

Guidelines For Developing Urban Forest Practice Ordinances



"STEWARDSHIP IN FORESTRY"

**Oregon Department of Forestry
Forest Practices Program
Urban and Community Forestry Program**

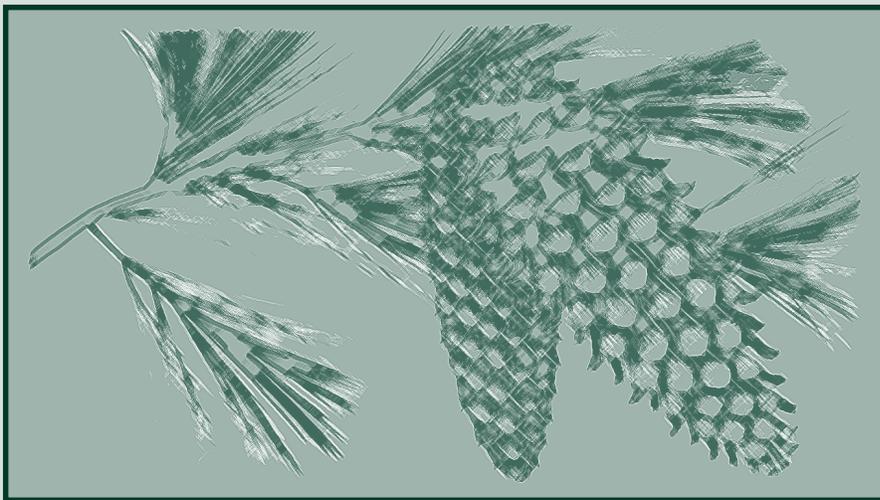


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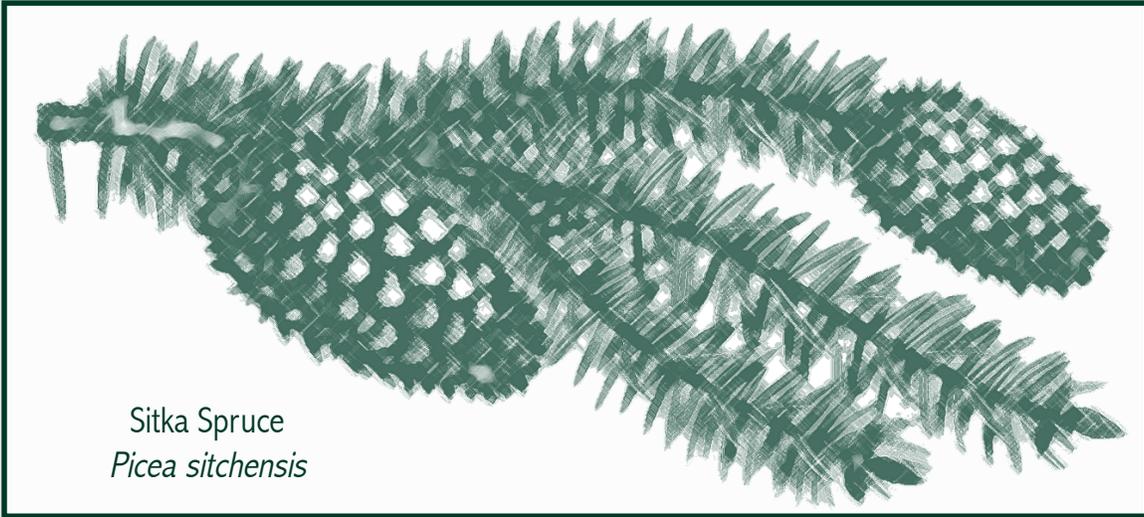


Western White Pine
Pinus monticola

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Sitka Spruce
Picea sitchensis

1.0 INTRODUCTION

Trees are an important part of Oregon's economy, its environment and its identity. Trees provide a myriad of benefits such as lumber, helping to protect our air and water, and shade for our homes in the summer. Trees are even found on our car license plates. The importance of trees and the need to effectively manage our forests was recognized by the Oregon Legislature, which passed the nation's first Forest Practices Act (FPA) in 1971. This law provided unprecedented levels of environmental protection and, for the first time, required reforestation after harvest. The FPA has been amended over the years to include protection for sensitive nesting sites for wildlife, stream and riparian area protection, and protection for a variety of other resource needs.

Since the FPA's adoption 28 years ago, issues regarding the application of the FPA within urban areas have increased. As parcels closer to and within urban areas have been harvested, citizens have voiced a desire for greater levels and different types of forest protection than provided by administration of the FPA.

The FPA was designed to promote the proper management of Oregon's forests. Its mandates for reforestation and resource protection have ensured that forestland remains healthy and productive. The FPA was not designed to regulate forest practices to meet individual community goals within urban settings. This publication has been developed to help cities and counties decide whether the level and type of protection offered by the

FPA within urban growth boundaries (UGBs) and city limits as administered by the Oregon Department of Forestry (ODF) is appropriate for their needs. Where the FPA does not meet the goals and objectives of local government within UGBs and city limits, this publication can also help in the preparation of locally administered forest regulations.

