

ORDINANCE 1663

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO NORTH BEND MUNICIPAL CODE CHAPTER 19.10, THE CITY'S CLEARING, GRADING, FILLING, AND DRAINAGE CODE; AMENDING NBMC SECTIONS 19.10.020, 19.10.040, 19.10.091, 19.10.110, AND 19.10.140; REPEALING AND REPLACING NBMC SECTIONS 19.10.092, 19.10.093, 19.10.094, AND 19.10.095; AMENDING THE TAXES, RATES AND FEES SCHEDULE TO PROVIDE A FEE FOR IN LIEU TREE REPLACEMENT; AMENDING NBMC SECTION 14.05.200(S); AMENDING NBMC SECTION 18.50.020; AMENDING NBMC SECTION 18.18.040(K); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of North Bend ("City") desires to ensure the protection of trees within the City when new development is proposed, especially given the large amount of development currently occurring within the City; and

WHEREAS, the City Council desires to ensure that trees along the perimeter and along the frontage of development sites are the highest priority to retain; and

WHEREAS, the City Council desires to recognize the benefit and need to retain trees of all sizes not just large "significant trees;" and

WHEREAS, the City's consulting arborist provided technical assistance to staff to draft appropriate amendments to the City's tree ordinances and attended the February 22, 2018 Planning Commission meeting and May 15, 2018 Community and Economic Development ("CED") City Council Committee meeting to answer questions; and

WHEREAS, the North Bend Parks Commission, which serves as the City's Tree Board for participation in the Tree City USA Program; reviewed the proposed amendments at its February 28, 2018 meeting, and supported the direction of the code amendments that the Planning Commission was considering; and

WHEREAS, the City Planning Commission reviewed the proposed amendments on February 22, 2018, March 8, 2018, and March 22, 2018 where a Public Hearing took place; and

WHEREAS, the proposed amendments were submitted to the Washington State Department of Commerce for review on March 12, 2018; and

WHEREAS, a SEPA Determination of Non-Significance was issued for the proposed amendments on March 16, 2018; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments on March 22, 2018, as detailed in its findings, conclusions and recommendations; and

WHEREAS, the CED Committee reviewed the proposed amendments at its April 17, 2018 and May 15, 2018 meetings; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the requirements of the GMA;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC Section 19.10.020 (Definitions), Amended: North Bend Municipal Code Section 19.10.020 (Definitions) is hereby amended to read as follows:

19.10.020 Definitions.

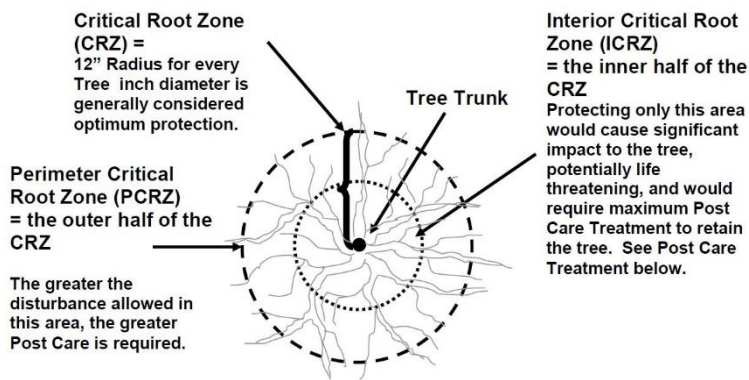
For the purposes of this chapter, the following definitions describe the meaning of the terms used:

1. “Accelerated erosion” means any increase over the rate of natural erosion as a result of land-disturbing activity.
2. “Approval” means approval by the city engineer or CED director.
3. “Brushing” means the practice of removing ground cover to create better visibility on a property for purposes such as marketing or surveying of said property, controlling fires, preserving existing open space, and eliminating noxious weeds and other nuisance vegetation.
4. “Buffer zone” means a parcel or strip of land that is required to permanently remain in an undisturbed and untouched condition and within which no building, clearing, grading, or filling is permitted, except for minor maintenance necessary to protect life and property.
5. “Caliper” means the American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes. Caliper also refers to landscape planted trees and in the case of North Bend standards is the primary measurement for deciduous trees.
6. “Clearing” means the ~~destruction or~~ removal of trees, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth’s surface on the site or results in the loss of trees or forested areas.
7. “Clearing and grading permit” means the written permission of the city to the applicant to proceed with the act of clearing, grading, filling and/or drainage which could disturb the land surface.

8. “Cluster” means a group of three or more ~~significant~~ trees with overlapping or touching crowns.

9. “Critical Root Zone” or “CRZ.” The Critical Root Zone of a tree is established on the basis of the trunk diameter. The CRZ is a circular area which has a radius of 12 inches to every inch diameter of trunk measured at 4.5 feet above grade, Root systems will vary both in depth and spread depending on size of tree, soils, water table, species and other factors. However, this CRZ description is generally accepted in the tree industry. Protecting this entire area should result in no adverse impact to the tree.

The below CRZ drawing has been further differentiated into the “Perimeter” (PCRZ) and ICRZ to help define potential impact and required Post Care. Generally, the full PCRZ is considered the optimum amount of root protection to a tree. As one encroaches into the PCRZ, but not into the “Interior CRZ” the greater Post Care the tree would require to remain alive and stable. The “Interior CRZ” is half the radius of the full PCRZ. Disturbance into the ICRZ could destabilize or cause the tree to decline.



The absolute maximum disturbance allowed should leave the “Interior CRZ” undisturbed if the tree is to have any chance of survival. This “Interior CRZ” would approximately equal the size of a root ball needed to transplant this tree which in turn would require extensive Post Care and possibly guying. Post Care Treatment includes but may not be limited to: regular irrigation, misting, root treatment with special root hormones, mulching, guying and monitoring for several years.

910. “Crown” means the area of a tree containing leaf- or needle-bearing branches.

11. “Crown Clean” or “CC” means the selective removal of dead, dying, damaged and diseased portions of trees.

12. “Crown Raise” or “CR” means to selectively remove a lower portion of the crown to allow physical or visual clearance.

13. “Crown Thin” or “CT” means the selective removal of limbs with foliage from throughout the crown to allow more sunlight or airflow. Percent of removal depends on tree age and vigor but generally should not exceed 20% in one year.

14. “Crown Reduction” or “CRD” means the selective cutting back of long or heavy limbs to reduce end weight and the potential for failure. Percent of removal depends on tree age and vigor.

~~10~~15. “DSHDBH” means the diameter at ~~standard~~ breast height; the diameter of the trunk measured 54 inches (4.5 feet) above grade.

16. “Development” means any manmade alteration of land, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment and materials, and subdivision of land. For properties within the floodplain, development also includes the removal of more than five percent of the native vegetation on the property, or alteration of natural site characteristics.

