



## PLANNING COMMISSION MEETING

Tuesday, October 22, 2013

6:30 p.m.

Council Chambers

2<sup>nd</sup> Floor City Hall

1300 NE Village Street

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### MEETING AGENDA

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1. **CALL TO ORDER:** 6:30 p.m.
2. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **REVIEW AND ADOPT MINUTES:** October 8, 2013
4. **WORK SESSION**
  - a. Discussion - River Front Mixed Use Zone
  - b. Street Tree Requirements in Fairview Village
5. **STAFF UPDATES**
6. **COMMISSION UPDATES**
7. **TENTATIVE AGENDA:** November 12, 2013
  - Joint Work Session with City Council Re: River Front Development Discussion
8. **ADJOURNMENT**

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### NEXT PLANNING COMMISSION MEETING IS NOVEMBER 12, 2013.

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Planning Commission hearings are broadcast live on Comcast Cable Channel 22 and Frontier Cable Channel 33. Replays of the hearing are shown on Comcast Channel 22 and Frontier Channel 33 Saturday at 12:00pm and Monday at 2:00pm, and Comcast Channel 30 and Frontier Channel 39 Wednesday at 7:00pm. Further information is available on our web page at [www.fairvieworegon.gov](http://www.fairvieworegon.gov) or by calling Devree Leymaster, City Recorder, 503-674-6224.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6224.

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MINUTES  
PLANNING COMMISSION MEETING  
1300 NE Village Street  
Fairview, OR 97024  
Tuesday, October 8, 2013

PRESENT: Steve Kaufman, Chair  
Jan Shearer, Vice-Chair  
Gary Stonewall  
Keith Kudrna  
Ed Jones  
Julius Arceo

ABSENT: Jack McGiffin

STAFF: Allan Berry, Public Works Director  
Erika Fitzgerald, Development Analyst  
Devree Leymaster, City Recorder

**1. CALL TO ORDER**

Chair Kaufman called the meeting to order at 6:30pm.

**2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**

Chair Kaufman inquired if any person would like to speak on a non-agenda item, hearing none moved to review of minutes.

**3. REVIEW AND ADOPT MINUTES**

Commissioner Stonewall moved to approve the August 27, 2013 minutes and Vice Chair Shearer seconded. The motion passed unanimously.

**4. REVIEW MINUTES**

Commissioner Jones moved to recommend approval of the Joint Work Session minutes of September 20, 2013 to City Council for adoption. The motion passed unanimously.

**5. WORK SESSION**

**Discussion – Riverfront Mixed Use Zone**

Development Analyst Erika Fitzgerald stated into record that Commission received the revised draft code dated 8/12/13, submitted by Matt Wand; the memo from David Doughman, City Attorney's Office dated 9/4/13; and a memo from the Multnomah County Drainage District dated 10/8/13.

Brian Harper, Associate Regional Planner with Metro Planning and Development Department, 600 NE Grand Ave, Portland, OR explained the two properties between the metro properties are included in Metro's Title 4 Industrial Map. This is a regional document. The intent is to protect industrial employment areas, cluster certain types of businesses, and protect traffic conditions. There are measures that allow for the option to remove properties from the Title 4 map. Metro staff would be supportive and helpful through the process. The applicant must go before the Metro Council for approval to remove the properties from the map. The process to remove the property from Title 4 can be done concurrently with a zone change; however, the zone should not be officially changed until Metro has approved the Title 4 changes. If the zone were adopted prior, Metro would, most likely, appeal the decision to the State.

Commissioner Stonewall inquired what the time line is for the process. Mr. Harper replied, conservatively, six months. City staff would need to prepare the documents, demonstrate compliance with applicable criteria, and schedule to go before Metro Council.

Mr. Dean Hurford, 335 NE LeMesa Ct, Gresham, OR clarified the request is not to rezone the properties, but to create the zone so applicants can apply for a rezone. Mr. Hurford remarked that a riverfront development will also create employment opportunities.

Vice Chair Shearer summarized a land owner cannot request a rezone until the zone is created and defined. Mr. Hurford replied yes, that his understanding. Development Analyst Fitzgerald remarked, per City Attorney Chris Crean, there is a risk of the decision being challenged when a zone is created but not applied to a property. Public Works Director Berry referred to City Attorney David Doughman's memo, number 6, regarding at least having affected property owners consent prior to rezoning. Development Analyst Fitzgerald remarked representatives from Georgia Pacific and the Port of Portland, adjacent property owners who would be affected by the rezone, will attend the October 22 meeting to express their view points.

Mr. Garth Everhart, 954 NE Clear Creek Way, Fairview, OR stated the 2004 Comprehensive Plan identifies these properties as being designated for river oriented development. The intention since 2004 has been to create a commercial and residential area along the Columbia River. Currently, the industrial zones are attracting more distribution type businesses than manufacturing. This type of business along the Columbia River is not maximizing the use.

It does not make business sense for potential developers to initiate and carry the cost of creating a zoning district and rezoning the property to the zoning district. A rezone is a doable process. The applicant submits a rezone application demonstrating a development that meets the applicable criteria. The city needs to take the first step and create the zone district so the private sector can decide what to do.

Mr. Everhart noted Fairview has created new zoning districts prior to code adoption in the past i.e. the Village. The development of the riverfront would be a Planned Unit Development (PUD), similar to the Village, where the city would have another opportunity to vet out design features, amenities, etc.

Commissioner Kudrna inquired at what point they should begin reviewing and discussion the draft code language. Public Works Director Berry replied the direction provided at the next joint work session with the City Council will determine the next steps.

Chair Kaufman proposed the Commission begin reviewing the draft code while the other processes are beginning. Commissioner Kudrna responded they need a defined and unified vision to create a code that will provide what is wanted for development.

Commissioner Kudrna inquired if the developers could provide a presentation demonstrating their vision. Mr. Everhart responded plans were shared with City Council in a presentation by Leland Consulting during the Ranger discussion. The state would like a marina and gas dock included; and the city would like development that will maximize the property tax base. Mr. Everhart stated he would rely on experts in i.e. economic development, marketing, etc. to determine the best mix of development. Commissioner Kudrna reiterated developers are requesting this change, what vision is pushing it. Mr. Everhart responded a mixed use development of 80% residential, 10% office, and 10% retail. Mr. Everhart encouraged the

Commission to visit and walk the site, see the beautiful views, to understand and appreciate the potential of the site(s).

Director Berry remarked staff had contacted Leland Consulting at the direction of City Council. Mr. Leland was helpful in providing information and shared his insight and expertise. Mr. Leland recommended proceeding with a master plan process for the riverfront; which would include clearly defining what is wanted and its scope.

Metro Associate Regional Planner Harper commented many of the criteria staff will have to demonstrate compliance with in the application to Metro to remove the properties from Title 4, are similar to those in the master plan process. The master plan process would benefit and support the request to Metro to change the Title 4 map.

Director Berry commented staff received a request for a pre-application conference for a concrete batch site located on one of the properties being discussed and pointed out if a rezone were to happen current industrial sites would not be able to expand.

Chair Kaufman inquired when initiating the Metro process could begin. Director Berry responded, as soon as direction is provided to staff to move forward with creating a zone, staff will concurrently work with Metro to pursue the map change.

Vice Chair Shearer summarized in order to not have Metro appeal the zone change, the Title 4 map change must first be approved. In order to do so, a unified vision must be presented to the Metro Council demonstrating that a zone change is merited. Many of the items needed to do so, are similar to those reviewed in the master plan process i.e. traffic, drainage, flood plain, etc.

Commissioner Jones remarked the master plan process, identifying federal and state criteria regarding the levee, input from stake holders, cost confirmation, and determining extent and time need to be addressed prior to outlining a code.

Director Berry noted the city is contracting with Brown & Caldwell, pending Council approval. One of the tasks is to provide guidance regarding utility and road accessibility for the sites.

Councilor Arceo suggested staff provide an outline, project schedule, of the steps needed to work through this process.

Development Analyst Fitzgerald clarified the direction thus far is to pursue more of a master plan process which will concurrently assist in meeting the criteria for the Metro Industrial Title 4 Map change. Staff will provide a work plan based on this information at the next meeting.

## 5. STAFF UPDATES

Public Works Director Allan Berry reported the following.

- A pre-application conference is scheduled for a concrete producing plant on the Landco property.
- A 9 lot subdivision has received final plat approval.
- In conjunction with Arata Road improvements, a developer is working with Metro and Multnomah County for natural resource improvements to No Name Creek. Enhancements will make properties impacted by the creek more usable.
- Fairview RV Park property owner has expressed interest in redeveloping the site.
- Staff has not received any new information regarding the potential VA clinic.

- Mayor's Business Roundtable is scheduled for October 17. Keynote speaker is Multnomah County Sheriff Daniel Staton.

**6. COMMISSION UPDATES**

None.

**7. TENTATIVE AGENDA - October 22, 2013**

- River Front Mixed Use Zone
- Street Tree Requirements in Fairview Village

**8. ADJOURNMENT**

Meeting adjourned by consensus at 7:30PM.

Steve Kaufman, Chair

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Devree A. Leymaster  
City Recorder

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Date: \_\_\_\_\_



## PLANNING COMMISSION STAFF REPORT

**To:** Fairview Planning Commission  
**From:** Erika Fitzgerald, Development Analyst  
**Date:** October 15, 2013  
**Subject:** Riverfront Mixed Use District – 2<sup>nd</sup> Informational Meeting

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### **Action Requested**

Provide feedback and consider the next steps of the Riverfront project for discussion at the next joint Planning Commission/City Council work session.

