tree removal permit may be made with written approval of the administrator and the city's qualified arborist. Major amendments that substantively amend the number of trees to be removed, increase impacts on retained trees, or change conditions imposed within the permit must be noticed pursuant to this section prior to written approval of the major amendment.

J. Tree removal permits expire six months (180 days) after the date the permit is issued, unless the city's qualified arborist has approved a proactive forest management permit, utilities forest management permit or the administrator grants one extension of up to six months when the applicant provides a written request prior to expiration that includes a reasonable justification for the extension, such as a financial hardship, hardship in obtaining replacement trees, or weather-related factors that prevent the applicant from completing the requirements of the permit.

Section 6. AMEND . The City Council of the City of Lake Forest Park hereby amends Section 16.14.080 LFPMC, Environmentally critical areas and buffers, as follows:

16.14.080 Environmentally critical areas and buffers.

A. Removal of trees in critical areas and their buffers is prohibited, except that permits may be issued in the following circumstances:

1. When trees have been determined to be any of the following under a tree risk assessment conducted in accordance with the International Society of Arboriculture Best Management Practices: Tree Risk Assessment (2013), done by a qualified arborist that is certified as a tree risk assessor, and where the risk cannot be reduced to low with mitigation such as pruning:
 - a. Moderate risk with significant consequences;
 - b. Moderate risk with severe consequences;
 - c. High risk; or
 - d. Extreme risk.

2. When trees proposed for removal are causing obvious physical damage to structures, utilities, or other infrastructure, such as building foundations, public sidewalks, roadways, or water conveyances, and the city's qualified arborist has determined that mitigation actions, such as root pruning, would not be feasible to minimize further damage.
3. When trees proposed for removal are invasive trees, as verified by the city's qualified arborist.
4. When trees proposed for removal are part of an approved action under Chapter 16.16 LFPMC.

~~B. If trees proposed for removal are located in steep slope or landslide hazard areas or their buffers, a qualified professional such as a geologist or geotechnical engineer, as defined in Chapter 16.16 LFPMC, shall certify that the trees can be safely removed or the proposal can be designed so the landslide hazard risk to the property or adjacent property is eliminated or mitigated.~~

~~CB.~~ The administrator may require review by a geologist, geotechnical engineer, wetland biologist, stream biologist, or other qualified professional, as defined in Chapter 16.16 LFPMC, at the applicant's expense, to determine whether or not the proposed removal is likely to cause damage to the critical area or buffer or reduce its ecological function. Permits may be conditioned based on the recommendations of these qualified professionals.

~~DC.~~ Unless authorized in writing by a qualified arborist, stumps of removed trees shall not be removed from the ground, and all vegetation cut shall remain within the critical area or buffer. Woody debris of removed trees shall be lopped and scattered so as not to smother native vegetation.

Section 7. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.090 LFPMC, Tree replacement, as follows:

16.14.090 Tree replacement.

The following apply to tree replacement required under the chapter:

A. All applicants or their successors in interest are required to maintain replacement trees until they are independently viable. Replacement trees that die prior to meeting the definition of significant tree must be replaced by a tree that meets the criteria of this section and any canopy coverage requirements that the expired tree was intended to provide. Changes to the approved tree replacement plan may only be made with approval of both the administrator and the city's qualified arborist.

~~B. Special emphasis should be given to choosing native replacement tree species due to their numerous environmental benefits. When replacements are being made for the removal of native trees, the same species will be selected unless the city's qualified arborist City Arborist deems a similar species acceptable. Replacement tree species should be selected from the approved Recommendations for replacements of When~~

~~non-native landscape trees are removed, replacement tree recommendations are included in the general General tree Tree list List for the city of Lake Forest Park which is maintained by the city based on the recommendations from the city's qualified arborist, and should shall be evergreen species, whenever appropriate an evergreen tree is being replaced.~~ In environmentally critical areas or their buffers, replacement trees should be native trees or acceptable substitutes, as defined by the general tree list. Selection of a species not on the list shall require approval by the city's qualified arborist. Invasive trees, as defined by this chapter, shall not be used as replacement trees.

C. All replacement trees shall meet the minimum standards for size and quality according to the current edition of the ANSI Z60.1 standard for nursery stock.

