

PREFACE

This document provides a detailed analysis of the SROA Design Committee's current recommendation for amendments to the ***Sunriver Design Manual***. If adopted, the new rules would greatly restrict Sunriver owners' ability to protect native trees, shrubs, and wildflowers *on the owners' own property*.

The only credible justification that has been presented for such onerous restrictions is that some Sunriver owners dislike the appearance of other owners' plant protections. (Despite some claims, proper use of protective barriers does not harm or endanger deer or other wildlife in *any* significant way.)

The proposed amendments most onerous restrictions include:

- ✗ Owners are prohibited from using *any* protections to prevent deer from destroying or damaging the owners' native **shrubs** and **wildflowers**.
The proposed rules categorize native **Oregon Vine Maple**, **Currant**, and **Serviceberry** as "shrubs" that cannot be protected.
- ✗ Owners are prohibited from protecting their existing (or new) **Quaking Aspen**, **Lodgepole Pine** and **Oregon Vine Maple** without applying for and receiving Design Committee approval.
- ✗ By right, owners can protect **only five trees** of limited species against deer damage or destruction.
- ✗ Owners **must remove existing plant protections** that do not conform to the new restrictions, *even if the protections were previously approved*.
- ✗ Most fences around condominiums, Sunriver Nature Center, Mary McCallum Park, golf course greens, and many other Sunriver locations would have to be removed. (See comments on Rule #10.)

The proposed rules are so poorly conceived and written that Sunriver owners will find it challenging to determine what's actually allowed and what's prohibited. For example, there isn't even a definition of what comprises the "physical barriers" that are prohibited.

The rules also have such serious flaws that owners will be able to circumvent various provisions and/or successfully bring legal challenges.

The rules will have significant unintended consequences. For example, the flawed definition of "tree" (i.e., not including Quaking Aspen, Lodgepole pines, Vine Maples and many non-native trees) occurs in 45 other rules in the **Design Manual**; and many of these rules will no longer function as intended.

In a few words, *these rules are an irredeemable mess* and do not belong in the SROA **Design Manual**. In contrast, an *alternative set of simple, comprehensible, balanced rules* would serve the purpose of avoiding excessive expanses of fencing materials on residential lots.

See: SunriverNeighbors.org/draft

SROA Design Committee's

Proposed new language to replace Section 3.18f of the existing SROA Design Committee Manual of Rules & Procedures

New definitions to add:

1.) Definition of a Tree:

Refer to Appendix F of this Manual compiled by SROA's Natural Resources Department, for a verified listing of "trees" that are adaptable to the Central Oregon environment.

✗ As explained below, this is an *unworkable, unscientific* definition of "tree" that **excludes** even Sunriver's prevalent and beloved **native Quaking Aspens** and **native Oregon Vine Maples**.

✗ The Design Committee has not provided *any* valid rationale (*) for why Sunriver owners can protect a limited set of "trees," but are prohibited from protecting native "shrubs," such as **Oregon Vine Maple** (which grows in both shrub and tree forms) and the beautiful **Serviceberry**, which is an important food source for native and migrating birds in Sunriver.

* The committee makes the absurd claim, *without a shred of supporting evidence*, that "trees have a greater financial impact and overall increased aesthetic value vs ... shrubs." As just one fact: Berry producing shrubs, such as **Currant** and **Serviceberry**, are much more valuable as a **food source** for Sunriver's birds and other wildlife than, for example, the *non-native* Swedish Aspen tree, the invasive Lodgepole Pine, or an irrigated turf lawn.

✗ Appendix F doesn't list the native **Quaking Aspen** (*Populus tremuloides*) that is one of the most prevalent and beautiful trees in Sunriver.

This flawed definition would prohibit Sunriver owners (and Sunriver Resort) from protecting any of their existing, mature native Aspen groves without receiving explicit approval by the Design Committee.

Fact: Almost 200 species of birds and mammals use aspen. Aspen are also fire-adapted! Source: Deschutes Land Trust

- ✘ Appendix F also doesn't list **Lodgepole Pine** (*Pinus Contorta*), which is by far the most prevalent tree in Sunriver; and like it or not, Lodgepole Pines dominate the *visual impression* of most of Sunriver's "forest."