### **Background Information**

Planning Commission participated in a joint work session with the City Council on September 10, 2013 to identify an effective strategy to develop code language to allow for a mix of residential, institutional, commercial and public uses on the riverfront properties, which are currently zoned General Industrial, Residential/Community Service Parks Overlay and Residential/Multi-Family.

At this meeting, Chris Crean from the City Attorney's office made the recommendation that before any action is taken to begin the master planning or rezoning process, that the Planning Commission hold informational sessions in order to receive feedback from property owners and other interested parties regarding adoption of a Riverfront Mixed Use Zoning district and the proposed rezoning of properties from General Industrial to Riverfront Mixed Use. The purpose of the informational meetings is to solicit input from residents, property owners, affected businesses and other stakeholders on the proposed riverfront rezoning project.

On October 8<sup>th</sup>, Planning Commission held their first informational session to gain feedback from interested parties. First to speak was Mr. Brian Harper, Associate Regional planner with the Metro Regional Government. Mr. Harper stated that prior to re-zoning properties on the riverfront the City would need to follow a process to get the properties removed from the Title 4 Industrial and Employment Lands Map from the Urban Growth Management Functional Plan.

Title 4 serves to protect and preserve identified industrial and employment lands throughout the region. The three properties along the riverfront zoned General Industrial are all identified as industrial lands on the Title 4 map. Because two of the three properties are over 20 acres, Metro Council must approve their removal from the map based on demonstration of compliance with six criteria (See highlighted portions of Attachment A).

Mr. Harper stated that if the City does decide to go ahead with adoption of a new riverfront mixed use district without seeking approval to remove the properties from the Title 4 map, the Metro

Council may appeal the decision. Mr. Harper also stated that Metro staff will be happy to assist the City throughout the process.

Mr. Dean Hurford and Mr. Garth Everhart also spoke to the Commission regarding the riverfront mixed use district and encouraged the Planning Commission to move forward with the process to adopt the district into the Fairview Municipal Code.

The informational meeting scheduled for October 22<sup>nd</sup> will be a continuation of the discussion to determine the next steps in the land use planning process for the properties located on the Columbia River.

### **Options for Next Steps**

- A. Recommend adoption of a new Riverfront Mixed Use district into the Development Code. (This option carries some risk as a person affected by a future map amendment can challenge the text amendment prior to the zone being applied to a property.)
- B. Recommend adoption of a new Riverfront Mixed Use district into the Development Code and initiate re-zoning the General Industrial properties on the Columbia riverfront.
- C. Recommend development of a master plan for the riverfront area.
- D. Request more time to collect information prior to making a recommendation.
- E. An alternative option to be determined by the Planning Commission and City Council.
- F. Do not recommend adoption of a Riverfront Mixed Use district.

### **Analysis of options**

#### Options A & B

Options A and B will require the city to go through the process with Metro to request removal of the subject properties from the Title 4 Industrial and Employment Lands Map. This process will entail:

1. Conducting an analysis to demonstrate compliance with Metro's criteria for removal (See highlighted portions in Attachment A).
2. Drafting a report to the Metro Council
3. Presenting report to the Metro Council

Based on testimony from Metro staff, it is anticipated that this process could take up to six months to complete.

Options A and B require a Type IV legislative review process which entails legal noticing requirements and two public hearings - one in front of Planning Commission and one in front of City Council.

Option A, if taken, would then allow for property owners to apply for a re-zone if they so choose after the Riverfront Mixed Use district language has been adopted into the Fairview Municipal Code. An application to rezone a property requires a Type IV legislative process and compliance with criteria as detailed in Fairview Municipal Code Section 19.205 Amendments.

#### Option C

Option C, the master planning process, will also include the analysis necessary for the Metro Title 4 map amendment process in anticipation of future adoption of the Riverfront Mixed Use district code language. Option C provides more opportunity for public outreach i.e. further discussion and collaboration with stakeholders. It also provides the opportunity to more fully develop a vision for the sites.

Options A, B, & C

Options A, B, & C will all entail a close examination of the following:

1. Consistency with applicable regulations and policies:
  - Fairview Comprehensive Plan
  - Fairview Transportation System Plan
  - Regional Transportation Plan
  - Metro Urban Growth Management Functional Plan
  - State of Oregon Administrative Rules and Statutes
  - Multnomah County Drainage District, Sandy Drainage Improvement Company and United States Army Corps of Engineers Policies
2. Compatibility with surrounding uses.
3. Impressions from current tenants and property owners of the subject sites.
4. Service capabilities/capacities (water, sewer, etc.)
5. Economic feasibility i.e. impact on employment, property values, etc.

**Question to consider**

If rezoned to Riverfront Mixed Use, the properties zoned General Industrial with current industrial uses along the Columbia River would become non-conforming uses. This non-conforming status would preclude the current use's ability to expand. Does the City of Fairview want to eliminate the option of expansion for the current river oriented industrial uses and reduce the overall industrial land base in the City?

**Conclusion**

Planning Commission will discuss the testimony received at the October 8 and 22 informational work sessions and options for next steps at the next joint Planning Commission and City Council work session – date to be determined.

**Attachments**

- A. Metro Urban Growth Management Functional Plan Title 4: Industrial and Employment Lands
- B. Draft Riverfront Mixed Use Zoning Code submitted by Mr. Matt Wand
- C. FMC 19.530 Nonconforming Uses and Developments

## **TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS**

### 3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2; and Ordinance No. 10-1244B, Sec. 3).

### 3.07.420 Protection of Regionally Significant Industrial Areas

- A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of

sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
  2. Training facilities whose primary purpose is to provide training to meet industrial needs.
- C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP or require added road capacity to prevent falling below the standards.
- D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.
- E. No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.
- F. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:
1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
  2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the

resulting division yields at least one lot or parcel of at least 50 acres in size.

3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
  - a. To provide public facilities and services;
  - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
  - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
  - d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.
- G. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2; and Ordinance No. 10-1244B, Sec. 3).

### 3.07.430 Protection of Industrial Areas

- A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:
1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
  2. Training facilities whose primary purpose is to provide training to meet industrial needs.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.
- C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.

- D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:
1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
  2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
  3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
  4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
    - a. To provide public facilities and services;
    - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
    - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
    - d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

- E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2; and Ordinance No. 10-1244B, Sec. 3).

#### 3.07.440 Protection of Employment Areas

- A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code section 3.07.450, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.
- B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.
- C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.
- D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:
  - 1. The ordinance authorized those uses on January 1, 2003;
  - 2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and

3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.
- E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:
1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
  2. Meet the Maximum Permitted Parking - Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2; and Ordinance No. 10-1244B, Sec. 3).

### 3.07.450 Employment and Industrial Areas Map

- A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.
- B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer (COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.
- C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:
1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
  2. The amendment will not reduce the employment capacity of the city or county;

3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
  4. The amendment would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;
  5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and
  6. If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.
- D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:
1. The entire property is not buildable due to environmental constraints; or
  2. The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and
  3. The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by this title, exceeds the assessed value of the land by a ratio of 1.5 to 1.
- E. The COO shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C or D of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825

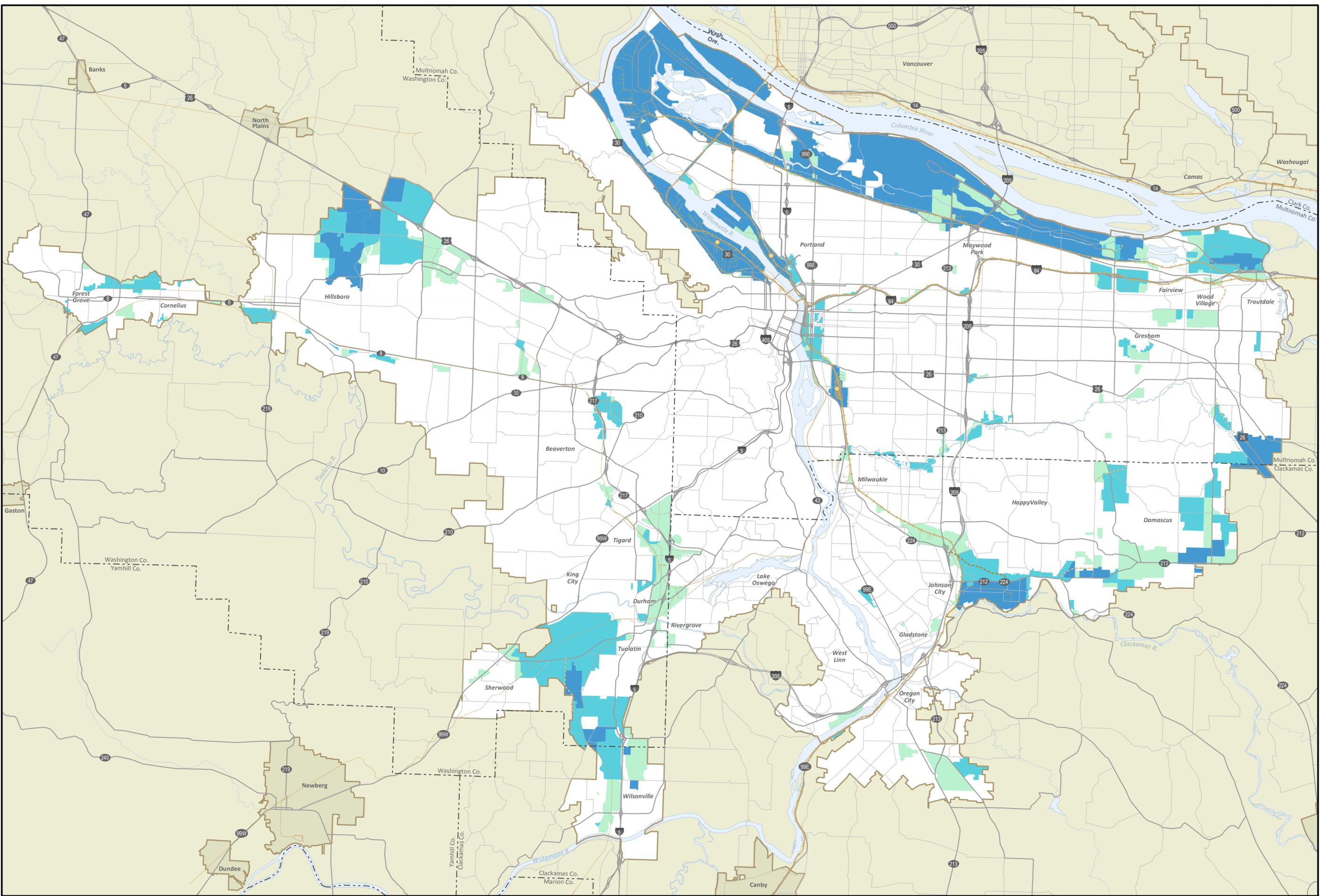
or, if an appeal was filed, that the amendment was upheld in the final appeal process.

