City of Sherwood
22560 SW Pine St.
Sherwood, OR 97140
Tel 503-625-5522
Fax 503-625-5524
www.sherwoodoregon.gov

Mayor
Tim Rosener

Council President
Kim Young

Councilors
Renee Brouse
Taylor Giles
Keith Mays
Doug Scott
Dan Standke

City Manager
Craig Sheldon

Assistant City Manager
Kristen Switzer

To:	City of Sherwood, Planning Commission
From:	Hugo Agosto, Associate Planner
CC:	Eric Rutledge, Community Development Director Sean Conrad, Planning Manager
Date:	October 27, 2026
Re:	Work Session: HB 2138: Clear and Objective Tree Code Standards

Dear Commissioners,

During the 2025 legislative session, the Oregon Legislature adopted Oregon House Bill 2138 (HB 2138), extending the state's "clear and objective" standards for housing development to local regulations addressing tree preservation and tree removal when associated with residential development.

On April 21, 2026, staff facilitated a work session with the City Council to discuss updates to Sherwood Municipal Code Chapter 16.140, *Parks, Trees, and Open Space*. The purpose of the work session was to identify areas of the City's existing residential tree regulations that may require revision to ensure consistency with state law and to discuss policy direction for additional tree preservation and removal standards consistent with Council Goal Pillar 3: Livability & Workability. The following policy directions emerged from the discussion:

1. **Align the tree code with state law:** Update existing code for tree removal associated with housing development to align with 'clear and objective standards' to maintain compliance with applicable state requirements.
2. **Strengthen tree preservation and canopy requirements:** Evaluate mature tree preservation incentives, canopy coverage and replacement standards, and opportunities to retain mature trees.
3. **Explore an owner-approved Heritage Tree Program:** Evaluate a voluntary program that allows property owners to nominate and designate significant trees for heritage status, with clear and objective designation criteria.

The purpose of this work session is to obtain Planning Commission input on the existing tree code and identify priorities for further refinement of the proposed regulations beyond state-required clear and objective standards. The tree code that applies during land use review is provided as **Attachment A** for reference.

The discussion will help staff determine the appropriate scope of additional tree preservation regulations, including where stronger protections may be warranted, what limitations or exceptions may be appropriate for residential development, and which approaches should be advanced for further consideration in drafting code amendments.

No formal action is requested at this time; staff seek Commission feedback to guide draft revisions and next steps.

Discussion Questions

1. Beyond state-required clear and objective standards, should the City consider regulations for tree removal/preservation associated with residential subdivisions?
2. Should the update include the retention of large, mature trees during residential development? Should this include a specific quantity or percentage requirements, which is used by other jurisdictions in Oregon?
3. What criteria or considerations should staff consider when developing a voluntary Heritage Tree Program?

If the Commission has any questions or concerns, please contact staff for assistance.

Sincerely,

Hugo Agosto

Hugo Hamblin-Agosto, Associate Planner
City of Sherwood

Attachment(s):

- **Attachment A:** Section 16.140.070 - Trees on Property Subject to Certain Land Use Applications.

16.140.070 - Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

B. Applicability

All applications including a Type II - IV land use review, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other codes, policies, and standards of the City Comprehensive Plan.

C. Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, land use applications including Type II - IV development shall include a tree and woodland inventory and report. The report shall be prepared by a qualified professional and must contain the following information:
    a. Tree size (in DBH and canopy area)
    b. Tree species
    c. The condition of the tree with notes as applicable explaining the assessment
    d. The location of the tree on the site
    e. The location of the tree relative to the planned improvements
    f. Assessment of whether the tree must be removed to accommodate the development
    g. Recommendations on measures that must be taken to preserve trees during the construction that are not proposed to be removed.
2. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and report shall also include, but is not limited to, the specific information outlined in the appropriate land use application materials packet.
3. Definitions for the inventory purposes of this Section
    a. A tree is a living woody plant having a trunk diameter as specified below at Diameter at Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded

from this definition and from regulation under this Section, as are any living woody plants under six (6) inches at DBH. All trees six (6) inches or greater shall be inventoried.

b. A woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a six (6) inches or greater at DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.

c. A large stature tree is over 20 feet tall and wide with a minimum trunk diameter of 30 inches at DBH.