Whether or not Lodgepole Pines "have a greater financial impact and overall increased aesthetic value," they are indisputably "trees," just like native Quaking Aspen. These two omissions make clear that the proposed definition of "Tree" is actually a much more limited definition, *i.e.*, "Trees Approved for Protection." That dysfunctional definition will ripple through to the numerous other rules regarding "trees" in the **Design Manual**.

- ✘ Appendix F lists "Maple *Acer species*" as a "tree." There is no such scientific name "*Acer species*." The correct name for the entire Maple Family is *Aceraceae*. *Aceraceae* includes the native "**Oregon Vine Maple**" (*Acer circinatum* Pursh), and therefore Sunriver owners might think the new rules would allow them to protect their native **Oregon Vine Maple** trees.

However, Appendix F specifically lists "Vine Maple *Acer circinatum*" as a "shrub," which the proposed rules would prohibit Sunriver owners from protecting. (In legal terms, the more specific reference to "Vine Maple" would take precedence over the more general reference to "Maple species.")

According to the USDA Natural Resources Conservation Service: "Vine maple is a **native**, deciduous **shrub or small tree** that ranges between ten to twenty feet." Ultimately, the definition's reliance on the lists in Appendix F is incomplete, ambiguous, and inadequate for the Sunriver environment.

- ✘ The proposed rules would *require* future revisions to the lists in Appendix F to be approved by the SROA Board since the proposed rules would treat that specific document as an intrinsic element of the **Design Manual**. Thus, any change to what was previously intended as a guide for appropriate plants in landscape plans would necessarily alter the effect of plant protection rules.

The SROA Natural Resources staff would *not* have the authority to revise this particular part of the **Design Manual** based on evolving understanding or Sunriver's ecosystem. Appendix F has previously served a *different* purpose than the newly proposed restrictions on plant protections and should be under appropriate *administrative* control.

- ✓ The solution to the "trees" versus "shrubs" conundrum is about as simple as could be: **Eliminate the distinction between trees and shrubs**. That distinction has no relevance at all to the rules' purported purpose, *i.e.*, minimizing the visual impact of fencing.

2.) Definition of a Physical Tree Protection Barrier:

A continuous welded (minimum 14-gauge thickness) wire that is moldable to wrap around a tree for protection from wildlife grazing, chewing, and climbing. The color of the welded wire can only be galvanized, dark green, or black.

- ✘ The proposed rules use a term that includes “Physical Tree Protection Barrier” twelve times. *All* of these references then redundantly state “continuous welded wire physical tree protection barrier.” To see how this unnecessarily contorts the full text of numerous rules, consider the following example, where the definition is expanded (in bold type) in Rule #3 and produces the following:

3.) The continuous welded wire **continuous welded (minimum 14-gauge thickness) wire ... galvanized, dark green, or black [in color]** material must be either galvanized (non-reflective), dark green, or black in color, and a minimum 14-gauge wire.

The redundancy is not only bad form, it is likely to confuse owners. For decision purposes, this situation might be ignored, and redundancies reduced to just the essentials, *i.e.*:

3.) The continuous welded wire material must be either galvanized (non-reflective), dark green, or black in color, and a minimum 14-gauge wire.

There are also an additional seven or so variations of the defined term that appear to refer to the defined term. This makes the rules less clear, but again *might* be unwound for decision purposes, nonetheless.

Despite the Design Committee’s apparent comfort with the willy-nilly use of multiple terms that aren’t the defined term, this poor rule construction may confuse some Sunriver owners and could potentially present a problem if the SROA had to defend a legal challenge to the ambiguity of the rules.

- ✘ More problematic is that the rules use several terms that appear to refer to the general category of “physical barrier.” (*)

(*) The term “physical protection barrier” should be interpreted as identical to the term “physical barrier” in this context. A “barrier” is something that “separates or keeps apart” (e.g., deer from plants), and a “*physical* barrier” is “a material thing as opposed to a mental, moral, spiritual, or imaginary thing.” See ***Merriam-Webster's Unabridged Dictionary***.

The critical term – “Physical Barrier” – is not defined. Consequently, the following fundamental rule (and Rules 3.18c.2 & 10 and 3.18d.1, 2, & 7) **have no clear interpretation** and would be difficult to enforce or for the SROA to defend against a legal challenge:

“Tree Protection - Deer Browsing

1.) Only trees are allowed to be protected with a **physical barrier**, as noted per this section. No **physical protection barriers** allowed for perennials, grasses, ground cover, shrubs, or other vegetation.”