- F. After consultation with MPAC, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.
- G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.
- H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:
  - 1. Would not reduce the employment capacity of the city or county;
  - 2. Would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;
  - 3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
  - 4. Would not reduce the integrity or viability of a traded sector cluster of industries;
  - 5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area;and

6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.
- I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
  - J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.
  - K. By January 31 of each year, the COO shall submit a written report to the Council and MPAC on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

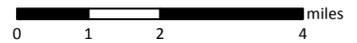
(Ordinance No. 07-1137A, Sec. 2. Amended by Ordinance No. 10-1244B, Sec. 3; and Ordinance No. 1264B, Sec. 1).

**Title 4   Employment and Industrial Areas Map as of January 18,  
2012 Pending LCDC Acknowledgment**



# Title 4, Industrial and Other Employment Areas

January 2013



The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors are appreciated.

- Employment areas
- Industrial areas
- Regionally significant industrial areas
- Proposed main roadway routes
- Proposed road connectors
- Mainline freight
- Branch line freight
- Rail yards
- County boundaries
- Urban growth boundaries
- Neighbor cities



**Table 3.07-4**

Clackamas County unincorporated  
Commercial  
Commercial Industrial

Lake Oswego  
General Commercial  
Highway Commercial

Troutdale  
General Commercial

Hillsboro  
General Commercial

Sherwood  
General Commercial

Tigard  
General Commercial  
Commercial Professional

Tualatin  
Commercial General

Wilsonville  
Planned Development Commercial

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5;  
and Ordinance No. 10-1244B, Sec. 3).

**TITLE 5: NEIGHBOR CITIES**

Title 5 is repealed.

(Ordinance No. 97-715B, Sec. 1. Repealed Ord. 10-1238A, Sec. 4.)

REVISED  
8/12/13

## Chapter 19.50 RIVERFRONT MIXED USE DISTRICT

**Sections:**

- 19.50.010 Purpose.
- 19.50.020 Permitted land uses.
- 19.50.030 Development setbacks.
- 19.50.040 Lot coverage.
- 19.50.050 Development orientation.
- 19.50.060 Building height.
- 19.50.070 Special standards for certain uses.
- 19.50.080 Landscaping Requirements

**19.50.010 Purpose.**

This district is intended for a broad range of commercial, residential and public uses along the Columbia River. This chapter guides the orderly development of Columbia River waterfront areas based on the following principles:

- A. Provide a mix of commercial and residential developments above the 100 year flood elevation and Public uses including parks and moorages below the 100 year flood elevation;
- B. Provide for efficient use of land and public services; and implement the Comprehensive Plan;
- C. Provide pedestrian, bicycle and vehicular linkages between Chinook Landing, the 40-mile loop and any properties identified as River Oriented in the Comprehensive Plan;
- D. Support the development of public use areas adjacent to Chinook Landing and the development of residential and commercial uses oriented towards the Columbia River;
- E. Encourage the expansion of the district through the conversion of industrial lands between Marine Drive and the Columbia River to this zoning.

**19.50.020 Permitted land uses.**

A. Permitted Uses. The land uses listed in Table 19.50.020.A are permitted in the Riverfront Mixed Use, subject to the provisions of this chapter. Only land uses which are specifically listed below, and land uses which are approved as "similar" to those listed below may be permitted. The land uses identified with a "CU" in Table 19.50.020.A require conditional use permit approval prior to development or a change in use.

**Table 19.50.020.A**

**Land Uses Types Permitted in the Riverfront Mixed Use**

<p><b>1. Residential:</b>  a. Multifamily house  b. Rowhouses  c. Attached housing.</p> <p><b>2. Home occupations</b></p> <p><b>3. Bed and breakfast inns and vacation rentals</b></p> <p><b>4. Public and Institutional:</b>  a. Government Offices and facilities (administration, public safety, transportation, utilities and similar uses.  b. Libraries, museums, community centers, concert halls and other public use spaces  c. Parking lots and garages *  d. Public &amp; private utilities  e. Community Services/Public Parks and recreational facilities  f. Telecommunication equipment  g. Bike and pedestrian paths *  h. Riparian and natural resource areas *  i. Uses similar to those listed above subject to applicable CU requirements</p>	<p><b>5. Commercial:</b>  a. Marina and all related marine activities including but not limited to docks, ramps, fuel depots and transient marine services  b. Entertainment  c. Hotels/motels  d. Mixed use development  e. Personal and professional services (e.g., catering/food services, salons, and other service providers.  f. Retail up 10,000 SF total enclosed space  g. Photography, art studio and related retail and supply stores  h. General retail and gift shops  i. Business or professional office (CU)  i. Restaurants  j. Breweries and wineries with related retail operations  k. Lounges, bars and taverns  l. Similar uses to those listed above.  m. Drive thru food &amp; beverage *  <b>6. Water Related use:</b>  a. Ship moorage  b. Boat moorage  c. Floating docks  d. Marine services  e. Marine fueling  f. Uses similar to those listed above</p>
<p>Land uses marked with a CU shall require a conditional use permit.</p>	

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter 19.480 FMC, Code Interpretations.

C. Land Uses Prohibited in Riverfront Mixed use. Only uses specifically listed in Table 19.20.020.A, and uses similar to those in Table 19.50.020.A, are permitted in this district. The

determination of prohibited uses shall be made as narrowly as practicable so to foster a mix of uses to serve the needs of the public use and residents within the District.

**19.50.030 Development setbacks.**

Development setbacks provide separation between approved uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation.

**A. Front, Side and Rear Setbacks.**

1. None, except for riparian setbacks per FMC 19.106.
2. Setbacks for Insufficient Right-of-Way. Setbacks shall be established when a lot abuts a street having insufficient right-of-way width to serve the area. The necessary right-of-way widths and the setback requirements in such cases shall be based upon the Comprehensive Plan and applicable ordinances and standards.
3. As required by the Fire Marshal.

**B. Other Requirements.**

1. Buffering. The city may require landscaping, walls or other buffering to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.
2. Neighborhood Access. Construction of pathway(s) within setbacks may be required to provide pedestrian connections to adjacent uses along the Columbia River and to the 40 mile loop. Pathway areas are to be located in setback or landscape areas to maximize the development area.
3. Building and Fire Codes. All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).
4. Groundwater Protection. All development shall meet the standards for the groundwater protection area. (Ord. 6-2001 § 1)

**19.50.040 Lot coverage.**

The maximum allowable lot coverage in the riverfront mixed use district is 90 percent. The maximum allowable lot coverage is computed by calculating the total area covered by buildings and impervious (paved) surfaces, including accessory structures. Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses. (Ord. 6-2001 § 1)

**19.50.050 Development orientation.**

Development within the district shall be oriented on the site towards the Columbia River.

**19.50.060 Building height.**

The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

A. **Base Requirement.** Buildings shall be no more than 100 in height.

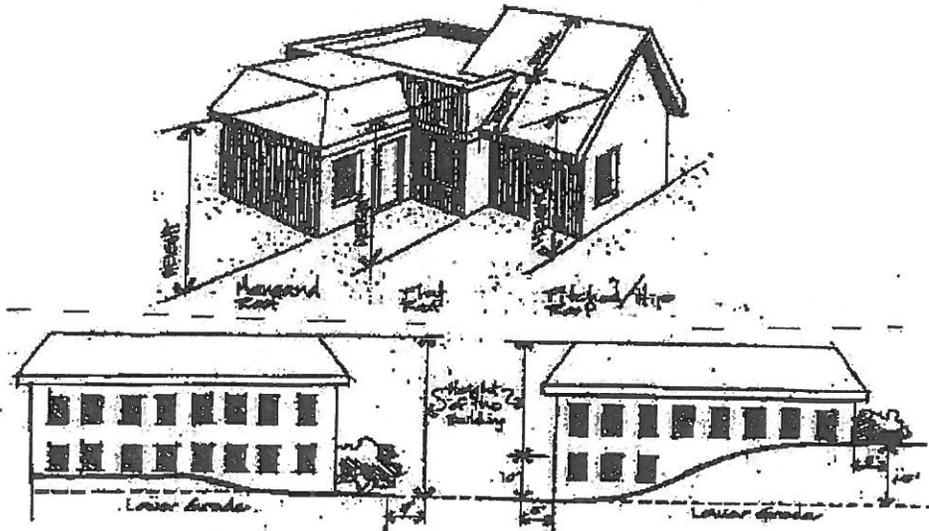
B. **Method of Measurement.** "Building height" is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;
2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection (B)(1) of this section is more than 10 feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flagpoles, and similar features which are not for human occupancy. (Ord. 6-2001 § 1)
3. An elevation 10 higher than the floor level of any underground parking area under the building whether parking area is totally underground or partially submerged.