D. Major Tree Permits.

1. For lots on which major development activity is proposed, that are legally nonconforming with respect to the lot coverage and lot area requirements (LFPMC Title 18) and are below the canopy coverage goal prior to tree removal, off-site replanting may be approved for any portion of the required canopy coverage that the city's qualified arborist finds would be infeasible to locate on site. Conditions of the permit shall be recorded in the form of a notice on title as described in LFPMC 16.14.070 for the property on which off-site trees are planted.
2. For tree removals that cause a property's canopy coverage to drop below the canopy coverage goal, and for tree removals associated with major development activity, the city's qualified arborist shall undertake annual site visits at the expense of the applicant and submit annual progress reports to the administrator for five years following tree permit issuance. Changes to the approved replanting plan may only be made with approval of both the administrator and the city's qualified arborist.
3. Tree removal permits associated with preliminary subdivisions or preliminary short subdivisions approval shall condition final approval with placement on the face of the subdivision or short subdivision plat a note stating the minimum tree canopy that must be achieved and maintained on each lot.
4. Tree removal permits associated with preliminary subdivisions or preliminary short subdivisions shall include as a condition the creation of a tree conservation easement. The location of the tree conservation easement shall be selected based upon the prioritization for retaining trees listed in LFPMC 16.14.070(D)(3). If suitable trees are not present, then the tree conservation easement should abut other existing ~~stands groves~~ of off-site trees or environmentally critical areas. If all or portions of the tree conservation easement are not treed, then the conservation easement shall be replanted to achieve full canopy coverage (100 percent) when the newly planted trees reach 30 years of age, excluding borrowed canopy from off-site trees. A tree conservation easement shall meet the following criteria for approval:
 - a. The easement shall equal 15 percent of the gross project area;
 - b. No dimension of the easement may be less than 15 feet;

- c. A 15-foot setback shall be maintained from the edge of the easement and any structures;
- d. A five-foot setback from property lines shall be maintained from all sides of the easement;
- e. The easement shall not overlap with a critical area tract;
- f. If the city's qualified arborist determines that native understory vegetation shall be retained within the tree conservation easement, then the easement area shall be either demarcated with split rail fencing or identified with permanent signs;
- g. Tree conservation easements shall be delineated and dedicated on the face of the final recorded subdivision or short subdivision; and
- h. Any tree removal proposed in a tree conservation easement must meet the criteria for tree removal in critical areas.

Section 8. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.140 LFPMC, Requirement for tree services and others doing land clearing and tree removal, as follows:

16.14.140 Requirements for tree services and others doing land clearing and tree removal.

- A. In order to assure compliance with the standards and requirements of this chapter, private foresters, arborists, loggers, and contractors involved in major or minor development activity in the city of Lake Forest Park shall be required to annually sign and submit to the city, on a form approved by the city, a statement acknowledging the city's tree protection requirements.
- B. Private contractors involved in land clearing operations who do not provide the above statement shall be prohibited from performing tree removal and land clearing services in the city of Lake Forest Park, shall be in violation of this chapter and may be prosecuted under this chapter, the city's civil penalties ordinance, or as otherwise provided by law.

Section 9. AMEND. The City Council of the City of Lake Forest Park hereby amends Section 16.14.160 LFPMC, Canopy study, as follows:

The city shall assess its progress in achieving the goals and policies of LFPMC 16.14.010 by conducting a city-wide tree canopy study at least every five years beginning in 2022. For purposes of this study, canopy coverage shall be calculated both as it is at the time of the study and as it is projected to include replacement trees planted as a result of permitted and enforcement activity. The results of this assessment shall be transmitted to the members of the tree board, the planning commission, and city council, as well as publicly posted on the city website, to assist in the evaluation of regulation effectiveness. Additionally, on an annual basis every 5 years, the city shall assess the acreage of tree canopy coverage added as a result of lots being brought up to the canopy coverage goal through major development activity replacement

requirements, as well as the acreage of canopy coverage above the canopy coverage goal that has been removed and not replaced.

Section 10. SEVERABILITY. Should any portion of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 11. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 12. EFFECTIVE DATE. This ordinance shall take effect five (5) days after passage and publication.

APPROVED BY A MAJORITY of the Lake Forest Park City Council this ____ day of _____, 2022.

APPROVED:

Jeff Johnson
Mayor

ATTEST/AUTHENTICATED:

Matthew McLean
City Clerk

APPROVED AS TO FORM:

Kim Adams Pratt
City Attorney

Introduced: _____
Adopted: _____
Posted: _____
Published: _____
Effective: _____