Note that the phrase “protected with a physical barrier” in Rule #1, above, clearly treats the use of “physical barrier” as a physical “protection” barrier.

Without a definition, terms must be interpreted either by dictionary definitions or clear, common usage. Consequently, a motion-detecting sprinkler would be considered “physical,” as would repellent sprays, etc.; and as a result, the proposed rules would actually **prohibit a Sunriver owner from using sprinklers, sprays, and other physical items** as “barriers” to keep deer apart from trees, shrubs, and wildflowers.

Possibly, the Design Committee intended to mean “structural barriers,” and just used the wrong adjective. However, even replacing “physical” with “structural” wouldn’t resolve the numerous other unintended consequences of the proposed rules. For example, “Enclosed Outdoor Areas,” which the **Design Manual** permits, would function as “physical barriers” or “structural barriers” (take your pick) to any trees, shrubs, wildflowers, grass, etc. that were *inside the enclosure*, and the proposed rules are clear: **“No physical protection barriers allowed for perennials, grasses, ground cover, shrubs, or other vegetation.”** This is just one example of how the proposed rules’ *prohibitions* would unavoidably conflict with existing rules that *allow* certain structural elements that may create “barriers,” e.g., stored firewood, yard structures and ornamentation, etc.

- ✗ The intent of the qualifier – “is moldable to wrap around a tree” – is unclear. “Is moldable” specifies a *property* of the fencing material, not how it is actually used; and all 14-gauge welded wire fencing would meet that criterion, i.e., be “moldable.” However, common usage of the verb phrase “to wrap around” means “to cover, envelop, enclose with a protective covering, etc.” See **Webster’s**. That suggests material that is wrapped closely around the trunk of a tree, like protective tape or “chicken wire.”

The problem with this definition is that it includes standards (e.g., 14-gauge and colors) that belong only in, and are already stated in, the rules themselves.

- ✓ The key solution is fairly obvious: Eliminate the existing definition and use:
 “Definition: For the purposes of this section, a **“structural barrier”** is something that is constructed or built with the primary purpose of protecting plants by keeping potentially harmful animals (e.g., deer) apart from one or more plants.”

Tree Protection – Deer Browsing (new 3.18c):

1.) Only trees are allowed to be protected with a physical barrier, as noted per this section. No physical protection barriers allowed for perennials, grasses, ground cover, shrubs, or other vegetation. Property owners are encouraged to utilize non-barrier options such as liquids or sprays and motion sensor sprinklers that may work to warn off wildlife from grazing.

- ✗ As explained above, the definition of “tree” is *unworkable* and *unscientific*.
- ✗ Critically, neither the term “physical barrier” as used in the first sentence nor the term “physical protection barriers” as used in the second sentence” is defined. See comments under “Definition of a Physical Tree Protection Barrier,” above.

Neither term can reasonably mean the same as “physical tree protection barrier” because that would merely limit the use *specifically* of “physical tree protection barriers” to trees (and not other vegetation), which would be a meaningless, somewhat tautological rule. Such an interpretation would mean other forms of barriers that didn’t conform to the very narrow definition of “physical tree protection barrier” *would still be allowed* for trees and other vegetation. If that outcome seems confusing, that’s because the definition itself is so poorly written.

N.b. The level of awfully written standards in the proposed rules is not just unfair to Sunriver owners, it also creates a substantial risk that the SROA could not sustain enforcement of these rules if challenged in court by an owner.

There is no excuse for the SROA Board to approve of such a flawed proposal. It is quite within the scope of any competent professional to write standards without such obvious technical flaws, no matter how strict or flexible the underlying policy is. These important and impactful rules must at least be written clearly and legally defensible.

- ✗ The Design Committee has not provided *any* valid rationale (*) for why Sunriver owners can protect a limited set of “trees,” but are prohibited from protecting “shrubs.” (*) See comments under “Definition of a Tree,” above.

- ✗ The prohibition against protection of wildflowers directly conflicts with the explicit language of the governing principles in the ***Consolidated Plan of Sunriver***, which enshrines that “the trees, **the wildflowers** and wildlife constitute a community treasure.”

The absurd prohibition against protecting native wildflowers flies in the face of this governing principle. Not only is that misguided, it provides a solid basis for a legal challenge that the proposed *absolute* restriction is, on its face, unreasonable and out of compliance with the governing plan. See relevant case law regarding the “Business Judgment Rule.”