**Figure 19.50.060**

**– Building Height Measurement (Composite of Several Roof**

Forms)



**19.50.070 Special standards for certain uses.**

A. Traffic. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Multnomah County or the ODOT for developments that increase traffic on county or state highways.

B. Wireless Communication Equipment. Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter 19.245 FMC. Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the general industrial district.

C. Common Areas. All common areas (i.e., walkways, drives, courtyards, private alleys, parking courts, etc.) and building exteriors shall be maintained by a homeowners association or other legal entity. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

D. Sidewalk Displays. Sidewalk display of merchandise and vendors shall be allowed without limitation as long as a minimum clearance of three feet is maintained on the public walk. Display of larger items, such as automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, building materials, and similar vehicles and equipment, is prohibited.

\* E. Parking, Garages, and Driveways. All off-street vehicle parking, including surface lots and garages, shall be oriented to alleys. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of five feet.

#### **19.50.080 Landscaping**

A. Not less than (10%) of the area will be landscaped.

B. Street trees will be planted at the average rate of 1 per 30 lineal feet along all public rights-of-way including the public walkways located adjacent to the Columbia River. Trees may be deciduous or evergreen. Deciduous trees at the time of planting must be fully branched, have a minimum diameter of two inches, measured five feet above the ground, and have a minimum height of 10 feet. Evergreen trees at the time of planting must be fully branched and be a minimum of six feet in height.

C. All vegetation in the riparian areas shall count towards the landscaping requirement.

#### **19.50.085 Minimum required off-street parking requirements.**

A. Residential.

1. One-, two- and three-unit dwelling structures: two space per dwelling unit.

\* 2. Attached dwellings containing four or more dwelling units including dwelling units above retail uses: two spaces per dwelling unit. Shared parking shall be allowed between Residential and Commercial uses.

B. Commercial.

1. \* a. General Retail and Office: one space per 400 square feet of floor area .

b. Services Providers: one space per 250 square feet of floor area.

c. Eating or drinking establishment: one space per 200 square feet of floor area open to public use.

d. Marina use: one space per moorage space

2. Shared parking shall be allowed with residential uses.

C. Park and Community Use Areas:

D. Joint Use. Off-street parking required by this code for any use shall be considered for shared use by others space where a joint use agreement exists in a form that includes provisions for

enforcement to assure adequate parking. The intent is to minimize the amount of parking required by recognizing how parking is used by various uses in order to maximize the density of the project.

E. On-Street Parking. All on-street parking stalls shall apply toward satisfying the parking standards in this section.

**19.140.090 Bicycle parking.**

**A. Number Required.**

1. Multifamily dwelling: one space per unit (50% of requirement per unit if occupancy restricted to 55 years or older).
2. Commercial use classifications: five percent of the required automobile parking but not less than one stall per commercial space.

**B. Bicycle Parking Space and Aisle Dimensions.**

1. Uncovered spaces shall be at least six (6') feet long and one and a half (1.5') feet wide.
2. Covered spaces shall be at least six (6') feet long and one and a half (1.5') feet wide.
3. A five-foot-wide aisle is required adjacent to each row of bicycle parking.

C. Required bicycle parking racks shall be located no further than 50' beyond the closest automobile parking space from the major building entrance.

 D. When more than ten bicycle parking spaces are required, 25 percent of the spaces shall be covered but do not have to be enclosed or secured.

Chapter 19.530

NONCONFORMING USES AND DEVELOPMENTS

Sections:

- 19.530.010 Nonconforming uses.
- 19.530.020 Nonconforming development.

19.530.010 Nonconforming uses.

Where at the time of adoption of this code a use of land exists which would not be permitted by the regulations imposed by this code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

A. Expansion Prohibited. No such nonconforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land.

B. Location. No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this code.

C. Discontinuation or Abandonment. The nonconforming use of land is not discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12 month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

D. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this code for the

land use district in which such land is located. (Ord. 6-2001 § 1)

19.530.020 Nonconforming development.

Where a structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure; and the structure was lawful when constructed, the structure may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity; but any structure or portion thereof may be enlarged up to 10 percent, or altered in a way that satisfies the current requirements of the development code or will decrease its nonconformity;

B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent more than 75 percent of its current value as assessed by the Multnomah County assessor, it shall be reconstructed only in conformity with the development code; and

C. Should such structure be moved for any reason and by any distance, it shall thereafter conform to the regulations of the development code. (Ord. 6-2001 § 1)



## PLANNING COMMISSION STAFF REPORT

**To:** Fairview Planning Commission  
**From:** Erika Fitzgerald, Development Analyst  
**Date:** October 15, 2013  
**Subject:** Fairview Village Street Tree Standards

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### Action Requested

Provide direction to staff.

### Background Information

Street trees in Fairview Village are currently subject to regulations in Fairview Municipal Code Section 19.140.050 Village General Standards - Street Trees and Figure V-5 Fairview Village Street Matrix and Selection. As can be seen, especially at this time of year, these regulations serve to create a uniform street tree appearance throughout the Village.

Figure V-5 regulates trees based on four “Street Tree Character Code Definitions”: color, form, texture, and size. Each definition is then split into identifying characteristics:

#### Color

1. Flowers & fall foliage
2. Flowers. No fall foliage
3. No flowers. No fall foliage

#### Form

1. Rounded canopy
2. Full arching canopy
3. Columnar canopy

#### Texture

1. Dense, large leaf, full
2. Filtered, medium leaf, full yet open

#### Size

1. 15' to 30' in height
2. 20' to 40' in height
3. 30' to 60' in height
4. 40' to 100' in height

Figure V-5 then uses a matrix to specify the resultant street tree required based on:

1. Location in Fairview Village by identifying five separate “zones” – main street, Secondary Street, neighborhood street, Halsey Street and parking lot.
2. The “Street Tree Character Code Definitions” (color, form, texture and size) desired for each zone.

There has been discussion among residents that the standards laid out by this matrix specifying street tree species has proven to be problematic because:

1. The required trees are not appropriate for the size of the planter strip in some areas resulting in the roots of the trees pushing up sidewalk panels.
2. The tree plan adopted into the Fairview Municipal Code was not implemented by the developer. For example - Maple trees on Village Street should be Chanticleer Pear according to the required tree matrix. Therefore, if a street tree needs to be replaced, the required replacement tree as regulated by FMC 19.140.050 and Figure V-5 will not be uniform with existing trees.

#### Questions to consider:

Is the Planning Commission comfortable with the tree types in the code or should the city make the requirements less prescriptive and work with each individual property owner to identify the most suitable street tree for the location?

Should the city have consistent street tree standards that apply city-wide or should the existing street tree standards for the Village be kept in place in order to maintain the uniform look that the current code provides?

#### Conclusion:

If Planning Commission directs staff to move forward with the project to repeal Figure V-5 Fairview Village Street Matrix and Selection and revise section FMC 19.140.050 Village General Standards - Street Trees, the characteristics of the street trees in Fairview Village will be subject to the same street tree standards as the remainder of the city through reference to the Sidewalk Maintenance Program Handbook which contains an approved street tree list. This revision would create consistent street tree standards city-wide.

The approved street tree list in the Sidewalk Maintenance Program Handbook identifies the appropriate street tree based on the width of the planting area adjacent to the property. Because this handbook was approved by resolution and is only referenced in the Municipal Code language, a Type IV code amendment process is not required to make revisions to the handbook. This allows for more flexibility should changes be required to the approved street tree list.

#### Decision Making Options:

1. Direct staff to move forward with the project to repeal Figure V-5 Fairview Village Street Matrix and Selection and revise section FMC 19.140.050 Village General Standards - Street Trees.
2. Do not direct staff to move forward with the project.
3. Direct staff to pursue an alternative.

#### Attachments:

- A. Fairview Municipal Code Section 19.140.050 Village General Standards – Street Trees

- B. Fairview Municipal Code Figure V-5 Fairview Village Street Matrix and Selection
- C. Sidewalk Program Maintenance Handbook

## 19.140.050

### A. Residential.

1. One-, two- and three-unit dwelling structures: two space per dwelling unit.
2. Attached dwellings containing four or more dwelling units including dwelling units above retail uses: one and one-half spaces per dwelling unit.

### B. Commercial.

1. a. Supermarkets: one space per 250 square feet of floor area.
- b. Banks, offices: one space per 330 square feet of floor area.
- c. Barber shop/beauty parlor: one space per 250 square feet of floor area.
- d. Eating or drinking establishment: one space per 100 square feet of floor area.
- e. Retail trade: one space per 500 square feet of floor area.
- f. General office: one space per 500 square feet of floor area.
2. Parking Stall and Aisle Dimensions.
  - a. Parking lot aisles shall have a minimum width of 24 feet.
  - b. Standard parking lot stalls shall have a minimum width of nine feet and a minimum depth of 18 feet.
  - c. Compact-vehicle parking stalls shall have a minimum width of eight feet and a minimum depth of 16 feet.