~~11~~17. “Dripline” means the distance from the tree trunk that is equal to the furthest extent of the tree’s crown.

~~18~~12. “Engineer” means a professional civil engineer, licensed by and in good standing in the state of Washington.

~~19~~13. “Environmentally sensitive lands” include, but are not limited to, lands identified as environmentally sensitive or critical areas by the city in accordance with the provisions of the State Environmental Policy Act and the Growth Management Act.

~~20~~14. “Erosion” means the wearing away of the land or ground surface by the action of wind, water, ice, gravity, or any combination thereof.

~~21~~15. “Exempt” refers to special circumstances as defined in NBMC 19.10.040.

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

- a. The tree must be included in and have a diameter at breast height (DBH) that is equal to or greater than the threshold diameters listed below;
- b. The tree shall exhibit healthful vigor for its age and species;
- c. The tree shall not be considered a significant risk in regard to existing utilities and structures as evaluated per the tree risk assessment detailed in 19.10.093;
- d. The tree shall have no visual structural defects that cannot be mitigated by one or more measures outlined in the International Society of Arboriculture Best Management Practices; and
- e. If retained under current tree growth conditions, the tree can be expected to remain viable with reasonable and prudent management and care.
- f. A Homestead Tree. Any tree that apparently was planted on a property many years ago that may have a unique, character, size or form as determined by the applicant and City Arborist and approved by the CED Director.

Exceptional Tree Species and Their Threshold Diameters

<u>Species</u>	<u>Threshold Diameter (DBH)</u>
<u>Bigleaf MAPLE –</u> <u><i>Acer macrophyllum</i></u>	<u>30 inches</u>
<u>Douglas FIR –</u> <u><i>Pseudotsuga menziesii</i></u>	<u>30 inches</u>
<u>Sitka spruce – <i>Picea sitchensis</i></u>	<u>30 inches</u>
<u>Western HEMLOCK – <i>Tsuga heterophylla</i></u>	<u>24 inches</u>
<u>Western Red CEDAR – <i>Thuja plicata</i></u>	<u>30 inches</u>
<u>Giant SEQUOIA –</u> <u><i>Sequoiadendron giganteum</i></u>	<u>30 inches</u>
<u>Pacific DOGWOOD – <i>Cornus nuttallii</i></u>	<u>12 inches</u>
<u>Grand Fir- <i>Abies grandis</i></u>	<u>24 inches</u>
<u>Shore Pine- <i>Pinus contorta ‘contorta’</i></u> <u>or White Pine- <i>Pinus strobus</i></u>	<u>12 inches</u>

However, significant trees shall not be exempted from the provisions of this chapter.

2346. “Filling” means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, natural vegetative covering of soil surface, or fill material (including temporary stockpile of material).

2417. “Grading” means any act which changes the grade or elevation of the ground surface and for the purposes of this chapter also includes the excavation and removal of earth material.

2518. “Ground cover” means all types of vegetation other than trees.

26. “Hazard tree” means a tree that has a disease and/or defect which causes it to have a high probability of failure. This can include root rot, a significantly decayed trunk, or two stems, with significant branch inclusions, previous failure of a crown, or other defect as identified by an arborist. The determination should include that the likelihood of failure in combination with the severity of consequences. A branch inclusion is a visible seam just below where two branches or co-dominant leaders grow together where bark may become embedded in the crotch between the two, causing a weak structure.

~~19. “Hazard tree” means any tree with any significant structural defect, disease, extreme size or combinations of these which make it subject to failure, as determined by the CED director or her/his designee.~~

~~270. “Impact” means a condition or activity that affects a part of a tree including the trunk, branches, and critical root protection zone.~~

~~2428. “Land-disturbing activity” means any use of the land that results in change in the natural cover or topography or may cause or contribute to erosion or sedimentation.~~

29. “Limits of disturbance” means the boundary between the area of minimum protection around a tree and the allowable site disturbance as determined by the requirements of this Chapter.

30. “Multi-stemmed tree” means a tree that has one stem at ground level but that splits into two or more stems above ground level. Trees whose stems diverge below ground level are considered separate trees. Where a tree splits into several trunks below typical DBH, the DBH for the tree is the square root of the sum of the DBH for each individual stem squared (example with three stems: $DBH = \text{square root of } [(stem\ 1)^2 + (stem\ 2)^2 + (stem\ 3)^2]$).

3122. “Normal maintenance” means regular pruning of trees and/or ground cover to protect property and/or to maintain healthy growth.

32. “Nuisance tree” means a tree that meets either of the following criteria:

- a. Is causing obvious physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, utilities or roof; or
- b. Has sustained irreversible damage from past maintenance practices.
- c. Causes increased maintenance or potential safety hazard such as from thorns, roots or fruit.

3323. “Qualified professional arborist” means an individual who is a certified professional with academic and field experience that makes them a recognized expert in urban forestry and tree protection during

development. A qualified professional arborist shall be a member of the International Society of Arboriculture (ISA) and/or the Association of Consulting Arborists and shall have specific experience with urban tree management in the state of Washington. Additionally, a qualified professional arborist identified to represent the City shall be a certified arborist or board certified master arborist, as certified by the International Society of Arboriculture, and be ISA Tree Risk Assessment Qualified and have the necessary training and experience to use and apply the appraisal methodology prescribed in the current edition of the ISA Plant Appraisal Guide.~~with relevant education and training in arboriculture or urban forestry. The individual must be an arborist certified by the International Society of Arboriculture or a registered consulting arborist from the American Society of Consulting Arborists and for forest management plans may be a certified forester by the Society of American Foresters.~~^{24.} “Root protection zone (RPZ)” means the ground area around a tree with one foot of radius in all directions for each inch of trunk diameter measured at four feet, six inches above grade. The root protection zone shall not be less than an eight-foot radius except for utility uses and street trees where there may be storm drainage pipes and other subsurface and surface improvements. In cases with substantial size trees, 24 inches DSH and greater, a suitable RPZ should be established at the discretion of the city’s qualified professional.

²⁵~~34.~~ “Sedimentation” means the process of depositing of soil and organic particles displaced, transported, and deposited by erosive processes.

^{26.} ~~“Significant tree” means any evergreen tree of at least 15 inches DSH and any deciduous tree, other than red alder, holly, poplar and cottonwood trees, at least 12 inches DSH. Red alder, holly, poplar, cottonwood and other invasive trees of any size are not considered significant trees.~~

²⁷~~35.~~ “Significantly wooded site” is a subject property that has a number of ~~significant~~ trees with crowns that cover at least 40 percent of the property.

²⁸~~36.~~ “Site disturbance” means any development, construction, or related operation that could alter the subject property, including, but not limited to, tree or tree stump removal, road, driveway or building construction, installation of utilities, or grading.

²⁹~~37.~~ “Site perimeter” means the area of the subject property that is 10 feet from the property line.