The Oregon Legislature has given cities and counties the authority to regulate forest practices within UGBs in place of having ODF administer the FPA. This "local option" has been used by many cities in Oregon. The law is designed to have either ODF or the local government regulating forest operations in the designated area, but not both. If local governments regulate, the FPA no longer applies. Some cities have unknowingly invoked this provision by passing ordinances that regulate the harvesting of trees while creating unintended consequences such as the failure to address other resource protection issues covered by the FPA.

their particular goals while meeting state and federal legislative mandates to protect soil, air, water, and fish and wildlife resources.

These guidelines provide several model ordinance clauses that may address local objectives in an urban forest practices program. However, it is not advisable for any city to merely adopt these model clauses and expect the regulations to be useful. The most successful local regulations are those that meet community goals and objectives while addressing applicable statewide land use planning goals that protect specific natural resources and provide for orderly development.

1.1 This Publication

The Oregon Department of Forestry, in cooperation with the Oregon Department of Land Conservation and Development, offers this publication as a guide for cities and counties to use in the development of urban forest practice regulations. This publication is designed to assist local governments in balancing community objectives with economic and environmental concerns as they relate to forest regulations. It outlines a process by which cities or counties can develop regulations that meet

2.0 THE OREGON FOREST PRACTICES ACT (how it works)

While most local governments are aware the state has a Forest Practices Act, they do not know how it works or to what extent it may apply to timber harvesting and other forest practices within their jurisdiction. This section provides a brief overview of the FPA and examples of how various resources are protected. As a city or county considers developing local forest practice regulations, it is important to evaluate current forest practice regulations against what may be proposed.

Specific resources that receive protection under the FPA include environmentally sensitive sites, riparian areas and stream corridors, air, soil, and water quality, and fish and wildlife habitat. The FPA, adopted by the Oregon Legislative Assembly and administered by the Oregon State Board of Forestry through the Oregon Department of Forestry (ODF), applies to all commercial forest operations on non-federal forestlands in Oregon.

The FPA establishes standards for forest practices, including timber harvesting, road building and maintenance, slash disposal, reforestation and use of pesticides and fertilizer. Monitoring by ODF staff shows a high degree of compliance by landowners and operators with the law, assuring that trees are being planted for tomorrow's forests and that other forest resources are being protected.

3 The FPA has evolved over the years. Protection measures have been strengthened as more scientific data has become available and as social values and federal requirements have changed. The Oregon Forest Practice Rules, which interpret and establish specific standards

under the FPA, are administered and enforced in the field by ODF Forest Practices Foresters (FPFs). FPFs operate out of local field offices, with each FPF responsible for a specific geographic area.

Oregon law (ORS 527.670) requires that the operator, timber owner or landowner notify ODF before commencing any forest operation activity. The FPF then reviews operation notifications filed in their area. Notifications are prioritized for field inspections according to type of operation and the resources involved. Depending on the nature of the activity and resources involved, a written plan may be required which describes how the operator will conduct an operation while protecting certain resources as required by the FPA. For example, harvesting timber within 100 feet of a fish-bearing stream requires special attention to protect the stream's temperature, water quality and the riparian area's habitat values.

2.1 Examples of FPA Resource Protection

Some resource protection standards, required by the FPA, are provided below as examples to convey how and what resources are protected by the FPA. As local governments consider developing their own forest practices regulations which would replace the FPA, the following examples show types of regulations that could be developed and adopted to protect soil, air and water quality, and fish and wildlife.

2.1.1 Water Protection Rules

The FPA's water protection rules set standards for vegetation retention within riparian management areas (RMAs). RMAs are areas along each side of specified waters of the state within which vegetation retention and special management practices are required to protect water quality, hydrologic functions, and fish and wildlife habitat. The rules require that trees and understory vegetation be retained within RMAs, and that written plans describe how resource protection will be accomplished during the operation. Standards for tree retention vary by stream size (large, medium, or small) and beneficial uses of water (fish or domestic uses). For example, a large stream used by fish requires the following standards:

- Riparian management area 100 feet wide on each side of the stream.
- All understory vegetation within 10 feet of the high water level.
- All trees within 20 feet of the high water level.
- All trees leaning over the channel.
- Additional trees as needed to meet rule required targets (minimum of 50 to maximum 250 per 1000 ft).
- Retention of all downed wood and snags that are not safety or fire hazards within the RMA.

2.1.2 Significant Wetland Protection

Significant wetlands include wetlands larger than eight acres, estuaries, bogs and important springs in eastern Oregon. Operators are required to submit written plans describing how they will prevent adverse effects to wetland vegetation required to be retained, and on water quality, hydrologic functions or soil productivity. Significant wetland protection standards include:

- Retention of approximately 50 percent of the live trees, by species and diameter class.
- Minimizing disturbances to soil and hydrologic functions.
- Retention of understory vegetation.
- Retention of all snags and downed trees within the wetlands and the applicable riparian management areas.

2.1.3 Chemical Application

Statewide, the application of chemicals on all land uses is regulated by the Oregon Department of Agriculture. However, to ensure protection of forest resources, the FPA contains additional rules regulating the application of forest chemicals. Some of these include:

- F Aerial applications of chemicals may not be directly applied within 60 feet of:
 - Significant wetlands,
 - The aquatic areas of fish and domestic use streams,
 - the aquatic areas of large lakes, or any lakes with fish use.
- F Ground applications of chemicals may not be directly

applied within 10 feet of the above resources.