C. Joint Use. Off-street parking required by this code for any use shall not be considered as providing parking spaces for any other use except where a joint use facility exists. Such a facility, defined by legal instrument such as an easement, shall contain no less than the total number of spaces as determined individually by user, except that fewer spaces may be permitted where uses on adjoining sites have different hours of operation and the same parking spaces or loading berths can serve both without conflict. A determination of the extent, if any, to which joint use will achieve the purposes of this chapter shall be made by the planning director, who may require submission of a site development plan and a parking demand study or other data necessary to reach a decision.

D. On-Street Parking. In the VC, VMU, and VO zones, on-street parking which borders the property frontage shall apply toward satisfying the parking standards in this section.

E. In the event that a **change** in commercial use is proposed different than **that** in place as of March 9, 2004, a Type II modification of conditions permit shall be required. The permit will be granted upon demonstration that **the** requirements of subsection B of this section **are** met by the proposed use. (Ord. 4-2004 § 3; Ord. 6-2001 § 1)

## 19.140.050 Street trees.

A. Location. Street trees are required along both sides of all collector streets and local streets within the Village adjacent to new development and on at least one side of streets with a higher classification. The spacing requirement shall be on average one tree per 30 linear feet. Along collector streets or streets with a higher classification, metal grating, nonmortared brick, grasscrete, or similar material shall be installed at grade over the planting area around street trees, or raised planters shall be constructed to prevent soil compaction and damage to the trunk. Planting strips or tree wells are required along all remaining streets.

B. Characteristics. The characteristics of the street trees shall be consistent with the criteria shown in Figure V-5, following Chapter 19.155 FMC. (Ord. 6-2001 § 1)

## 19.140.060 Erosion control standards.

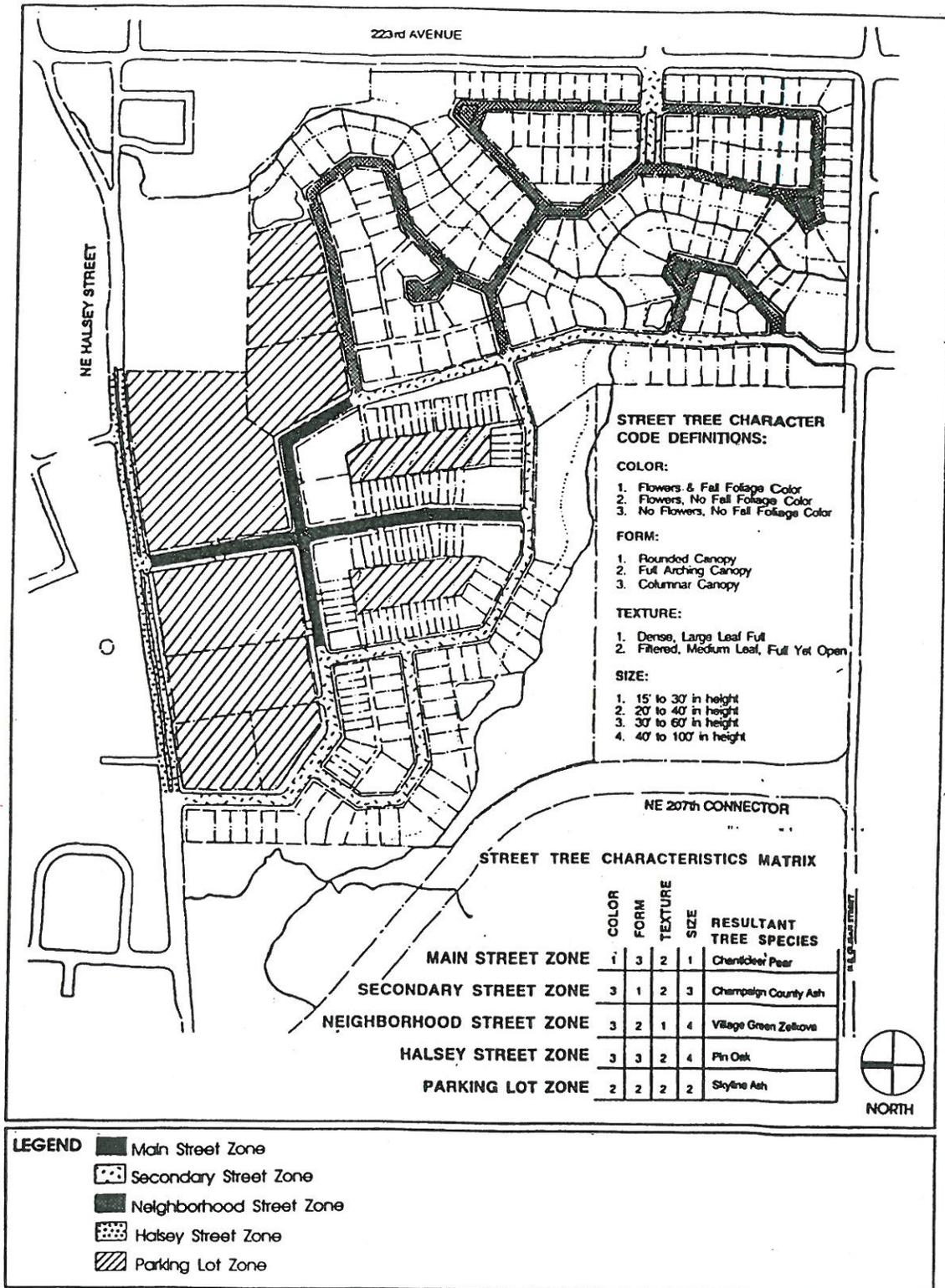
The site must be contoured, planted, or developed to prevent erosion, pollution, and sedimentation into adjacent natural resource areas within six weeks of the issuance of the certificate of occupancy. Erosion control techniques must meet city of Fairview erosion control handbook standards. (Ord. 6-2001 § 1)

## 19.140.070 Landscape standards.

Where the area to be landscaped is less than 30 feet deep, the requirement shall be on average one tree per 30 linear feet. Where the area is 30 feet deep or greater, the requirement is one tree per 800 square feet and either two high shrubs or three low shrubs per 400 square feet of landscaped area. The shrubs and trees may be grouped; provided, that ground cover plants must fully cover the remainder of landscaped area. The landscaping details for the various, respective sectors of Fairview Village shall be presented in a landscape plan in design review or in a development permit application.

A. Trees may be deciduous or evergreen. Deciduous trees at the time of planting must be

Figure V-5 – Fairview Village Street Matrix and Selection





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# SIDEWALK MAINTENANCE PROGRAM HANDBOOK

Policy and Operating Guidelines



City of Fairview, Public Works  
City Hall, 2nd Floor— 1300 NE Village Street  
Fairview, OR 97024  
503-665-9320

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## Sidewalks Make Good Neighbors

Sidewalks have a way of tying together a neighborhood. Where sidewalks are good, the neighborhood becomes a more desirable place to live. Sidewalks serve so many purposes; recreation space for joggers, children with tricycles and pull toys; an informal meeting place for neighbors; and an encouragement for people to make more use of the most basic form of transportation – walking.

Be proud of your sidewalks. Take care of them and enjoy them.

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## Program Goal

The objectives of the Sidewalk Maintenance Program are to:

- Protect the general public from injury by identifying defects and ensuring their timely repair.
- Reduce expenses related to personal injury claims.
- Protect individual property owners by notifying them that a hazardous condition exists and assisting with correction of that hazard.
- Protect the general public's investment in the transportation system, which includes sidewalks, driveways, corners, and curbs.
- Manage the maintenance of sidewalks, driveways, and curbs in a way that protects street trees and other desirable vegetation whenever possible.

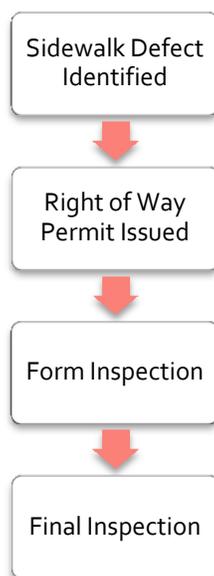
## Handbook Outline

This handbook contains an overview of the sidewalk maintenance program, a detailed manual regarding sidewalk maintenance, the street tree planting guidelines, and the list of approved street trees. It should contain all the information you need to look after your sidewalks and street trees.

If you have questions about sidewalks, street trees or this handbook please call 503-665-9320. All inspection requests should go to 503-674-6244.