³⁰~~38.~~ “Specimen tree” means a viable tree that is considered in very good to excellent health and free of major defects, as determined by the city’s qualified professional.

^{31.} ~~“Target” means a person or property that can be damaged by failure of a tree.~~^{32.} “Tree removal” means the removal of a tree, through either direct or indirect actions, including but not limited to: (a) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (b) removal

~~of at least half of the live crown; or (c) damage to roots or trunk that is likely to destroy the tree's structural integrity.~~

39. "Topping" is the practice of removing whole tops of trees or large branches and/or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader. Tree topping is not considered pruning. Pruning shall conform to the most recent version of the American National Standards Institute (ANSI) A300 Part 1 – 2001 pruning standards or as outlined in an approved Utility Vegetation Management Plan.

40. "Tree" or "trees" means any living woody plant characterized by one main stem or trunk and many branches and having a diameter of four inches or more measured 24 inches above ground level.

41. "Tree Protection Plan" or "TPP" means a plan that identifies all protected trees and all work proposed around and near those trees. The TPP shall describe all locations and methods of tree protection that are proposed to mitigate for the work to be done onsite. The developer shall hire a Qualified Professional Arborist to assess trees to retain, tag trees and document information, describe the site and conditions and make recommendations, provide Tree Protection Guidelines, provide this plan, review implementation and to be onsite during working within the Interior CRZ of retained trees. The Developer's qualified professional arborist shall review, approve, monitor and document the work to confirm that tree protection methods are being followed and report compliance to the city.

42. "Tree removal" means the removal of a tree, through either direct or indirect actions, including but not limited to: (a) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (b) removal of at least half of the live crown; or (c) damage to roots or trunk that is likely to destroy the tree's structural integrity.

43. "Tree Unit Credit" or "TUC" is the unit of measure given to different size existing or planted viable trees that are required to meet minimum standards of lot tree coverage per 1000 square feet. Tree Unit Credits are derived from viable trees on the site of at least 4 inches DBH, other than red alder, holly, poplar or any other invasive tree.

~~3344. "Thinning" means the evenly spaced noncommercial removal of up to 40 percent of trees and woody shrubs.~~

~~3445. "Timber harvesting" means the commercial harvesting of trees.~~

~~35. "Trees" means any living woody plant characterized by one main stem or trunk and many branches and having a diameter of four inches or more measured 24 inches above ground level.~~

~~3646. "Viable tree" means a significant tree that a qualified professional has determined to be in good health, with a low risk of failure due to structural defects, is relatively windfirm if isolated or remains as part of a grove, and is a species that is suitable for its location.~~

~~3747. "Wildlife snag" means the remaining trunk of a dying, diseased, or dangerous tree that is reduced in height and stripped of all live branches.~~

3848. “Windfirm” means a condition of a tree in which it can withstand moderate storm winds.

Section 2. NBMC Section 19.10.040 (Permit Exemptions), Amended: North Bend Municipal Code Section 19.10.040 (Permit exemptions) is hereby amended to read as follows:

19.10.040 Permit exemptions.

There are two types of exemptions from the provisions of this chapter: (1) written exemptions; and (2) categorical exemptions.

A. Written Exemptions. Written permit exemptions shall be issued by the city engineer or CED Director. The following shall be exempt from the permit requirements of this chapter:

1. Land clearing, grading, filling, sandbagging, diking, ditching, or similar work during or after periods of extreme weather or other emergency conditions which have created situations such as flooding or high fire danger that present an immediate danger to life or property;
2. Land clearing necessitated by order of the city council related to the abatement of a public nuisance, where the work is administered by the city;
3. Up to 50 yards of fill, unless the fill is to be placed in the root protection zone of a ~~significant~~ tree, in an area subject to the jurisdiction of the critical areas regulations, as codified in Chapters 14.05 through 14.12 NBMC, in the 100-year floodplain or floodway as defined in Chapter 14.12 NBMC, or in a storm drainage course;
4. The clearing by a public agency or a franchised utility within a public right-of-way or upon an easement, for the purpose of installing and maintaining water lines, storm sewer lines, sanitary sewer lines, electrical power line, television cable, or communication lines, or for street construction or maintenance, subject to the requirements of any applicable franchise agreement; and

B. Categorical Exemptions. No permit or written permit exemption is required for the following actions:

- ~~1. The removal of dead or diseased trees, nonsignificant trees as determined by the CED director or ground cover;~~
- ~~2. The removal of hazard trees and ground cover in emergency situations involving immediate danger to life, property or substantial fire hazard;~~

1. Hazard, dead, or dying trees can be removed after a letter of request documenting the situation is submitted to the city by a property owner. In the event that a tree is not obviously dead, dying, or a hazard, a letter from a Qualified Professional Arborist describing the condition of the tree shall be submitted with the letter of request;

2. Emergency Tree Removal. Any tree on private property that poses an imminent threat to life or property may be removed without first

obtaining a permit/city approval. The property owner and/or developer shall contact the city within seven days of removal to provide evidence of threat for approval of exemption. The city retains the right to dispute the emergency and require that the party obtain a permit and/or require that replacement trees/vegetation be replanted as mitigation;

~~3. Normal maintenance of trees and ground cover;~~

3. Utility Management. Removal of private trees by the city and/or utility provider in situations involving immediate danger to life or property, or imminent interruption of services provided by a utility;

~~4. Cemetery graves;~~

4. Commercial Nurseries or Tree Farms. Removal of trees that are being grown to be sold as Christmas or landscape trees;

~~5. The removal of up to 5,000 square feet of brush, grass, or other similar ground cover for the purpose of landscaping or gardening purposes;~~

5. Existing single-family lot homeowners are exempt from needing a Clearing and Grading Permit for up to 10 trees per year unless the tree is within a designated NGPE, or is likely to be within 150' of a critical area per NBMC Title 14.

~~6. Licensed Commercial Nurseries or Tree Farms. A nursery or tree farm owner may remove trees that are being grown to be sold as Christmas or landscape trees; and~~

6. Normal maintenance of trees and ground cover;

7. Cemetery graves;

8. The removal of up to 5,000 square feet of brush, grass, or other similar ground cover for the purpose of landscaping or gardening purposes; and

79. Farming and agricultural uses for existing operations or upon land already cleared for agricultural uses; provided, however, no ~~significant~~ viable tree larger than 4 DBH may be removed under this categorical exemption.

Section 3. NBMC Section 19.10.091 (Significant Tree Provisions), Re-Entitled and Amended: North Bend Municipal Code Section 19.10.091 is hereby re-entitled “Tree retention purpose” and amended to read as follows:

19.10.091 ~~Significant tree provisions~~Tree retention purpose.