- ✗ The Design Committee gratuitously included in this rule a ridiculous diversionary statement: “Property owners are encouraged to utilize non-barrier options such as liquids or sprays and motion sensor sprinklers that may work to warn off wildlife from grazing.”

The strained attempt to define the use of sprays and sprinklers as not being “barriers” to keep deer from browsing trees is a glaring admission that these tactics *do not work* to reliably protect plants from predation by deer

Field tests in Sunriver and extensive published research and expert opinions confirm that repellent liquids and sprinklers are **not** effective means to reliably *protect* trees or other native plants against deer browsing. And, if such tactics were effective at keeping deer apart from plants, then by definition, they would be “physical barriers” and prohibited by the proposed rules.

TIP *Circumvent the prohibition against protecting shrubs and wildflowers by planting a baby Ponderosa Pine next to a shrub or in the middle of a flower area. Then protect that “tree” with a permitted barrier.*

2.) Continuous welded wire physical tree protection barriers are the only form of physical barrier that is allowed for individual or grouping of trees. They are not to exceed 48” in diameter maximum surrounding the tree(s).

- ✗ As explained above, “physical barrier” is not defined, and this restriction is ambiguous regarding which possible forms of “physical barrier” are prohibited.
- ✗ “Grouping of trees” is undefined. See below for example of unworkable maximum diameter restriction for even small “groupings.”

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- ✗ Protective fencing that isn't circular in shape (e.g., a rectangle) doesn't have a well-defined diameter. Thus, a 10-foot by 10-foot square of fencing surrounding a tree would not have *any* diameter and therefore, would not have a diameter that "exceeded 48 inches."
- ✗ The intent of the term "surrounding the trees" is unclear. Does this mean that the restriction on "diameter" applies *only* to physical tree protection barriers that encompass the tree fully? Or partially? Does a *linear* barrier have no limit on its length? Or does this phrase mean that a Sunriver owner isn't *allowed* to use physical tree protection barriers that do not encompass the tree fully?
- ✗ There is no effective way to adequately protect a "grouping" (for example) of three Aspen trees that form an equilateral triangle in which each tree is 2½ feet from the other trees. The trees are too close to use a barrier for each one of the trees. But with a single, four-foot diameter surrounding barrier, there will be only **one foot** between each of the tree's trunks and the barrier. Deer can easily browse substantial foliage when they can get that close to a tree's trunk.

The Design Committee simply "didn't do the math."

- ✓ The appropriate solution would greatly simplify and improve the standards: Eliminate type and arrangement of plants entirely and simply limit the amount, nature, and placement of fencing and potentially other forms of "structural barriers." See: **SunriverNeighbors.org/draft**

3.) The continuous welded wire physical tree protection material must be either galvanized (non-reflective), dark green, or black in color, and a minimum 14-gauge wire.

- ✗ While this isn't too onerous as a requirement for fencing, 16-gauge would be less visible and still be durable.
- ✗ See above comments for problems arising from the redundant elements in the rule and definition of "physical tree protection."

4.) The continuous welded wire physical tree protection pattern opening shall be either 2" x 3" or 2"x 4" openings only.

- ✗ While this isn't too onerous as a requirement for fencing, larger openings are less visible and perfectly safe for deer. There isn't a single case that's been reported of a deer being entangled in welded-wire fencing in Sunriver. (See also the miles & miles of 6" x 6" fencing along Hwy 97, just east of Sunriver.)

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- ✗ See above comments for problems arising from the redundant elements in the rule and definition of physical tree protection.

5.) Each welded wire physical tree protection barrier shall begin at ground level and shall not exceed 5' in height at the top of the barrier.

- ✗ Beginning at the ground level serves no useful purpose and requires *more* fencing material; using narrower fencing material (e.g., four feet, rather than five feet) and having the bottom of the fencing a foot off the ground would have less visual impact.
- ✗ Beginning at the ground blocks an owner's ability to work the ground at the base of a tree, e.g., clean up leaf debris, work in fertilizers and soil amendments, mulch, etc.
- ✗ Five feet is too low when the fencing is only two feet from the trunk of a single tree or even closer to trunks in a grouping of trees. See Rule #2.

6.) A minimum of 6' spacing is required between each continuous welded wire physical tree protection barrier.