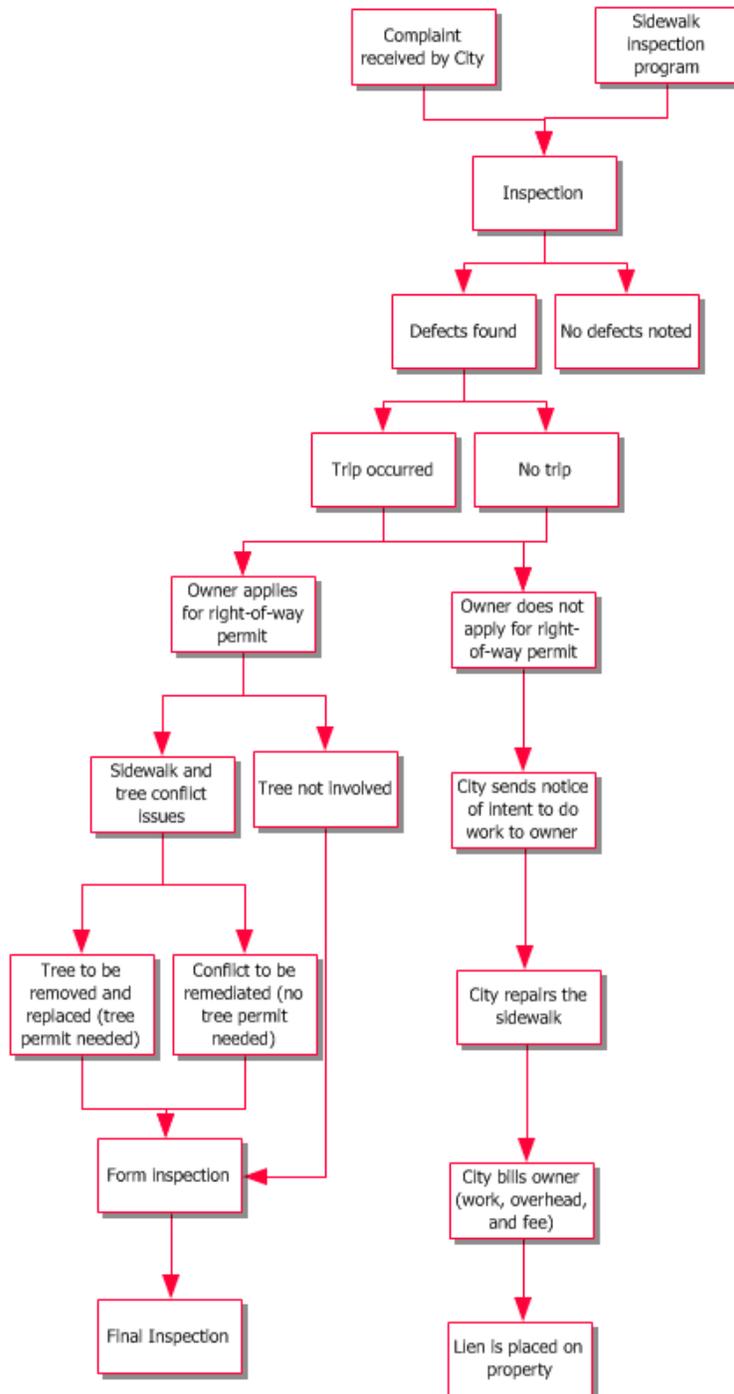
# Sidewalk Maintenance Procedure

## Procedure Overview





## Detailed Procedure





# Inspection Program

The goal of the Sidewalk Maintenance Program is to identify sidewalk defects and assist the property owner with the repair process. Public Works representatives are primarily looking for defects that cause people to trip and fall, such as “stub toes” where the sidewalk is raised. Other defects may include holes, spalled or chipped areas, wide cracks, deterioration, and areas that are damaged by tree roots. The graphics shown on the following page provide examples of these types of damage.

To assist the Public Works representatives in the identification of defects, guidelines have been established for consideration when inspecting sidewalks. The inspection guidelines apply to the city street right-of-way where there are sidewalks. The inspector will identify the hazard and the area needing to be replaced to ensure a good and substantial repair.

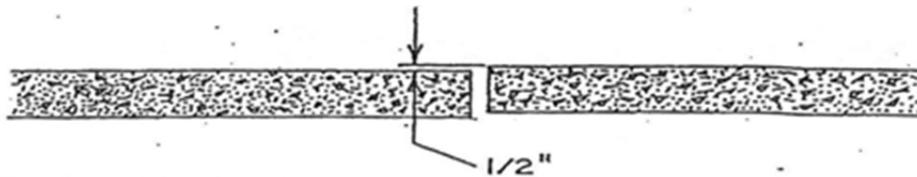
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## Inspection Criteria and Guidelines

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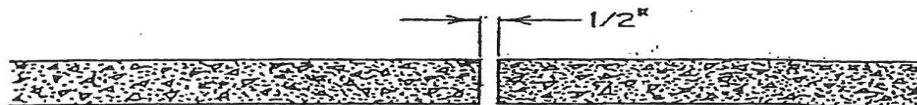
### Stub Toes (Step Separation- Elevated Guide)

All “Stub Toes” latitudinal as well as longitudinal in the City right-of-way that are hazardous shall be identified for repair. A guideline of 1/2 inch rise for all sidewalk and driveway areas will be used in determining if a stub toe is hazardous.



### Openings (Holes, Wide Cracks, Concrete Separations)

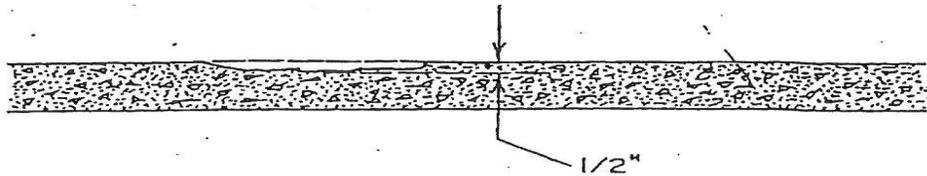
All openings in the City right-of-way that are considered hazardous shall be identified for repair. A guideline of 1/2 inch width and 1/2 inch depth will be used in determining if an opening is hazardous.





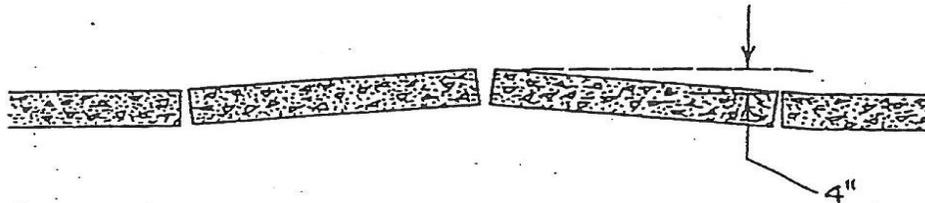
## Spalled/Chipped Concrete

Spalled sidewalks and driveways, where the concrete is chipped to the point of creating a trip hazard shall be identified for repair. A guideline of 1/2 inch width and 1/2 inch depth will be used in determining if a spalled area is hazardous.



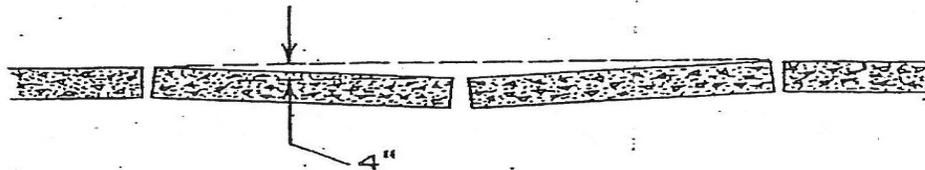
## Raised Areas

Raised sidewalk and driveways shall be identified when the raised area is hazardous. A guideline, that the uppermost point of the raised area being greater than 4 inches from grade, shall be used in determining when a raised area is considered hazardous.



## Sunken Areas

Sunken sidewalk and driveways shall be identified when it causes a trip hazard or has sunken 4" below original grade.



## Root Damage at Adjoining Properties

Where a tree root has lifted the sidewalk or driveway at the property line, both properties will be notified to maintain grade. Both properties are notified because repairing only one property would create a stub toe at the property line. Each notice would have a notation about the adjoining property. To maintain quality of work, the properties should be repaired together but could be repaired separately by installing a transition area.

## Corners

Guidelines for identifying and replacement of corners shall be the same as the guidelines used for sidewalks and driveways. City corners installed by City crews will comply with ADA specifications.

## Curbs

Sidewalk inspections will identify curbs that need replacement during routine inspections. Curbs will be identified when they present a hazard, are generally in a deteriorated state, or no longer will facilitate or control drainage.



When there are “curb tight sidewalks” (the curb and sidewalk touch), curbs are the property owner’s responsibility to repair. The property owner must also repair curbs that have been willfully damaged. Willful damage includes driving on curbs.

Curbs that are separated from the sidewalk by a planting area and that have not been willfully damaged are the City’s responsibility.

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## Trees

Trees are another one of the City’s great assets. If the street tree needs to be removed and replaced prior to replacing the sidewalk it is important to be sure the replacement tree is the right size for the planter strip. More information about trees can be found under the street tree section of this handbook.

**Only trees listed on the approved street tree list or part of a codified planting plan may be planted in the public right-of-way** and shall follow the City of Fairview street tree planting guidelines. Approval to plant a tree that is not on the approved street tree list or codified planting plan must be obtained from the Public Works Director.

It is important to contact the City or check the Fairview Municipal Code before replacing the trees to be sure there isn’t an existing planting code in place for your neighborhood. If there is (generally speaking in Fairview Village), then the City code takes precedence over this handbook and you must plant according to the plan.

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## Complaints

Information received regarding hazardous sidewalk conditions in the City right-of-way at a specific location will be transferred to the Public Works Department. Hazardous sidewalk conditions may be reported to Public Works by calling 503-665-9320, or by reporting a concern on the City’s website, [www.fairvieworegon.gov](http://www.fairvieworegon.gov) and filling out the report form.