The purpose of this section is to prevent the excessive removal of trees and associated vegetation for the multiple benefits provided to North Bend’s urban environment and its citizens. Trees along the perimeter of lots and parcels and along the frontage are of the highest priority to retain and should be considered first. Removal of non-invasive trees and vegetation in urban areas has resulted in the loss to the public of these beneficial functions. The purpose of this chapter is to establish a process and standards to provide for the protection, preservation, replacement,

proper maintenance, and use of ~~significant~~ trees in the city of North Bend. In addition to NBMC 19.10.010(A)(9), the intent of ~~significant~~ tree regulations is to:

- A. Maintain and enhance canopy coverage provided by trees for their functions as identified in NBMC 19.10.010;
- B. Preserve and enhance the city of North Bend’s environmental, economic, and community character with mature landscapes;
- C. Promote site planning, building, and development practices that work to avoid removal or destruction of trees and vegetation, that avoid ~~unnecessary~~ disturbance to the city’s natural vegetation, and that provide landscaping to buffer the effects of built and paved areas;
- D. Mitigate the impacts of tree removal in land development through on- and off-site tree replacement with the goals of significantly minimizing loss and enhancing the quality and quantity of North Bend’s tree canopy;
- E. ~~Require~~Encourage tree retention efforts ~~by providing and consider~~ flexibility with respect to certain other development requirements;
- F. Implement the goals and objectives of the city’s comprehensive plan; ~~and~~
- G. Ensure the protection of the many benefits that healthy trees and vegetation contribute to North Bend’s quality of life by:

- 1. Minimizing the adverse impacts of land disturbing activities and impervious surfaces such as runoff, soil erosion, land instability, sedimentation and pollution of waterways, thus reducing the public and private costs for storm water control/treatment and utility maintenance;
- 2. Improving the air quality by absorbing air pollutants, mitigating the urban heat island effect, assimilating carbon dioxide and generating oxygen, and decreasing the impacts of climate change;
- 3. Reducing the effects of excessive noise pollution;
- 4. Providing cost-effective protection from severe weather conditions with cooling effects in the summer months and insulating effects in winter;
- 5. Providing visual relief and screening buffers;
- 6. Providing recreational benefits;
- 7. Providing habitat, cover, food supply and corridors for a diversity of fish and wildlife;
- 8. Providing economic benefit by enhancing local property values and contributing to the region’s natural beauty, aesthetic character, and livability of the community; and
- 9. Providing human health benefits for the citizens of North Bend, including improvements in air quality and mental health.

Section 4. NBMC 19.10.092, Repeal and Replace: North Bend Municipal Code Section 19.10.092 (Significant tree removal requirements) is hereby repealed in its entirety and replaced with a new Section 19.10.092 (Development sites—Tree density requirements) to read as follows:

19.10.092 Development sites—Tree density requirements.

A. Introduction. A minimum tree density approach based on Tree Unit Credits shall be used to retain a minimum number of viable trees with development activity. Unless otherwise exempted by this Chapter, the requirement to meet a minimum tree density applies to all development activities, including: new single-family homes; residential subdivisions and short subdivisions; mixed used developments; commercial and industrial developments; municipal, and institutional developments; and utility developments.

1. Tree retention or a combination of tree retention and supplemental planting shall be required to meet or exceed the minimum tree density required by this Chapter.
2. A tree density for existing trees to be retained is calculated to determine if supplemental trees are required in order to meet the minimum tree density for the entire site.
3. Where supplemental trees are required, a minimum size that may be planted to meet the required tree density is established.
4. Location prioritization is established by this Chapter for both retained trees and supplemental trees.
5. If a development site falls below the minimum density with existing trees, supplemental planting is required.

B. Tree Density Requirement. The required minimum tree density varies by zoning designation. The minimum tree credits per acre are provided in Table 19.10.092-1.

1. The tree density may consist of existing trees, supplemental trees, or a combination of existing and supplemental trees pursuant to the standards of this section.
2. Existing trees transplanted to an area on the same site shall not count toward the required density unless approved by the director based on transplant specifications provided by a qualified professional arborist that will ensure a good probability for survival.
3. Tree density credit requirements shall be based on the full site area, excluding wetlands, streams, and/or landslide hazard areas and associated Critical Areas buffers.

C. Tree Density Goal. Even if the developer meets the minimum tree density requirements, all other viable trees that can be retained without significant impact to the proposed development shall be retained per the same tree protection standards in 19.10.095.

Table 19.10.092- 1

Required Minimum Tree Credits

Land Use Type	Intensity	Required Minimum Tree Credits per 1,000 square feet
Single Family *If lots are less than 7,500 sf and/or the proposal is a short subdivision in the DC or CR zone the required credit may be reduced in half.	Low/Moderate	1
Multi-family	Moderate	.75
Industrial	High	.5
Commercial		
Public Facilities		
Downtown Commercial	High	.25

D. Tree Density Calculation. For the purpose of calculating required minimum tree density, public right-of-way, areas to be dedicated as public right-of-way, and vehicular access easements not included as lot area within an improved plat shall be excluded from the area used for calculation of tree density. Critical areas and associated buffers to be maintained by the development proposal shall be excluded from the area used for calculation of tree density, but supplemental plantings may occur in those areas. Trees otherwise required by the code are also excluded from the area used for calculation of tree density.

E. Tree density calculation for existing trees:

1. Diameter at breast height (DBH) of the tree shall be measured in inches.
2. The tree credit value that corresponds with DBH values shall be found in Table 19.10.092-2. These credits shall be multiplied by 1.5 for existing native conifers (or other conifer species as approved by the director).
3. Retained red alder and cottonwood trees shall not count toward the tree density requirement.

4. Existing trees located in Critical Areas and those protected within the Native Growth Protection Area tract or easement to be established by the proposal shall not count toward the tree density requirement.
5. In calculating tree density credits, tree credits may be rounded up to the next whole number from a 0.5 or greater value.

Table 19.10.092-2
Tree Density Credits for Existing Trees or Planted Trees

DBH	Tree Credits
Planted 8' Conifer*, or 2" cal. Deciduous.	1
4" - <8"	1
8" - <12"	2
12" - <24"	4
24" or >	6
Exceptional Tree	1.5 X Tree Credit above.
*No arborvitae or similar.	

Example: An 8,000 square-foot lot would need 8 tree credits ($8,000/43,560 = 0.183 \times 43 = 7.8$ or 8). The tree density on the lot could be retained by two (2) existing 12" to 24" trees (less if a conifer is present) or by a combination of planting on the lot and within other areas if part of a development.

Example: A 2-acre commercial site would need 44 tree credits ($87,120$ square feet/ $1000 = 87.12 \times .5 = 43.56$ or 44). The tree density on the lot could be retained by a combination of four (4) - 24" or greater trees to equal 24 credits, plus five (5) 12" to 24" trees equal 20 for a total of 44.