- F Daily records of chemical applications must be maintained.

2.1.4 Road Construction and Maintenance

The FPA provides standards for the construction and maintenance of roads that provide the maximum practical protection to maintain forest productivity, water quality, and fish and wildlife habitat.

These standards require prior approval for road construction:

- Where a risk exists for road materials to enter waters of the state;
- Where use of machine activity is planned in fish-bearing and domestic use streams, lakes and significant wetlands;
- In riparian management areas;
- On high risk sites prone to landslides; and
- Before constructing stream-crossing fills over 15 feet deep.

2.1.5 Harvesting

The FPA rules set standards for harvesting that maintain the productivity of the land, minimize soil and debris entering waters of the state, and protect fish and wildlife habitat.

These standards apply to:

- Log skidding and yarding practices;
- Landing construction;
- Drainage systems for landings, skid trails and fire trails;

- Treatment of waste materials;
- Harvesting on high risk sites;
- Slash treatment; and
- Reforestation.

2.2 Where The FPA Applies and Where it Does Not

Under the FPA, “forest practices” refers to the way in which “commercial” forest “operations” are conducted on “forestland.” These operations can involve a number of different activities including but not limited to:

- Harvesting of forest tree species;
- Reforestation;
- Road construction and maintenance;
- Application of chemicals; and
- Disposal of slash.

The key words within this definition are “operation”, “commercial” and “forestland”:

- “Operation” means any commercial activity relating to the growing or harvesting of forest tree species.
- “Commercial” means engaged in work designed for the market: the exchange or buying and selling of commodities or services.
- “Forestland” means land used for the growing and harvesting of forest tree species, ***regardless of how the land is zoned, taxed or how any state statutes or local ordinances, rules or regulations are applied***

The FPA rules apply to all non-federal forestland, including private, state-owned and local government-owned forestlands. However, the Oregon Forest

Practices Act does not prevent the conversion of forestland to another use. Where a landowner is actively converting forestland to a land use not compatible with forestry, the land is considered forestland until the trees are cleared and one of two things happen:

1. Forest practices related to stabilizing the site, such as water barring skid trails and revegetating soils, are completed; or
2. Non-forest related development activities begin.

Also, in the event of a land use change in conjunction with a harvest operation, the department may modify its procedures for protecting significant resources. For example, the FPA requires the retention of trees, understory vegetation and other attributes within riparian management areas (RMA) adjacent to fish-bearing streams. The width of the RMA, the number of trees retained and the harvest activities that could occur within the RMA is dependent on the size classification of the stream (small, medium or large). Landowners invoking a land use change (i.e., proving the new use to be incompatible with these FPA protection requirements) could be exempt from applying some forest practice regulations. Such exemptions require prior approval by ODF.

5 However, in such cases the landowner is still responsible for meeting other state regulations normally met by applying the FPA. Such regulations would likely include the Division of State Lands removal and fill

regulations, the Department of Environmental Quality water quality standards, and local comprehensive and zoning code requirements.

2.3 Local Government Option

In 1987, the Legislature enacted a law (ORS 527.722) affecting local government's ability to regulate forest operations. Prior to 1987, local governments were thought to be prohibited from regulating forest operations except within a city's boundaries (city limits). However, with the change in statute local governments (generally cities) could choose to regulate all forest operations in any way or choose not to regulate them within UGBs and city limits.

In 1991, the Legislature amended ORS 527.722 to clarify ODF's role in applying the forest practice rules to forest operations conducted within UGBs. This amendment established that the Oregon Forest Practices Act applied to forestland within UGBs unless local governments adopted their own regulations governing forest practices. Existence or adoption of acknowledged local government forest practice regulations within UGBs relieves the State Forester of the responsibility to administer the Forest Practices Act within the affected areas. As a result of the 1991 legislative changes, ODF is responsible for administering the Oregon Forest Practices Act on forestland within UGBs except where acknowledged local forest practice regulations have been applied.

ODF worked closely with the Legislature in the development of these 1991 amendments to ORS 527.722. ***The clear intent of the bill was to ensure that all forest operations within the state are regulated to protect soil, air, water, and fish and wildlife resources.*** However, if a local government desires different regulation than provided by the FPA, then the local government may regulate forest practices within all or a portion of an acknowledged UGB. ***Also, legislative intent was very clear that forest practices were to be regulated by either the FPA or local government regulation, not both.***

2.4 When Will ODF Not Administer the FPA?

It is ODF's interpretation that **any** acknowledged local ordinance that regulates harvesting, such as how or which trees may be harvested within a UGB,¹ constitutes local forest practices regulations under ORS 527.722. Where such regulations apply, ODF is relieved from administering the FPA.

For example, a local jurisdiction may choose to adopt an ordinance indicating that only selective harvesting (i.e., only so many trees per acre maybe harvested) may occur on forestland within their UGB. In this case, ODF would not administer the FPA within this jurisdiction's UGB.

Another example is a jurisdiction addressing the requirements of Statewide Planning Goal 5 by adopting the "safe harbor"

provisions² or other ordinances for protecting riparian vegetation along stream corridors and applying those ordinances or provisions to forest practices. In this case, the jurisdiction would administer its regulations within its riparian corridors, and the ODF would administer the FPA for those forestlands within the UGB not included within the riparian buffer.