A sidewalk inspection will be performed within 5 working days of the complaint, and the property owner(s) for the address(es) in which the hazard is at will be notified and given 60 days to repair the sidewalk. If the complaint is based upon someone having tripped and fallen, the property owner will be given 20 working days to begin repairs. In addition, a sidewalk inspection will be performed in the general area for defects and notification sent accordingly. A guideline for the “general area” is the block face involved with the initial complaint.

Following the inspection of a property, if defects are found, a Sidewalk Repair Notice will be created, stating the date of inspection, legal property description, and a photo from the inspection. Property owners will be given a minimum of 60 days, with a possible 30 day extension granted by the Public Works Director by property owner request, to make repairs. If the property owner does not make the repairs, City contracted crews will perform the repair work at the property owner’s expense.

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## Notification

Property owners will be provided with the original copy of the Sidewalk Repair Notice; a form letter outlining the Sidewalk Maintenance Program, and “The Sidewalk Handbook” brochure. This information will be mailed to registered owners of identified properties as shown on current county tax records.

Public Works representatives are available to schedule appointments and meet with property owners to identify and explain the specific reasons for the identified hazard(s). Using the established guidelines, the Public Works Representative

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can assist the property owner by outlining repair alternatives so that the hazard may be corrected in the most economical method.

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## Sidewalk Repairs

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Property owners who have received a Sidewalk Repair Notice have the following options:

### Property Owner Repair

As the property owner you can do the job yourself if you have experience working with concrete or similar home maintenance projects. The property owner may eliminate identified defects in the following manner:

- (1) Remove whole squares to full depth and replace with concrete. Skin patching is not an acceptable repair method, as it does not provide a good and substantial repair.
- (2) Grinding of stub toes raised 1 inch or less with the approval and guidance of the Public Works representative.

### Contractor Repair

A contractor hired by the property owner may eliminate posted defects in the following manner:

- (1) All contractors are required to have a current license and bond through the Oregon State Construction Contractors Board. In cases that involve liability, the owner has recourse through small claims court. Permits will not be issued to contractors with licenses that have an inactive status according to the Oregon State Construction Contractors Board computer records.
- (2) A City Business License or Metro Business License is also required when performing work within Fairview.
- (3) Remove whole squares to full depth and replace with concrete. Skin patching is not an acceptable repair method, as it does not provide a good and substantial repair.
- (4) Grinding of stub toes raised 1 inch or less with the approval and guidance of the Public Works representative.

### City Repair

Prior to scheduling repairs to be made by City contractor crews, all identified defects in the area to be repaired will be re-checked. If upon re-checking, it is found that the defects have been repaired satisfactorily, crews will not be scheduled for that area and the City sidewalk database will be updated accordingly.

Properties where the hazard has not been satisfactorily repaired will be marked out and scheduled for repair by private companies working on contract with the City (city contractor). Additional defects found may be marked out for repair as well.

The City will repair identified defects of 1" or less by grinding, and if grinding will not repair the hazard or the hazard is in excess of 1" the City will repair by removing and replacing whole squares to the proper depth per City code.

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## Time Extensions

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Requests for 30 day time extensions will be granted if reasonable cause exists. The following conditions may cause the Public Works Department to grant extended time, more than 30 days, to property owners to make sidewalk repairs:

### New Property Owner

When the previous owner did not disclose the initial sidewalk inspection report stating there was a hazardous sidewalk to repair/replace to the new property owner who acquired the property. These extensions are usually 60 days in length, with an additional 30 day extension per property owner request, but no more than a total of 90 days.

### Legal Questions

When there are legal questions/matters concerning ownership, responsibility, property lines, etc., extensions may be granted until legal issues have been resolved by the property owner.

### Plans for Construction/Remodeling

When the affected sidewalk will be impacted by property owner construction and/or remodeling plans. In some cases, temporary repairs may be required before the extension is granted.

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## Permits

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A permit is required prior to performing any work. Permits are available at Fairview City Hall, 1300 NE Village Street, 2nd Floor (503-665-9320). The permit will be issued to whoever intends to make the repair, i.e., property owner or contractor.

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## Inspection Requirements

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### Form Inspections

A form inspection is required when hazardous sidewalk areas have been excavated to proper depth, forms have been set, barricades or saw horses are in place, and all debris has been removed from the city right-of-way. The inspection insures that necessary lines and grades are correct, and that repair work is prepared and formed to meet city specifications and plans. Inspections will be made the following day after the request was made by calling the inspection request line at 503-674-6244, excluding weekends and legal holidays.

Once an inspection has been completed, a copy of the inspection report will be left onsite, with either the contractor or the property owner stating if the forms have passed inspection and if it is okay to begin pouring concrete. If corrections are needed to be made, another form inspection will be required before concrete can be poured. The same inspection time requirements as described above apply.

### Final Inspection

A final inspection is required when the repair work has been completed, all forms are removed, and voids are backfilled with dirt or like material and compacted to grade, and the job site has been cleaned up. A minimum of two days must

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elapse between the time the concrete is poured and the final inspection is requested. This prevents possible spalling of green/uncured concrete when forms are removed.

Final inspections will be made the day after the request has been made, excluding weekends and legal holidays. If repair work is found satisfactory, it will be noted on the inspection form and left with the property owner. If work is found unsatisfactory, it will be noted on the inspection report and left with the property owner. Another final inspection will have to be requested. The same inspection time requirements as described above apply.

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## City Repair

The goal of the Sidewalk Maintenance Program is to repair sidewalks, driveway approaches, corners, and curbs in the city right-of-way. The City is responsible for sidewalk repair and replacement of hazardous sidewalks abutting property owned and/or maintained by the City.

The City may also repair/replace hazardous sidewalks when a property owner has not taken the appropriate steps to remedy the hazard within the time limits set in this document, or when a property owner has requested the City to make the repairs and bill them.

When the original notices for sidewalk defects have been sent to the property owners, they have 60 days to repair/replace the hazardous sidewalks (unless someone has already tripped, when they shall have only 20 days). If the property owner neglects to repair/replace the sidewalk within those 60 days, unless a 30 day extension has been issued, the City will then begin the process of having the hazardous sidewalks repaired/replaced. A minimum of 2 weeks before the City contractor crew is to begin repairing the sidewalks, a letter will be sent to each property owner stating the City's intent to repair, approximate repair date, and estimated cost for the sidewalk repairs. Properties to be repaired will receive a door hanger with the previously listed information a minimum of 3 days prior to crews beginning work.

## Repair Charges

The repair amount is calculated to recover all direct costs, permit fees, and applicable overheads. When repairs have been completed, information will be sent to the City of Fairview Finance Department, who will prepare and mail an invoice to the registered property owner. The invoice will have information regarding the total cost of the repair work, plus the City's assessment fee of 10% to cover costs of establishing and managing the account.

Property owners will have 30 days from the date of the invoice to pay or finance their bill. If the invoice is not paid or financed by the 30 day deadline, the City will add late interest, penalties and collection costs to the bill. To insure payment, a lien will be placed on the property.

## Financing

The City's Finance Department mails an installment payment contract with each final assessment notice. The contract describes the amount of the assessment, financing fees, the total loan amount, options for making loan payments, and the terms and conditions of the loan.

The City's monthly installment plans are calculated like auto or home loans. Over time, the payment is made up of larger amounts of principle and smaller amounts of interest, based on the interest rate and term of the loan. A billing transaction fee will also be added to each installment.

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## Appeal Process

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All disagreements and appeals for sidewalk notifications, which cannot be resolved by the Public Works representative, will be directed to the Public Works Director. The Director will investigate all such cases and attempt to reach an agreement with the concerned parties.

If the disputed sidewalk notification is clearly in error, the Director will call for a re-inspection, cancel, or adjust the notification according to the findings. The efforts to resolve the dispute will be fully documented and be used as evidence, should the dispute be appealed to the City Council.

## Sidewalk Repair Grant Assistance Program

The City of Fairview Sidewalk Repair Grant Assistance Program utilizes limited funds collected in the Street Fund. The funds will be available on a first come/first serve basis and are limited to the budgeted amount as adopted by the Fairview City Council.

Upon approval of a completed and approved Sidewalk Repair Grant Assistance application, the City may grant a property owner up to \$6.00 per square foot of replaced sidewalk. Sidewalk Replacement Grant Applications must meet the following to be eligible for the grant program:

- Sidewalk work must be completed in accordance with city standards and requirements
- Sidewalk work must be inspected by and approved by the City
- Sidewalk must have been identified as a trip hazard or public safety issue by the City
- Receipts must be submitted for completed work

The program can provide assistance to repair concrete sidewalks that meet the defect criteria outlined in this handbook.

All other sidewalk repairs (i.e. spalling, openings, lift etc) not meeting the criteria above are the responsibility of the abutting property owner and shall be repaired.

The City may grant up to \$6.00 per square foot for the cost of a contractor to complete sidewalk replacements. In no instance will the city grant funds in excess of the amount paid by the property owner for these services.

### Property Owner Repairs

In the event a skilled property owner completes the sidewalk repairs and meets the criteria above, the following procedure is required to apply for the Sidewalk Repair Grant Assistance Program-

- Submit Completed Sidewalk Repair Grant Assistance Application
- Submit copies of all material expenses for repairs

The City may grant up to \$6.00 per square foot of sidewalk replacement for materials cost for repairs completed by property owners. In no instance will the city grant funds in excess of the amount paid by the property owner.