- F. Supplemental Trees Planted to Meet Minimum Density Requirement.
1. For sites with existing tree canopy, a minimum percentage of tree credits shall be from retained trees; the remainder may be from retained trees or supplemental plantings. In order to ensure that existing tree canopy is appropriately retained as new development activities occur, 50% of required tree density credits must be achieved through retention of existing trees.
 2. For sites where existing (pre-development) tree density is not sufficient to meet tree density minimums, retention of existing identified trees consistent with 19.10.093 shall be required and a top

priority of the site design. Additional tree density credits shall be achieved through supplemental planting on-site.

3. For sites where existing tree density is 25% or less of the required tree credits per 1,000 square feet can reduced at the sole discretion of the Director Approval on a case by case basis.

4. The CED Director may allow for removal of trees beyond these retention standards only when the applicant demonstrates that the proposed activity requiring additional removal of existing trees is the only reasonable alternative that will accomplish the applicant's objectives, and only when supplemental trees are provided to meet tree density credit requirements. In such instances, the city may require additional on-site supplemental tree planting and/or a fee in lieu of additional supplemental tree planting to achieve higher tree density credit than the minimum required by Table 19.10.092-1.

5. Minimum Size and Tree Density Value for Supplemental Trees. The required minimum size of a supplemental tree worth one-half 1 tree credit shall be eight (8) feet tall for native or other conifers and 2-inch caliper for deciduous or broad-leaf evergreen trees. The installation and maintenance shall be pursuant to NBMC 18.18 Landscape Standards.

Section 5. NBMC Section 19.10.093, Repeal and Replace: North Bend Municipal Code Section 19.10.093 (Significant tree inventory and retention requirements) is hereby repealed in its entirety and replaced with a new Section 19.10.093 (Development sites—Submittal requirements and priorities for tree retention) to read as follows.

19.10.093 Development sites—Submittal requirements and priorities for tree retention.

A. For all development, a Tree Retention Plan is required to be submitted with the initial land use application and/or Clearing and Grading permit application. The qualified professional arborist and surveyor shall work together to identify, tag, and survey the minimum number of trees to meet the Tree Unit Credit threshold. The City shall be involved in the early planning stages to assist in as much tree preservation as possible. The Tree Retention report shall include the following:

1. Site characterization of existing tree conditions. This characterization shall include:
 - a. A qualitative description of site forest conditions (stand age, dominant species, condition);
 - b. Identification of site areas with groves of trees;
 - c. Identification and description of tree and forest conditions adjacent to any on-site Critical areas and buffers; and
 - d. Description and rationale for the retention of trees used to meet the minimum Tree Unit Credits.
2. Initial calculation of trees that meet the minimum tree credits required for the proposed development that must be achieved through

tree retention, consistent with tree density requirements of Table 19.10.092-1.

3. Proposed identification of areas for required tree retention, including rationale and documentation of consistency with Section 19.10.093, Priorities for Tree Retention.

4. Tree Survey. Included with the retention proposal that meets the Tree Unit Credit minimum, a survey of existing site tree conditions shall be submitted that sets out the following:

a. Engineered professional survey location point for the following trees:

i. Every tree on the site that is used towards meeting the minimum density requirements;

ii. Any additional trees retained and protected on or near lots in relation to clearing and grading requirements;

iii. Trees located within the outer 15-foot of on-site critical area buffers; and

iv. Off-site trees located on adjacent properties that have a critical root zone (CRZ) extending on to the property under application. Off-site trees shall not be counted toward the minimum tree unit credit.

b. The above surveyed trees shall include tree ID number, size (DBH), species, location, and risk assessment.

c. Site map with Tree ID number, species, diameter at 4.5' above grade for all trees proposed for retention, including any identified exceptional trees, and a Tree Assessment Matrix with the description of each tree's health and viability. Evaluation should include identification of trees that are not viable for retention, based on health, high risk of failure due to structure, defects, unavoidable isolation (wind firmness), or suitability of species, that are in areas that are not to be cleared by the proposed development but pose a risk to them.

d. Location of limits of disturbance relative to the CRZ around all trees proposed for retention and any special instructions for work within that protection area (hand-digging, tunneling, root pruning, maximum grade change). Adjusting fence locations to allow site work within the CRZ must be approved by the applicant's arborist and the Community and Economic Development director, and must be consistent with all requirements of NBMC 19.10.095, Tree Protection - Construction of New Developments.

5. Supplemental tree planting plan. Proposed location and species of supplemental trees to be planted when required meeting the TUC minimum standards and including planting and maintenance specifications. This may be provided on the site landscape plan, so long as supplemental trees are identified separately from general landscape trees.

6. List of General Tree Protection Guidelines that covers all potential impacts to retained trees, and methods and procedures for working around retained trees properly. Guidelines shall be consistent with all requirements of NBMC 19.10.095 Tree Protection - Construction of New Developments.
7. Construction plan and schedule to include:
 - a. Pre-construction meeting with the applicant's qualified professional arborist and the city to confirm retained trees, approve tree protection fence location, and agree on monitoring schedule for contract compliance based on work near retained trees;
 - b. Requirements and methods of reporting to city when significant work is required within the Inner Critical Root Zone (ICRZ) of any retained tree;
 - c. Confirmation that the tree protection fences remain in place throughout the project; and
 - d. Post construction meeting to confirm all trees have been retained, protected and planted per plan. Confirm post construction requirements for tree maintenance if needed.
- B. The applicant shall be responsible for all costs associated with city review pursuant to the current Taxes, Rates, and Fees Schedule for tree plans and for the costs related to qualified professional arborist field visits, plan development, and plan review.
- C. Trees proposed for retention shall be tagged and numbered for field verification at time of application submittal.
- D. Tree Priority for Retention/Site Design. The site plan shall take into account retained trees and be designed in accordance with the following guidelines:
 1. The incorporation of trees as a site amenity with a strong emphasis on tree protection. Forested sites should retain their forested look, value, and function after development, to the extent possible.
 2. Trees should be protected within vegetated islands and stands rather than as individual, isolated trees scattered throughout the site. The city may refuse to consider individual, isolated trees as candidates for retention.
 3. Trees to be retained must be healthy and wind-firm as identified by a qualified professional arborist. In designing a development project, the applicant shall prepare the required tree retention plan with consideration of the following retention priorities. Priorities are not provided in an order of preference; successful tree retention shall meet as many of these priorities as are feasible, based on site conditions:
 - a. Tree groves and associated vegetation that are adjacent to areas that are proposed to be set aside as native growth protection areas (Critical areas and protected buffers), such that retained trees provide additional habitat, hydrologic, water quality, and land stability functions;