D. Retention requirements

1. Trees may be considered for removal to accommodate the development including buildings, parking, walkways, grading etc., provided the development satisfies of D.2 or D.3, below.

2. Required Tree Canopy - All Residential Developments subject to Type II—IV land use review.

   Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 40 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation πr^2 to calculate the expected square footage of canopy for each tree. The expected mature canopy is counted for each tree regardless of an overlap of multiple tree canopies.

   The canopy requirement can be achieved by retaining existing trees or planting new trees. Required street trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist or other qualified professional shall provide the estimated tree canopy of the proposed trees to the planning department for review.

3. Required Tree Canopy - Non-Residential and Multi-Family Dwelling Developments

   a. Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 30 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation πr^2 to calculate the expected square footage of each tree. The expected mature canopy is counted for each tree even if there is an overlap of multiple tree canopies.

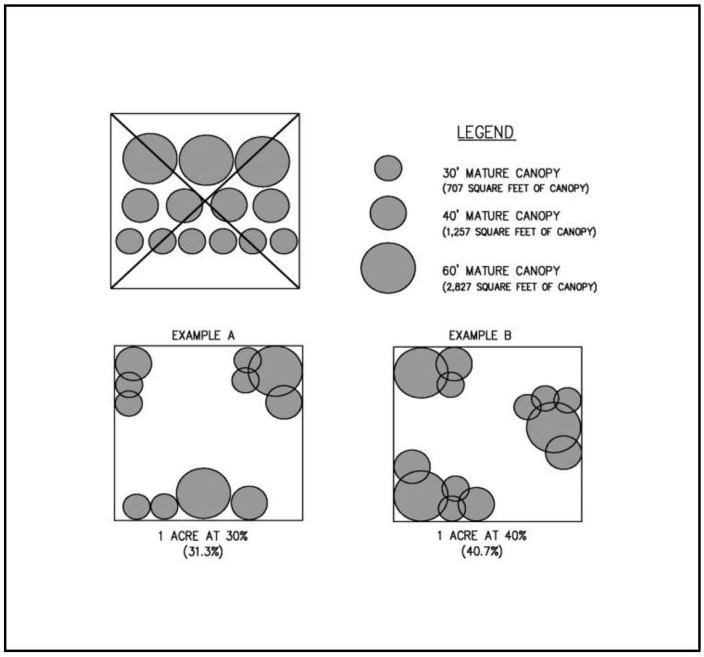
   b. The canopy requirement can be achieved by retaining existing trees or planting new trees. Required landscaping trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the

required canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.

c. Development standards for new surface parking lots more than half (½) acre in size, see Section 16.94 Parking and Loading.

	Residential (single family detached and middle housing developments) subject to Residential Design Checklist or Type I review	Residential (single family detached and middle housing developments) subject to Type II—IV review	Old Town & Infill developments	Commercial, Industrial, Institutional Public and Multi-Family dwelling
Canopy Requirement	N/A	40%	N/A	30%
Counted Toward the Canopy Requirement				
Street trees included in canopy requirement	N/A	Yes	N/A	No
Landscaping requirements included in canopy requirement	N/A	N/A	N/A	Yes
Existing trees onsite	N/A	Yes x2	N/A	Yes x2
Planting new trees onsite	N/A	Yes	N/A	Yes

Mature Canopy in Square Feet Equation πr 2 or (3.14159*radius 2) (This is the calculation to measure the square footage of a circle. The Mature Canopy is given in diameter. In gardening and horticulture reference books, therefore to get the radius you must divide the diameter in half.
Canopy Calculation Example: Pin Oak Mature canopy = 35' (3.14159* 17.5 ^{2}) = 962 square feet



4. The City may determine that, regardless of D.1 through D.3, that certain trees or woodlands may be required to be retained. The basis for such a decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
    a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
    b. A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or

c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or

d. Necessary in required buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or

e. Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

5. Tree retention requirements for properties located within the Old Town Overlay or projects subject to the infill standards of Chapter 16.68 are only subject to retention requirements identified in D.4. above.

6. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per subsection D of this Section, which may be removed or shall be retained as per subsection D of this Section and any limitations or conditions attached thereto.

7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.

E. Tree Preservation Incentive

Retention of existing native trees on site which are in good health can be used to achieve the required mature canopy requirement of the development. The expected mature canopy can be calculated twice for existing trees. For example, if one existing tree with an expected mature canopy of 10 feet (78.5 square feet) is retained it will count as twice the existing canopy (157 square feet).

F. Additional Preservation Incentives

1. General Provisions. To assist in the preservation of trees, the City may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this Title, the standards in this section shall apply except in cases where the City determines there would be an unreasonable risk to public health, safety, or welfare. Flexibility shall be requested by the applicant with justification provided within the tree preservation and protection report as part of

the land use review process and is only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site. A separate adjustment application as outlined in Section 16.84.030.A is not required.

2. Flexible Development Standards. The following flexible standards are available to applicants in order to preserve trees on a development site. These standards cannot be combined with any other reductions authorized by this code.
    a. Lot size averaging. To preserve existing trees in the development plan for any Land Division under Division VII, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80 percent of the minimum lot size allowed in the zone;
    b. Setbacks. The following setback reductions will be allowed for lots preserving existing trees using the criteria in subsection (1) below. The following reductions shall be limited to the minimum reduction necessary to protect the tree.
        (1) Reductions allowed:
            (a.) Front yard - up to a 25 percent reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.
            (b.) Interior setbacks - up to a 40 percent reduction of the dimensional standards for an interior side and/or rear yard setback required in the base zone.
            (c.) Perimeter side and rear yard setbacks shall not be reduced through this provision.
    c. Approval criteria:
        (1.) A demonstration that the reduction requested is the least required to preserve trees; and
        (2.) The reduction will result in the preservation of tree canopy on the lot with the modified setbacks; and
        (3.) The reduction will not impede adequate emergency access to the site and structure.
3. Sidewalks. Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. This flexibility may be accomplished through a curb-tight sidewalk or a meandering public sidewalk easement recorded over private property and shall be reviewed on a case by case basis in accordance with the provisions of the Engineering Design Manual, Street and Utility Improvement Standards. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If a preserved tree is to be utilized as a street tree, it must meet the criteria found in the Street Tree section, 16.140.060.
4.

Adjustments to Commercial and Industrial development Standards. Adjustments to Commercial or Industrial Development standards of up to 20 feet additional building height are permitted provided;

a. At least 50% of a Significant Tree stand's of canopy within a development site (and not also within the sensitive lands or areas that areas dedicated to the City) is preserved;
b. The project arborist or qualified professional certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized;
c. Applicable buffering and screening requirements are met;
d. Any height adjustments comply with state building codes;
e. Significant tree stands are protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such;
   (1.) A conservation easement;
   (2.) An open space tract;
   (3.) A deed restriction; or
   (4.) Through dedication and acceptance by the City.

G. Tree Protection During Development

The applicant shall prepare and submit a final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or protected as per the Notice of Decision. Such plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist or other qualified professional. Any work within the dripline of the tree shall be supervised by the project arborist or other qualified professional onsite during construction.

H. Penalties

Violations of this Section shall be subject to the penalties defined by Section 16.02.040, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense.

(Ord. No. 2024-002, § 1, 8-6-2024; Ord. No. 2023-002, § 2, 3-7-2023; Ord. No. 2022-004, § 2, 6-13-2022; Ord. No. 2021-010, § 2, 12-7-2021; Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. 2006-021; Ord. 91-922, § 3)

Note— See editor's note, § 16.140.040.