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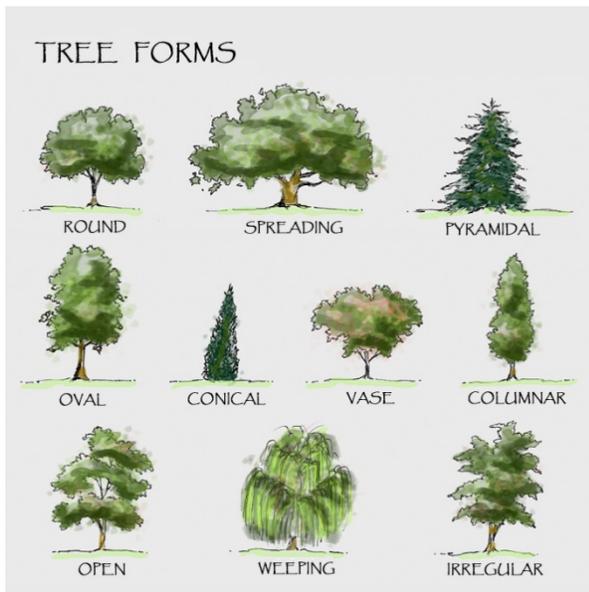
# Street Trees

## Picking and Siting Your Street Tree

### PICKING YOUR TREE

If you live in Fairview Village there is a street tree planting plan for your neighborhood. You will need to plant the tree described in the Plan. (Available from City Hall or online in the Fairview Municipal Code)

If you live elsewhere in Fairview, you will need to pick a tree from the approved street tree list for the size of the planting space you have. You will also need to consider if there are overhead power or other utility lines.



There are a number of other issues you should consider.

Individuals have personal preferences and you will be living with these trees for many years. Try to pick a tree you love. These issues include:

- Height
- Spread
- Form (see illustration)
- Color (spring, summer, and fall)
- If the tree flowers or fruits
- Bark and leaf texture
- Attractiveness to birds or butterflies

It is also good to remember that tree roots usually spread about as far as their canopy. Picking a tree with a small canopy makes sense when you have smaller building setback or a smaller place to plant.

### SITING YOUR TREE

**Call Before You Dig.** Utility lines may be buried in the desired tree planting area. For your safety and the safety of others, be sure to check for underground utilities. Call 503-246-6699 at least 48 hours in advanced before digging.

Contact Portland General Electric for information about tree removal and trimming around power lines 503-736-5460

A larger diameter planting hole promotes better tree health by aerating the soil. The planting hole should be about two to three times the size of the root ball. When locating the planting site for your tree, use the following guidelines. Measurements should be taken from the center of the trunk.

- 20 feet from the curb line of an intersection street.
- 7 feet from alleys and driveways
- 5 feet from fire hydrants
- 10 feet from directional traffic signs
- 20 feet from stop or yield signs
- 2 feet from adjoining property lines
- 25 feet from street lights
- 20 feet from adjacent trees



### *Planting Your tree*

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**When to Plant** – While it is okay to plant a tree any time of the year, the best time to plant a tree is when the tree is dormant during the winter months.

**Do Not Compact Soil** – Be sure not to pack the soil too tight when planting the tree. Compact soil makes it difficult for roots to grow outward and downward, which can result in raised sidewalks and an unhealthy tree.

**Mulch** – To hold in moisture and discourage the growth of competing weeds, spread mulch around the base of the tree. The mulch should be about 4 inches deep and kept about 6 inches from the trunk of the tree. Mulch could include grass clippings, compost or bark dust.

**Stakes** – The tree should be staked for at least the first year after planting. The stakes should be tied loose enough that the tree can sway 2 inches from side to side.

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### *Caring For Your Tree*

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**Trees Need Water** – Your new tree will need 5-10 gallons of water once or twice a week for the first three years after planting. Watering your tree slowly and evenly will promote deep root growth; over watering your tree will promote shallow root growth which can result in raised walkways. A 5 gallon bucket with small holes in the bottom is an excellent method for watering your plant slowly.

**Weed around your tree** – Other plants around the tree are competing for water. Be sure to remove competing plants several feet around the base of the tree.

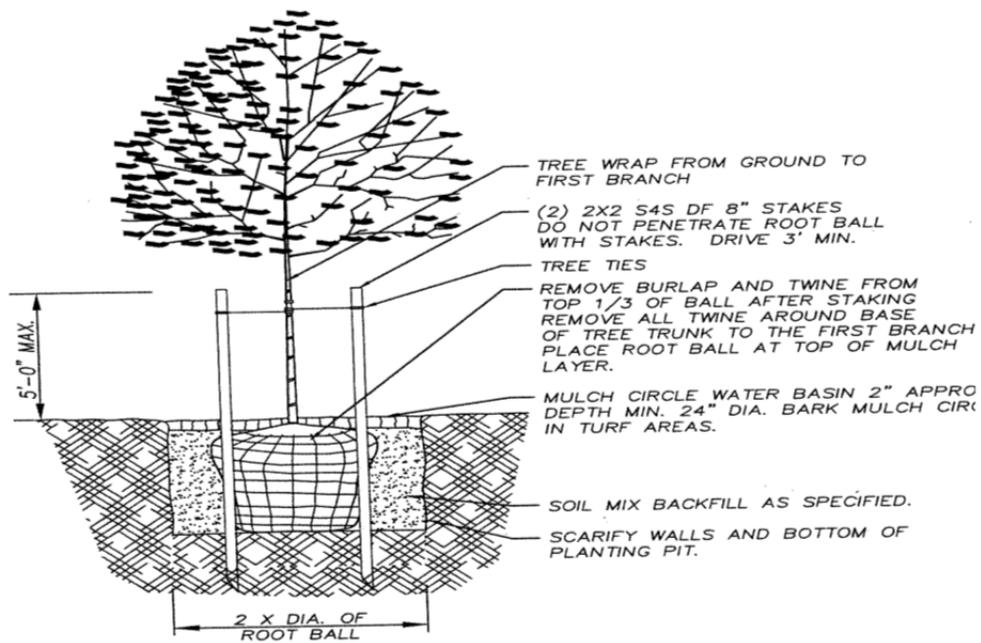
**Bark Damage** – Take care when mowing around the tree, bark damage can weaken the tree and make it susceptible to disease.

**Remove Dead Branches and Suckers** – Remove all dead branches in the tree canopy and suckers located at the base of the tree. This will allow the tree to focus its energy where it is needed and desired.

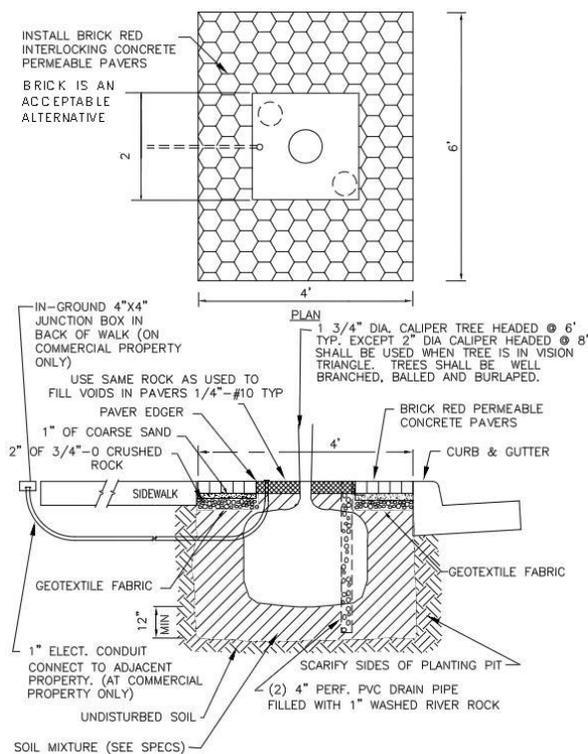
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### Planting in planter strips or behind the sidewalk



### Planting in tree wells





# Approved Street Tree List

If you live in Fairview Village there is a street tree planting plan for your neighborhood. You will need to plant the tree described in the Plan. (Available from City Hall)

## 2-3 Foot Planting Area

Common Name	Botanical Name	Mature Height	Canopy Spread	Under Power Lines	Form	Fall Color	Fruit/ Flower	Birds/ Butterflies
Japanese Tree Lilac	Syringa reticulata	20	15	X	Pyramidal		X	
Paperbark Maple	Acer griseum	25	20	X	Oval	X		
Chonosuki Crabapple	Malus schonoskii	30	15	X	Oval	X	X	
Adirondack Crabapple	Malus adirondack	18	10	X	Upright		X	

## 4-6 Foot Planting Area

Common Name	Botanical Name	Mature Height	Canopy Spread	Under Power Lines	Form	Fall Color	Fruit/ Flower	Birds/ Butterflies
Flowering Ash	Fraxinus ornus	30	15	X	Round	X	X	X
American Hornbeam	Ostrya virginiana	35	35	X	Oval	X		
Black Tupelo	Nyssa sylvatica	45	20		Pyramidal	X		X
Silver Linden	Tilia tomentosa	45	35		Pyramidal	X		X
European Beech	Fagus sylvatica 'purpurea tricolor'	35	25		Oval			
Paperbark Maple	Acer griseum	25	20	X	Oval	X		
Princeton Sentry Ginko*	Ginko Biloba Princeton Sentry*	40	15		Columnar	X		
Kobus Magnolia	Magnolia kobus	40	30	X	Globe		X	
Chonosuki Crabapple	Malus schonoskii	30	15	X	Oval	X	X	

\*Male tree only