- b. Trees that will be located within a fish and wildlife habitat corridor, as established by the development proposal consistent with the North Bend Comprehensive Plan and Critical Area Regulations;
 - c. Trees that are a part of grove that extends into adjacent property, such as in a public park, open space, Critical area buffer or otherwise preserved group of trees on adjacent private property. If trees must be removed in these situations, an adequate buffer of smaller trees may be required to be retained or planted on the edge of the remaining grove to help stabilize, maintain and protect the grove; and
 - d. Trees located in the site perimeter, especially when they provide a screening function between different land uses.
4. Building footprints, parking areas, roadways, utility corridors and other structures should be designed and located with consideration of tree protection opportunities.
 5. The grading plan should be developed to accommodate existing trees and avoid alteration to grades around existing trees to be retained as part of a tree retention plan.
 6. Required open space and recreational space is located and designed to protect existing stands of trees.
 7. The CED Director must approve any site plan proposal to remove an identified Exceptional Tree. Removal of an Exceptional Tree shall only be allowed as a last measure.
- E. Protection of Exceptional Trees.
1. The following regulations shall apply to the protection and limited allowances for removal of exceptional trees, whether occurring as part of a development proposal or not. Removal of exceptional trees shall not be allowed, except in the following circumstances:
 - a. Where consistent with exemptions for hazard, dead, or dying trees and for emergency tree removal consistent with this chapter.
 - b. Where necessary for public roads and bridges within existing public right of ways and other essential public facilities.
 - c. Where necessary for access to development sites provided there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible.
 - d. For all other proposed impacts to exceptional trees: where proposed, it is presumed that an alternative development proposal exists; activities and uses shall be prohibited unless the applicant can demonstrate that all on-site alternative designs that would avoid or result in less impacts to the exceptional trees, such as a reduction in the size, scope, configuration or density of the project, are not feasible.

Section 6. NBMC Section 19.10.094, Repeal and Replace: North Bend Municipal Code Section 19.10.094 (Significant tree replacement ratio and planting plan) is hereby repealed in its entirety and replaced with a new Section 19.10.94 to read as follows:

19.10.094 Priorities for location of supplemental trees.

A. Supplemental Tree Location. In designing a development to meet the required minimum tree density, the site design and landscape plan shall be consistent with NBMC 18.18. Supplemental trees shall be planted in the following order of priority:

1. On-Site. The preferred locations for new trees are (in order of priority):
 - a. Adjacent to Critical areas and associated buffers that are being designated as an NGPA tract or easement (required for wetlands, stream, and landslide hazard areas);
 - b. Within required common open spaces and recreation spaces as established by the approved site plan;
 - c. Adjacent to storm water facilities as approved by Public Works;
 - d. Within other site common areas within the approved site plan;
 - e. Within site perimeter areas where contiguous with offsite existing forests; and
 - f. Up to 50% of the required minimum tree density as street trees and/or required perimeter landscape trees required in NBMC 18.18 may count as supplemental trees with sole approval by the CED Director as determined on a case by case basis.
2. Off-site tree replacement with replacement costs (material plus labor) at the applicant's expense.
 - a. Allowable sites for receiving off-site replacement plantings are city-owned properties or private open space which is permanently protected and maintained, such as an NGPA, park properties, street rights-of-way, and other properties as determined appropriate by the CED director.
 - b. All trees to be replaced off-site shall meet the replacement standards of this chapter.
3. It is the Cities intent to preserve and replace trees on-site, and only in rare cases and as a last resort, a fee in lieu of tree replacement may be allowed, subject to approval by the CED director. The amount of fee in lieu required per tree unit credit is adopted in the City's Taxes, Rates and Fee Schedule.
 - a. The amount of the fee shall cover the cost of a tree, installation (labor and equipment including staking, mulching), maintenance (including watering, warranty, and monitoring) for five years, and fund administration. Such costs shall be determined by the city as adopted in the Taxes, Rates and Fees schedule.

- b. The fee shall be paid to the city prior to final site plan or final plat approval, or the issuance of a tree removal permit or letter, whichever applies.

Section 7. NBMC Section 19.10.095, Repeal and Replace: North Bend Municipal Code Section 19.10.095 (Revegetation option) is hereby repealed in its entirety and replaced with a new Section 9.10.095 (Tree protection—Construction of developments) to read as follows:

19.10.095 Tree protection—Construction of developments.

A. To ensure long-term viability of trees and tree stands identified for protection permit plans and construction activities shall comply with the following tree retention requirements:

1. All minimum required tree protection measures shall be shown on the tree retention plan and the site grading plan. Project site plans shall include a summary of the project-specific tree protection measures;
2. Tree protection barriers shall be installed along the outer edge and completely surround the critical root zone of trees to be protected prior to any land disturbance and shall remain until the CED director authorizes tree protection barrier removal;
3. Tree protection barriers shall be a minimum of six (6) feet high constructed of chain link or similar material, subject to approval by the CED Director. “Tree Protection Area” signs shall be posted visibly on all sides of the fenced areas no greater than 50 feet apart. On large project sites, the CED director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances. Signs shall be a minimum of 3’ by 3’ in size with 3” lettering;
4. Where tree protection areas are remote from areas of land disturbance, and where approved by the CED director, alternative forms of tree protection may be used in lieu of tree protection barriers, provided that protected trees are completely surrounded with continuous flagging and are accompanied by “Tree Protection Area” signs; and
5. Native understory trees, shrubs and other vegetation shall be protected within the designated tree protection area.

B. Construction planning and activities within the critical root zone of retained trees:

1. To ensure that structures, utilities, and roadways are located an adequate distance from a protected tree and to allow adequate room for construction activities, the limits of construction clearing and grading shall generally be located no closer than the critical root zone of all protected trees. Work within that area shall be reviewed and approved by a qualified professional arborist and the CED director. The city

may require third party review by a qualified professional arborist representing the city.

2. Except for structures proposed as a raised deck, bay window, or cantilevered or otherwise raised above the ground's surface so as not to disrupt the tree's roots, no structures shall be allowed within the interior critical root zone (ICRZ) without approval by a Professional Qualified Arborist.

3. Sidewalks and utilities may be located within the critical root zone of a protected tree, provided that construction methods and materials used will result in minimal disruption of the tree's roots, and that additional measures for tree protection are proposed and approved which will ensure the long-term viability of the tree.

4. Grade within critical root zone: the grade shall not be elevated or reduced within the critical root zone of trees to be preserved without the CED director's authorization based on recommendations from a Qualified Professional Arborist.

5. In limited instances based on site constraints, the CED director may allow construction limits or an alteration of grades within the critical root zone, provided that the applicant submits an evaluation by an arborist which demonstrates that the proposed construction will not reduce the long-term viability of the tree. Generally, limited disturbance may be allowed inside the Perimeter Critical Root Zone, up to the Inner Critical Root Zone (ICRZ).

6. All construction activities, including, but not limited to, staging any materials, operating or parking equipment, or dumping concrete washout or other chemicals, shall be prohibited within the critical root zone of protected trees. During construction, no person shall attach any object to any tree designated for protection.