¹ Except those regulations governing the removal of trees associated with certain other land use actions. For example, an ordinance regulating the removal of trees associated with the construction of a dwelling is not considered a forest practice regulation. Also, regulations that control the cutting of local “street trees” are not considered as forest practice regulations.



² Currently, the Goal 5 rule safe harbor for streams with average stream flows greater than 1,000 cubic feet per second (cfs) is a 75 foot corridor on both sides of the stream; streams with an average flow of 1,000 cfs or less protect a 50 foot corridor on both sides.

Vine Maple
Acer circinatum Pursh

3.0 URBAN FOREST PRACTICES OBJECTIVES

As stated, Oregon law provides cities and counties the opportunity to regulate forest practices within UGBs¹. However, local governments that choose to regulate forest practices need to ensure that forest operations are conducted in a manner that protect soil, air, water, and fish and wildlife habitat. Local forest practice regulations that do not provide adequate protection for those resources could be regarded as deficient in meeting other state laws (e.g., the Department of Environmental Quality’s water quality standards).

The scope of a forest practices program (determining exactly what trees and sites a local program should cover) is an important consideration since the type of standards and the

extent of their application will depend upon this decision. Regulations designed to protect a limited number of specific trees (e.g., mature trees, heritage trees, or landscape trees) are completely different than regulations designed to regulate the removal of trees from managed forestland or trees growing on lands designated for development.

As with all regulations, programs designed to regulate forest operations within UGBs and/or city limits need to address specific objectives, as they do place limitations on private property. Programs that regulate individual private properties need broad community support and a demonstrated need in order to survive both politically and legally.

Protecting trees can be a useful complement to regulations already existing within a city’s development code. In Oregon, cities already govern development through planning and zoning laws designed to provide for orderly development. Adding forest practices to the list of development standards may help a city maintain or improve its livability and the area’s environment as well as ensure that aesthetically pleasing development occurs. To ensure that trees are not removed before a parcel is ready to be developed, cities should apply forest practice regulations to lands designated for future development.

For local forest regulations to be successful, trees need to be viewed from both the

community and individual property owners' perspectives. From the community perspective, trees need to be viewed not only as part of the overall landscape, but also as an important contributor to the overall environmental health of the community. For example, established trees within riparian corridors are critical for the conservation of fish and wildlife and maintaining water quality. Trees help in reducing both stream turbidity and higher water temperatures during the summer, and they provide a source of future large woody debris for fish habitat.

When developing a forest practices program specifically designed to transition from commercial timber land to a residential neighborhood, it is important to ensure that the development fits the site rather than clearing and grading the site to fit a preconceived development plan. Successful urban forest regulations do not attempt to save every tree. Instead, they protect the most valuable trees; those with the most potential to become assets to the site. Conversely, planners and landowners must be cognizant of stand age, topography and wind firmness when deciding which trees to retain.

7 Although this document does not address the issue of wildfire in the urban interface, communities within wildfire prone areas which are developing forest practice regulations should be cognizant of the need to maintain defensible space and nonflammable vegetation around structures. Included in Appendix 8.3 are reference materials which can be helpful in addressing these issues.

In preparing plan policies and implementing land use regulations to retain forestlands primarily to benefit other resource or community values, a local government may need to follow the procedures established by the Land Conservation and Development Commission (LCDC) in their Oregon Administrative Rules (OARs). Specifically, OAR 660, Division 23, which implements Goal 5, specifies a process for protecting riparian areas, wetlands, and fish and wildlife habitats. In addition, ordinance provisions developed to regulate forest practices may also need to include requirements addressing other statewide planning goals¹, as well as those of the Division of State Lands and the Department of Environmental Quality.

3.1 City and County Intergovernmental Agreement

Generally, city land use policies are found in the comprehensive land use plan and apply within the city limits and possibly to lands within the urban growth area (the area outside the city limits and inside the UGB). A county's tree-cutting land use regulations would only apply within the urban growth area unless the city and the county adopt the same regulations for lands inside the UGB. If a city wants its or the county's forest practices regulations to apply inside the UGB, it may be necessary for the city and county to amend their intergovernmental agreement (sometimes referred to as an Urban Growth Agreement or Urban Growth Management Agreement).

3.2 Preparing an Urban Forest Practices Program

The first step in developing a local urban forest practice program is to answer the following questions: Why does our community need an urban forest practices program? What problems are we trying to address? What can we gain in addition to what the Oregon Forest Practices Act already provides? Or what do we not want that the Forest Practices Act requires? Examples of issues addressed by urban forest practice programs may include:

- Maintaining forest canopy.
- Reducing tree loss during development.
- Retaining trees as a buffer between residential and industrial uses.
- Retaining trees within riparian corridors.
- Reducing damage to existing trees during construction.
- Strategically retaining trees while allowing harvests for solar access.
- Shade retention.
- Street/bikeway/pedestrian path beautification.
- Scenic view preservation.
- Strategically retaining trees or allowing harvests for view enhancement.

¹ Goals 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources), 15 (Willamette Greenway) and 17 (Coastal Shorelands).

Once reasons for developing forest practice regulations has been determined, specific goal or objective statements should be developed. For example, one goal maybe to have newer residential neighborhoods blend with older established neighborhoods. To meet this goal, not only would street patterns need to be coordinated, but also older trees would have to be retained on new lots, in street rights-of-way, and in future park and school locations. Such a goal may read as follows: *Ensure that new development near older neighborhoods is designed to blend with and compliment the attributes found in our older neighborhoods.* This goal could then lead to the development of **specific plan policies** specifying the need to leave trees on undeveloped forestlands located near existing residential neighborhoods.

For example, the following policy provides specific directions for retaining trees to achieve the previously stated goal:

It is the policy of the city to retain trees between 20 and 70 years old so that new developments can safely provide the following benefits: (1) Shade for future homes, schools, parks and streams; (2) An aesthetic buffer between automobiles and pedestrians and homes; and (3) Habitat for wildlife.

After a community determines precisely why they want to regulate forest practices, an **inventory or assessment** of the forestland resource should occur next. This inventory should identify the quantity, quality and location of the type or types of forestland the community wants to protect. This may be accomplished a number of ways, including “windshield” surveys, tree inventories, aerial

photography, or the use of geographic information systems (GIS). Based on this inventory, the community has a number of decisions to make regarding what type of regulations to adopt, if any, and where to apply them.

After the community completes the inventory, it may be useful to examine alternatives to achieving the community’s identified goals. For example, teaching landowners about the need to protect a certain type or number of trees in a given area may achieve the community’s goal without having to prepare and apply regulations. In some cases, acquisition, covenants, deed restrictions, open space tax incentives or land trades can be used to achieve the same results. Involving the news media in the community’s effort to achieve its goals and objectives may be useful in drawing attention to the need to protect certain trees or specific forestlands, thus rendering the need for an urban forest practice ordinance unnecessary.

A jurisdiction may choose to rely on the FPA to achieve its goals and objectives for certain types of inventoried forestlands while developing local regulations for other types of forestlands within the UGB. Under this scenario, **detailed mapping** of the properties subject to the FPA is necessary so that ODF knows which forestlands are still under its administration.

When a decision has been made that forest practices regulations may be appropriate and necessary, the next step should be to involve the public. In as much as the goals of a program reflect community values and opinions, an open and public process is an important element. Successful

regulations have broad community and political support. If the citizens of a community do not agree with the need to develop and apply urban forest regulations, independent of the FPA, they will be even less willing to approve the funding necessary to see that the regulations are enforced.

As a forest practices program is developed, a process for evaluating the success of the regulations should also be developed. This step serves two purposes. First, most new programs need more than one revision before they successfully implement the stated polices. Second, by stating “up-front” that the community will reevaluate specific provisions of the program at a specific time (e.g., 2 years), it reinforces the attitude that the regulations are not “cast in stone.” Thus, regulations that do not work, can be changed.

Once a need for local forest practice regulation is identified, determine if meeting the need will involve any Statewide Planning Goals, such as Goal 5. Some cities have adopted “tree protection regulations” without going through the post-acknowledgment plan amendment process (ORS 197.610). They have simply adopted a stand-alone ordinance to regulate tree cutting that requires, for example, a tree-cutting permit be obtained prior to cutting trees. It is strongly recommended that the city attorney or county counsel be consulted as to the need to go through post-acknowledgment plan amendment process or to adopt a stand-alone ordinance.

4.0 DEVELOPING AN URBAN FOREST PRACTICES ORDINANCE

Urban forest practice regulations should be tailored specifically to the needs of the community. A model ordinance does not exist that would meet the goals and expectations of every community. However, there are examples of regulatory language that can be tailored to address certain issues.

The following examples of regulatory language with accompanying descriptions are provided to help jurisdictions construct regulations that might meet local needs. These suggestions will need to be edited to fit the needs of the particular situation. Each clause is listed by title, includes a brief description, and is followed by sample language that addresses the specific issues.

4.1 Title

The title should be a brief description of the program:

This program shall be known as the [jurisdiction's name] Forest Practices Ordinance.

4.2 Purpose or Preamble

The purpose or preamble should clearly state the reasons or need for the program and should relate directly to the community's stated goals.

The city desires to provide for the orderly transition from open space and forestland to residential neighborhoods. The city recognizes the need to preserve some open space and maintain certain forest lands for their environmental and aesthetic values, which include wildlife habitat and clean water. This ordinance is intended to

implement the goals and policies found in the "Urban Forest Program" section of the comprehensive plan. Upon application of this ordinance to the lands identified in the plan's "Urban Forest" section, the city assumes the responsibility of regulating forest practices on those lands under the authority granted the city by ORS 527.722.

The purpose or preamble of an urban forest practices ordinance is the place where the city or county "makes its case" for applying the ordinance (also known as the "nexus" between the ordinance and the goals and policies to be implemented). Statements regarding the economic, social and environmental benefits of the forestlands in question can be included. Clearly stating the purpose of an ordinance is an important step in avoiding future legal misunderstandings.