7. In addition to this subsection B, the CED director may require the following:

a. An evaluation by an Arborist to determine if protective measures should be required beyond the critical root zone.

b. If equipment is authorized to operate within a tree protection area, the soil and critical root zone of a tree must be covered with mulch to a depth of at least twelve (12) inches or with plywood, steel plates or similar material in order to protect roots and soil from potential damage caused by heavy equipment.

c. To minimize root damage wherever development is proposed and allowed within the critical root zone, hand or pneumatic tool excavation may be required to expose roots and cleanly sever the roots of trees to be retained. Never rip or shred roots with heavy equipment.

8. Preventative Measures. In addition to the above minimum tree protection measures, the applicant shall support tree protection efforts by employing, as appropriate, the following preventative measures,

consistent with best management practices for maintaining the health of the trees:

- a. Pruning of visible deadwood for health and safety on trees to be protected or transplanted;
- b. Application of fertilizer to enhance the vigor of stressed trees;
- c. Use of soil amendments and soil aeration in tree protection and planting areas;
- d. Mulching over tree critical root zone areas;
- e. Ensuring proper water availability during and immediately after construction; and
- f. Selective thinning.

C. Upon completion of construction activities, a Qualified Professional Arborist hired by the applicant shall be required to inspect all trees remaining on a site and provide a written report as to the status of such trees. Any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced at a three tree to one tree ratio. The enforcement standards of Section 19.10.140 may also apply at the CED director's discretion. The CED director will take into account the reasons for the damaged trees in determining if the fine set out in Section 19.10.140 applies.

D. Alternative Methods. The director may approve the use of alternative tree protection techniques if a protected tree will be protected to an equal or greater degree than through the techniques listed above.

E. Designation of Protected Trees.

1. The tree plan and any application and permit plans that cover such areas shall show all trees designated for protection/retention. These areas may be shown by labeling them as "protected trees" or "native growth protection areas" or such other designation as may be approved by the CED director. Protected vegetation, including protected trees, shall not be modified, harmed or removed except as provided in this chapter.

2. The CED director may require that protected trees be permanently preserved within a tract, easement or other permanent protective mechanism. When required, the location, purpose, and limitation of these protected areas shall be shown on the face of the deed, plat, site plan, or similar document and shall be recorded with the King County Department of Records and Elections. The recorded document shall include the requirement that the protected areas shall not be removed, amended or modified without the written approval of the city of North Bend.

F. Modification to Tree Retention Requirements. A modification to retention requirements may be granted at the discretion of the CED director based on the applicant's ability to demonstrate the following:

1. Application of the requirements of this chapter will deny all reasonable economic use of the property; and
2. There is no other reasonable economic use with less impact; and

3. The proposed development does not pose an unreasonable threat to the public health, safety, or welfare, on or off the proposed site, and is consistent with the general purposes of this chapter; and
4. The alteration proposed is the minimum necessary to allow for reasonable economic use of the property.

The CED director shall grant an exception from the requirements of this chapter only to the minimum necessary extent to allow for reasonable economic use of the property. The CED director shall consider conditioning any exception from the requirements of this chapter upon compliance with any mitigation plan approved by the City or upon other conditions, such as a fee in lieu.

G. Additional Tree Protection. The CED director may approve an administrative adjustment of standards for bulk and dimensional relief per Chapter 18.25 NBMC in order to retain existing viable tree(s).

Section 8. NBMC Section 19.10.110 (Maintenance Responsibilities), Amended: North Bend Municipal Code Section 19.10.110 (Maintenance responsibilities) is hereby amended to read as follows:

A. A maintenance schedule for constructed private facilities shall be developed and measures implemented pursuant to this chapter, and for landscaping maintenance pursuant to Chapter 18.18. The schedule shall set forth the maintenance to be completed, the time period for completion, and who shall perform the maintenance. The schedule shall be included with all required plans and permits and shall be recorded by the property owner or agent with the county auditor so that maintenance responsibilities attach to the property and shall be the duty of the property owner(s). The city engineer or CED Director may require a maintenance bond for the same length and under the same conditions as required for landscaping under the landscape code.

B. The responsible party (homeowners association or individual property owner) shall contract with a qualified professional for ongoing tree care including trees located in NGPE, open spaces, critical areas and public rights-of-way. All proposed work including but not limited to tree removal, pruning, and planting shall be submitted to the city arborist for approval. The submitted information shall reference the tree plan and confirm the retention and maintenance requirements. Best Management Practices performed by the qualified professional arborist is required.

Section 9. NBMC Section 19.10.140 (Security), Amended: North Bend Municipal Code Section 19.10.140 (Security) is hereby amended to read as follows:

19.10.140 Construction and development: development requirements for Ssecurity and enforcement.

A. The city engineer or CED Director may require the applicant to furnish security in the form of a bond, cash escrow account, an irrevocable letter of credit, or other security which may be acceptable to the city at its sole discretion, in an amount determined by the city engineer or CED Director to be sufficient to reimburse the city if it should become necessary for the city to enter the property to correct hazardous conditions relating to soil stability, erosion, or environmental damage caused by failure to complete the work or improper action.

B. Trees designated for protection including mitigation plantings shall be mapped and bonded to be protected and retained through construction. Any of these trees that are removed after this designation through the approved development phase, other than being hazardous shall be bonded. The bond shall be based on the appraised landscape value, applied by the city Arborist, using the latest edition of the “Guide for Plant Appraisal” but in no case shall be less than \$2,500 per tree.

C. Enforcement for retained trees and supplemental trees on new development sites:

1. Trees that are shown on a plan as to be retained as part of the minimum tree density requirement shall not be damaged and/or removed during, or as a result of, construction. If such trees are damaged and/or removed, the applicant shall be responsible for paying a fee be based on the appraised landscape value, applied by the city Arborist, using the latest edition of the “Guide for Plant Appraisal” but in no case shall be less than \$2,500 per tree, and shall meet other mitigation requirements per NBMC 19.10.092.

2. Trees that are shown on a plan as to be retained as part of the minimum tree density requirement shall be retained, unless such trees become hazardous, or as set out in Section 19.10.095.F, Modification to Tree Retention Requirements. If such trees are removed during the approved development phase without a permit and/or approval of the city, the property owner and/or the person performing the activity shall be responsible for paying a fee be based on the appraised landscape value, applied by the city Arborist, using the latest edition of the “Guide for Plant Appraisal” but in no case shall be less than \$2,500 per tree, and shall meet other mitigation requirements per NBMC 19.10.092.

3. Trees that are saved in excess of those required to meet the minimum tree density shall not be subject to this section; however, shall be protected consistent with NBMC 19.10.095 Tree Protection-Construction Developments.