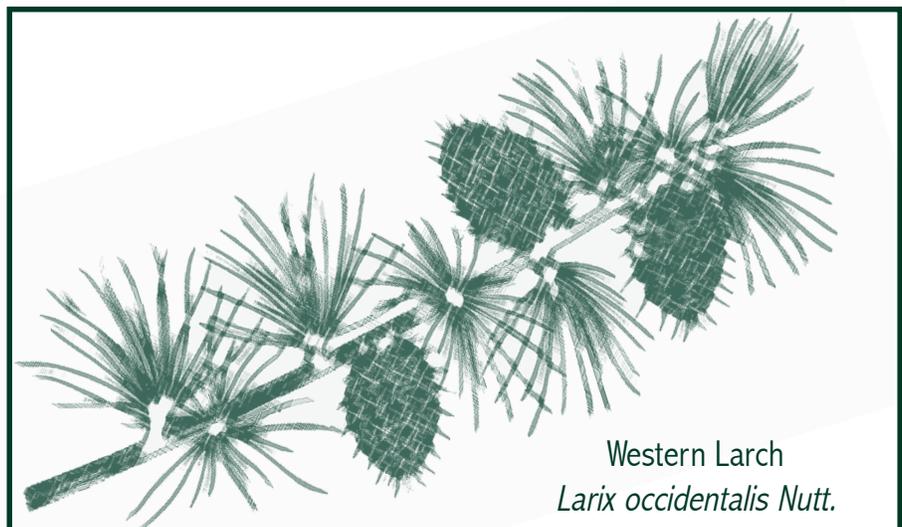
4.3 Definitions

Definitions are important to clarify the meaning of certain words, phrases or terms used in the ordinance. Some of the more

common terms needing definitions may include: forest practice, developable land, certified arborist, forest operation, etc.

For the purposes of this program, the following words and phrases shall have the following meanings: . . . "Certified Arborist" means an individual *who has passed certification exams and holds current status as a Certified Arborist through the International Society of Arboriculture. "Tree" means. . .*

The definitions section should clearly define words or terms that embody concepts that can be misinterpreted. Terms like "cut" or "damage" may have different meanings depending upon the circumstances. In some cases, an urban forest practices program may need to use the same term to implement different regulations. If that case arises, the jurisdiction may need to define the same term differently in specific sections of the ordinance. Such precision may be important in providing flexibility.



Western Larch
Larix occidentalis Nutt.

4.4 Scope and Application

Based on the policies in the comprehensive plan, the ordinance should clearly identify the types of forest practices to be regulated and the forestlands on which the particular program provisions will apply. For example, regulations contained within an urban forest practices ordinance could apply to one or more of the following situations:

- Forestland designated for development - any forested parcel or lot that can be subdivided and developed.
- Private trees - trees over a certain diameter size or of a particular species growing on private property.
- Historic Trees - trees with some historical significance.
- Tax-deferred lands and dedicated forestland - land currently under tax deferral through state and county programs to defer property taxes and encourage forest productivity.
- Riparian corridors - lands adjacent to wetlands, creeks, streams and rivers.
- Trees separating residential from industrial lands.
- Forestlands associated with identified scenic values.
- Trees valued for their proximity to certain streets, bike and pedestrian paths.

In some cases, communities may not want the same regulations to apply everywhere. For example, a community may want to regulate forestlands that are being harvested for the purpose of converting the land for development while not wanting the same regulations to apply to other forestland that continues to be used for growing and harvesting commercial timber. This may be done using a

statement like the one that follows:

This forest practices ordinance applies to all forested parcels within the urban growth boundary that are designated in the comprehensive plan for residential, commercial or industrial development except for those forested parcels currently managed as forestland which are receiving a forest tax deferral.

It should be noted that regulations must be consistent with other state and local laws, and city policies or procedures. For example, some forested parcels within urban growth boundaries may be in a forest tax deferral status. In this situation, the county is allowing a landowner to pay a reduced level of taxes with the expectation that at the time of harvest, the county will recoup those revenues. Forestland receiving a tax deferral should be made part of the initial inventory so that an assessment can be made to determine whether or not an urban forest ordinance should be applied to those lands.

Another factor to consider is whether or not there is a need to apply an urban forest practices ordinance to all lands within the UGB or city limits to ensure adequate tree retention on forested lands designated for development. If a program is designed to regulate only forestlands involved in the development process, a landowner may clear the land of trees valued by the community before an application to develop is submitted, thus, circumventing the urban forest ordinance.

4.5 Operating Procedures

Below are examples of provisions a jurisdiction may want to include within an urban forest ordinance. These examples address the application process, the application review procedure, notifications, permit requirements, fees, and the appeal procedure. Some cities may want to add provisions or develop more than one permit procedure (e.g., one for individual lots and another for reviewing subdivision proposals), depending on local circumstances.

*Before any trees over ___ inches in diameter are removed, a permit shall be obtained from — (e.g., the Planning Department). Before a permit can be issued, the following must be obtained by the owner and submitted as part of the permit application: A survey of all trees over ___ inches in diameter; a report by a Certified Arborist identifying those trees that can **safely** be retained as: (1) shade trees for home or water bodies that provide fish and wildlife habitat; and (2) a buffer between cars and proposed pedestrian walkways.*

Ordinance Standards- The standards by which applications must be judged are crucial to the success of an urban forest practice program. Such standards could address:

- Tree retention - the number and types of trees that must be left on the site.
- Tree replacement - the number and types of trees that must be replanted.
- Air, water, soil, fish and wildlife habitat protection.

Examples of possible standards are as follows:

- Subdivisions and planned unit development applications shall include findings which show how the proposed development will be consistent with urban forest policies of the comprehensive plan.
- Trees smaller than ___ inches in diameter may be removed.
- Where necessary, certain trees of ___ inches in diameter, consistent with the Arborist's report, may also be removed to facilitate the construction of home sites and roads, provided no feasible alternative exists.
- Trees identified as diseased or structurally unsafe may also be removed.
- Proposed developments are required to maintain ___ percent of the existing tree canopy. Where a development is not able to maintain this standard, a mitigation requirement of three trees of ___ inches in diameter will be planted for every tree removed below the ___ percent standard.
- Trees within ___ feet of a stream or water body must be left (see also LCDC Goal 5 rules - OAR Chapter 660, Division 23).
- ANSI A300 Standards for Tree Maintenance and ANSI Z60.1 Standards for Nursery Stock will be required for all trees covered by this section.

those in the FPA and the Forest Practices Rules. For example, a local jurisdiction developing tree retention standards along streams could adopt tree retention and understory vegetation requirements similar to those required by the FPA. FPA vegetation retention requirements are based on beneficial use of the water (fish or domestic) and stream size (large, medium or small). ODF has stream classification maps developed for the FPA that could be made available to local jurisdictions for the development of their ordinance. The benefits of having consistent statewide standards are: (1) at least an acceptable level of protection for these resources is provided; and (2) landowner/operator confusion is reduced when operations occur across jurisdictional boundaries.

Standards for tree retention and replacement will vary based on the community's objectives, the type of trees that grow within the region, the types of resources receiving some form of protection, and the types of land uses to be proposed. While ORS 527.722 dictates that cities must provide protection for air, water, soil, and fish and wildlife resources, it does not stipulate what level of protection is required. Cities must ensure that these resources are protected and that they satisfy other regulations such as the Clean Water Act (normally met by administering the FPA). Development of a local program will need to consider and ultimately decide on the levels of protection.

Enforcement - The local agency responsible for enforcement, the penalties for violating the

program regulations, and the method of enforcement should be included in the urban forest practices program. The following is an example addressing these points:

The planning department is charged with the responsibility of enforcing the regulations of the forest practices program. Parties proposing developments will not be issued permits until proof is provided that the proposal complies with the urban forest practices program.

Where development permits have been issued and a violation has occurred, fines of \$250 a day for every day not in compliance with these regulations will be assessed.

Penalties for unauthorized tree removal shall be assessed per offense.

Fines collected under this program shall be deposited into a special account to be used for enforcing this program. Any money collected beyond that shall be deposited into a special account to be used for tree planting within the city.

Fees - The city will need to adopt a fee schedule that reflects the cost of administering the program. Funding an enforcement mechanism is often accomplished by application fees. The use of consultants may be necessary where a community's size does not allow for the hiring of a code enforcement officer. Incentives and education should also be a part of the implementation strategy. Mitigation measures and penalties for violating program regulations should be clear and should be strong enough to dissuade violators.

To protect soil, air, water, and fish and wildlife resources, the ODF highly recommends communities adopt standards consistent with

5.0 ADOPTION OF A NEW URBAN FOREST PRACTICES PROGRAM

Appeals Process - The standard appeals process found in the existing development code or zoning ordinance should be referenced in the local jurisdiction's urban forest practices program.

As a result of the passage of Ballot Measure 56 by the Oregon voters in 1998, adoption of any new local regulations will likely require notification of those property owners affected. According to the law, such notices must be sent at least 20 (but not more than 40 days) days before the date of the first hearing.

The law requires that the notice **describe in detail** how the proposed ordinance would affect the use of the property. The law also requires that the notice "contain substantially" the following language in boldfaced type extending from the left-hand margin to the right-hand margin across the face page of the notice:

THIS IS TO NOTIFY YOU THAT THE (jurisdiction name goes here) HAS PROPOSED A LAND USE REGULATION THAT WILL AFFECT THE PERMISSIBLE USES OF YOUR LAND

The body of the notice must also contain substantially the following language:

On (date of public hearing), (jurisdiction name) will hold a public hearing regarding the adoption of Ordinance Number _____. The (jurisdiction name) has determined that adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property.

Ordinance Number _____ is available for inspection at (identify place) located at (list address here). A copy of Ordinance Number ____ also is available for purchase at a cost of (price here).

For additional information concerning Ordinance Number _____, you may call the (identify staff person or office to call) at () ____-_____.

If you need further assistance regarding notice obligations under the law, please seek assistance from your legal counsel.

6.0 ADMINISTERING THE URBAN FOREST PRACTICES PROGRAM

Perhaps the greatest challenge facing local government is how to administer an urban forest practices program. While the Oregon Department of Forestry can provide technical guidance to help with the development of forest practices programs, the Department cannot be involved in the enforcement of local forest regulations. Most counties and cities do not have technical forestry expertise, so such expertise must either be acquired or contracted.

Local governments lacking forestry expertise may want to consider contracting with a consulting forester or arborist to handle inspections of projects. Consultants could also be used to monitor technical compliance and to enforce program standards as well as to review technical specifications. In order to avoid “reinventing the wheel,” cities should consider reviewing and, where feasible, borrowing existing technical standards and adapting them to address local issues and need.

With any regulations, there are bound to be inconsistencies or unintended consequences that must be addressed. Anticipating the loopholes is a challenge all cities face while developing an urban forest practice ordinance.