D. Enforcement for existing developed lots and existing developed public rights-of-way:

1. The City shall encourage compliance with requirements for tree removal from existing developed lots and existing public rights-of-way through education and outreach, and by providing clear direction and standard forms for tree removal notifications.

2. Upon determination that there has been a violation of this chapter including, but not limited to: tree removal or Tree Topping, tree removal on another property not owned by the individual responsible for the removal, and/or removal not associated with development activity or approved permit, the property owner and/or person performing the activity may be responsible for paying a fee based on the appraised landscape value, applied by the city Arborist, using the latest edition of the “Guide for Plant Appraisal” but in no case shall be less than \$2,500 per tree, and shall meet other mitigation requirements per 19.10.092.

E. The City may pursue code enforcement and penalties consistent with NBMC Chapter 1.20. Liability for violations of this chapter shall be the joint and severable responsibility of both the property owner and any person performing activity.

F. Appeals of Tree Permit, Fine, or Other Decisions Under This Chapter:

1. Appeals of initial decisions may be made to the CED Director. Any person wishing to appeal an initial decision on a tree permit, fine, or other decision under this Chapter shall put such appeal in writing, clearly stating the reasons such appeal should be granted. This appeal must be presented to the CED Director within fourteen (14) days of the issuance of the tree permit decision, fine, or other decision appealed under this Chapter. The CED Director shall reduce their decision on such appeal in writing and provide it to the person requesting the appeal.

2. Appeals of Director determinations may be made to the City Hearings Examiner. Any person wishing to appeal the CED Director’s determination shall appeal in writing within fourteen (14) days of the decision on the permit, issuance of the fine, or other decision under this Chapter. The appeal shall be in writing and shall clearly state the reason such appeal should be granted. Such appeal shall be processed by the City’s Hearings Examiner pursuant to NBMC Ch. 2.20.

Section 10. Taxes, Rates and Fee Schedule, Amended: The City Clerk is directed to amend the City’s Taxes, Rates and Fees Schedule, to add a new tree replacement in lieu fee, as set forth below:

19.10	Tree Replacement Fee	
19.10.094	Per 1 tree credit in lieu replacement fee	\$2,000 per tree
	Per 1.5 tree credit (exceptional tree) in lieu replacement fee per tree	\$10,000

Section 11. NBMC 18.18.040(K) (Definitions), Amended: North Bend Municipal Code Subsection 18.18.040(K) (Definitions) is hereby amended as follows:

K. “Significant tree” means any evergreen tree of at least 15 inches DBH and any deciduous tree, other than red alder, holly, poplar and cottonwood

trees, at least 12 inches DBH. Red alder, holly, poplar, cottonwood and other invasive trees of any size are not considered significant trees. is as defined in the clearing and grading regulations, Chapter 19.10-NBMC.

Section 12. NBMC 18.50.020 (Definitions), Amended: North Bend Municipal Code Section 18.50.020 (Definitions) is hereby amended as follows:

“Integrated management practices” are tools used in low impact development (LID) projects for water quality treatment and flow control. The controls are integrated throughout the project and provide a landscape amenity with a stormwater treatment and flow control function. These features are intended to mimic or model nature and the predevelopment hydrology.

“Rain garden” or “bioretention cell” means an engineered and vegetated small depression in ground that allows stormwater runoff directed from impervious areas such as roofs, streets, parking areas, sidewalks, driveways, walkways and compacted gravel areas to be treated and infiltrate near the source. Native plants are used within rain gardens because they are tolerant to local climate, soils and water conditions and do not require fertilizers. Water filters through engineered soil layers before entering the groundwater system (mimicking natural conditions). Plant and small tree root systems enhance infiltration, moisture redistribution and diverse microbial populations necessary for biofiltration. Rain gardens may or may not have an under-drain and are not designed as a conveyance system.

“Significant Tree” means any evergreen tree of at least 15 inches DBH and any deciduous tree, other than red alder, holly, poplar and cottonwood trees, at least 12 inches DBH. Red alder, holly, poplar, cottonwood and other invasive trees of any size are not considered significant trees.

Section 13. NBMC 14.05.200(S) (Definitions), Amended: North Bend Municipal Code Subection 14.05.200(S) (Definitions) is hereby amended to read as follows:

S. “S” Definitions.

1. “Salmonid” means a member of the fish family Salmonidae. In King County, chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).
2. “Section 404 permit” means a permit issued by the Army Corps of Engineers for the placement of dredge or fill material waterward of the ordinary high water mark or clearing in waters of the United States, including wetlands, in accordance with 33 United States Code (USC) Section 1344.

3. “Seismic hazard areas” means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

4. “Significant Tree” means any evergreen tree of at least 15 inches DBH and any deciduous tree, other than red alder, holly, poplar and cottonwood trees, at least 12 inches DBH. Red alder, holly, poplar, cottonwood and other invasive trees of any size are not considered significant trees.

45. “Special flood hazard area (SFHA)” means an area subject to a base or 100-year flood; areas of special flood hazard are shown on the flood insurance rate maps as Zone A, AO, AE, AH.

65. “Species and habitats of local importance” means those species that may not be endangered, threatened, or critical from a state-wide perspective, but are of local concern due to their population status, sensitivity to habitat manipulation, or other educational, cultural, or historic attributes. These species may be priority habitats, priority species, and those habitats and species identified in the critical areas code as having local importance (e.g., elk).

76. “Species, threatened and endangered” means those native species that are listed by the State Department of Fish and Wildlife pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered under the Federal Endangered Species Act (16 U.S.C. 1533).

87. “Start of construction” means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit issuance date. For cumulative tracking, the permit may extend beyond the specified time frame to the time of permit completion. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

98. “Steep slopes” means those slopes (excluding city-approved geotechnical engineered slopes) 40 percent or steeper within a vertical elevation change of at least 10 feet. A slope is defined by establishing

its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

109. “Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

1140. “Stream” means any portion of a watercourse, either perennial or intermittent, where the surface water flow is sufficient to produce a defined channel or bed. Streams also include natural watercourses modified by humans. Streams do not include irrigation ditches, canals, stormwater runoff facilities, or other entirely artificial watercourses.

1244. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

1342. “Substantial improvement” means any repair, reconstruction, rehabilitation, remodel, addition, or improvement of a building or structure, the cost of which exceeds 50 percent of the market value of the structure before the improvement or repair is started. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term excludes:

- a. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications that have been previously identified by the local code enforcement or building official and are the minimum necessary to assure safe living conditions; and
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places; provided, that the alteration will not preclude the structure’s continued designation of a historic structure.

Section 14. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 15. Effective Date: This ordinance shall be published in the official newspaper

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of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 17TH DAY OF JULY, 2018.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Kenneth G. Hearing, Mayor

Michael R. Kenyon, City Attorney

Published: July 27, 2018
Effective: August 1, 2018

ATTEST/AUTHENTICATED:

Susie Oppedal, City Clerk