7.0 SUMMARY

The Oregon Department of Forestry encourages cities and counties, where possible, to regulate forest practices inside Urban Growth Boundaries. As local governments evaluate the need for local forest practices regulations, ODF’s Forest Practices and Urban Community Forestry Programs can provide technical assistance and review in the development and draft of ordinances.

Local governments that want to replace state administration of the forest practices act are encouraged to contact their local ODF field office. In order to provide smooth transition, ODF will provide information about active or planned operations within areas that will fall under local regulation.

The appendices contain a list of publications and documents which may be helpful in developing local forest regulations.

8.0 APPENDICES

8.1 List of Acronyms

FPA Forest Practices Act
ODF Oregon Department of Forestry
UGB Urban Growth Boundary
FPF Forest Practice Forester
ORS Oregon Revised Statute
RMA Riparian Management Area

HB House Bill
SB Senate Bill
OAR Oregon Administrative Rule
LCDC Land Conservation and Development Commission
GIS Geographic Information System
ANSI American National Standards Institute

8.2 Sources of Assistance

For more information about the Oregon Forest Practices Act or the Forest Practice Rules, please contact your local Oregon Department of Forestry district office listed below or the headquarters office at 2600 State Street, Salem, Oregon 97310, 503-945-7470. For information related to urban forestry and community assistance contact, the above address, phone number 503-945-7391.

Eastern Oregon

3501 E 3rd, Prineville 97754	541-447-5658
3701 W 13th, The Dalles 97058.....	541-296-4626
400 NW 9th, John Day 97845	541-575-1139
3200 DeLap Road, Klamath Falls 97601	541-883-5681
2290 4th Street, Lakeview 97630	541-947-3311
611 20th Street, La Grande 98750.....	541-963-3168
1055 Airport Road, Pendleton 97801	541-276-3491
802 West Hwy 82, Wallowa 97885	541-886-2881

Northwest Oregon

801 Gales Creek Road, Forest Grove 97116	503-357-2191
Route 1, Box 950, Astoria 97103	503-325-5451
405 E Street, Columbia City 97108	503-397-2636
4907 East 3rd Street, Tillamook 97141.....	503-842-2545
14995 South Hwy 211, Molalla 97038	503-829-2216
22965 North Fork Road SE, Lyons 97358	541-859-2151
24533 Alsea Highway, Philomath 97370.....	541-929-3266
825 Oak Villa, Dallas 97338	503-623-8146
763 Forestry Road, Toledo 97391	541-336-2273

Southern Oregon

1758 NE Airport Road, Roseburg 97470	541-440-3412
300 5th Street, Bay Park, Coos Bay 97420.....	541-267-4136
4690 Highway 20, Sweet Home 97386	541-367-6108
3150 Main Street, Springfield 97478.....	541-726-3588
87950 Territorial Highway, Veneta 97487	541-935-2283
5286 Table Rock, Central Point 97502	541-664-3328
5375 Monument Drive, Grants Pass 97526.....	541-474-3152

For current Oregon forest practice rule information, connect to the Oregon Department of Forestry's Forest Practices Program world wide web page at:

<http://www.odf.state.or.us/forprac.htm>

For Urban Forestry and Community assistance:

<http://www.odf.state.or.us/urban.htm>

8.3 References

“Oregon Forest Practices Act”. ORS 527.610 to 527.992. Oregon Department of Forestry, Forest Practices Program, 2600 State Street, Salem, Oregon 97310.

“Oregon Forest Practice Administrative Rules”. Division 600 to Division 665. Oregon Department of Forestry, Forest Practices Program, 2600 State Street, Salem, Oregon 97310.

“Stream Classification Maps”. Oregon Department of Forestry, Forest Practices Program, 2600 State Street, Salem, Oregon 97310.

“Criteria For Determination of Wildfire Zones”. OAR 629-044-0200 to 629-044-0260. These rules must be applied to activate the provisions of ORS 93.270(4) and portions of the Oregon One and Two Family Dwelling Specialty Code. Oregon Department of Forestry, 2600 State Street, Salem, Oregon 97310.

Division 23, Procedures and Requirements For Complying With Goal 5, OAR 660-023-000 to 660-023-0250. Oregon Department of Land Conservation and Development. Salem, Oregon.

Bernhardt, E. A.; Swiecki, T.J. 1991. Guidelines for Developing and Evaluating Tree Ordinances. California Department of Forestry and Fire Protection Urban Forestry Program. 76p.

Duerksen, C. J.; Richman, S. 1993. Tree Conservation Ordinances. PAS Report Number 446. American Planning Association and Scenic America. Washington, DC. 107p.

Fazio, J. R., ed 1993. “Tree Protection Ordinances”. Tree City USA Bulletin No. 30. The National Arbor Day Foundation. Nebraska City, Nebraska. 8p.

Minnesota Department of Natural Resources. 1995. “A Guide to Developing a Community Tree Preservation Ordinance” Department of Natural Resources Division of Forestry. St. Paul, Minnesota. 13p.

Oregon Department of Forestry. 1991. “Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads.” Land Use Planning Notes. Salem, Oregon. 8p.

Washington State Department of Natural Resources. 1990. “Home Protection Guide.” Olympia, Washington. 32p.



Pacific Dogwood
Cornus nuttallii Audub.