- ✗ This excessive separation serves no real purpose. It has no impact on small animals. Deer are simply going to go around enclosures that are this close or closer. A four- or five-foot separation is more than adequate and would not have any significant impact on deer movement or safety.
- ✗ This requirement will be impossible for Sunriver owners who have approved landscape plans with existing trees that are closer together than would enable meeting six feet of separation of enclosures. See also Rule #2.
- ✓ The appropriate solution is to allow enclosures to cover a larger area, while imposing reasonable limits on the total amount of fencing material.

7.) Continuous welded wire physical tree protection barrier support posts shall not exceed four support posts per barrier, shall be no higher than the barrier itself, and shall be either natural wood (2" x 2" maximum or 2" diameter maximum) wooden stakes or T-Posts in either dark green or black metal.

- ✗ The restriction of "T-posts" is unnecessary, counter-productive, and a burden on Sunriver owners. Lighter, less intrusive "U-posts" or "V-posts" are perfectly acceptable and are less visible. This is especially true when up to four posts can be used.
- ✗ The least visible and a perfectly safe alternative is iron rebar. As long as the top is no higher than the fencing there is practically no chance of a deer impaling on the post.

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- ✓ The appropriate solution is to remove any requirement for the type of posts and retain appropriate limits on the number of posts (for example, per lineal feet of the fencing material) and maximum height.

8.) Five continuous welded wire physical tree protection barriers maximum on each individual tax lot. Individual tax lots may be allowed to have more than five continuous welded wire tree protection barriers per property upon Design Committee approval, and at the discretion of the Design Committee.

- ✗ This standard has no basis for why “five” is the correct number for **all** tax lots, regardless of the lots’ sizes, locations, existing landscape, and other factors.
- ✗ Under this limit, each of the five barriers could use up to 12½ lineal feet of fencing material to protect 12½ square feet of area. Overall, an owner would be restricted to about 63 lineal feet of fencing per lot and 63 square feet of protected area. That represents about 1/7th of 1 percent (0.0014) of a typical quarter-acre lot. For comparison, the new **Design Manual** allows up to 350 square feet of “Enclosed Outdoor Area,” completely enclosed by *solid* walls up to five feet high – creating a *highly visible* “physical barrier.”
- ✗ The amount of square area of tree protections that would be allowed by the current proposal could be covered with less fencing material by allowing fewer, larger enclosures. For example, a single 8' x 8' area (64 square feet) would use half as much fencing (32 feet) for the same area as five circular enclosures.
- ✗ The reference to “tax” lots, as opposed to “platted lots” is clearly a mistake that for no reason at all penalizes owners who have “consolidated” lots.
- ✗ While the SROA can lawfully adopt *discretionary* standards, these still require specific criteria. A rule such as this needs to state: a) the limit to the number of additional “barriers” allowed, and b) the criteria for granting this variance.
- ✓ The appropriate solution is to have more reasonable limits, e.g., 15 instances of barriers; and set limits for fencing, e.g., height, maximum length per barrier, maximum total length, etc. See **SunriverNeighbors.org/draft**

9.) Continuous welded wire physical tree protection barriers are allowed to remain in place for up to four years from the date of installation. Any deviation from these guidelines must be approved by the Design Committee at their discretion.

- ✗ This is an unfounded and unenforceable restriction. If the barriers have been acceptable for four years, why would they all of a sudden become “unacceptable” at four years? In any case, the owner could just add a new barrier for a different tree, if an existing barrier were removed.
- ✗ “To remain in place” is undefined, ambiguous; and thus, unenforceable.
- ✗ Stating that the four years are merely a “guideline” makes the time limit ambiguous. A “variance” would be the proper way to allow a discretionary increase in the time limit.
- ✗ An owner can easily evade this restriction by a number of tactics.
- ✗ This would be an expensive, time-consuming rule to attempt to enforce and would provide no beneficial outcome, while creating conflicts with owners.
- ✗ While the SROA can adopt *discretionary* standards for approving a variance, the standards must still be stated. The terms of a variance such as this must include: a) the limit to the length and number of time extensions, and b) the criterion(a) for granting a variance.

10.) Any existing physical tree, plant, grass, ground cover, or shrub protection barrier in place on private property (that has exceeded four years as of July 1, 2024) must be removed. Any existing non-approved physical tree, plant, grass, ground cover, or shrub protection barrier that doesn’t meet the above rules (regardless of maximum timeline), must be removed as of July 1, 2024.

- ✗ The first sentence is unconstitutional (a “regulatory taking” that violates the “just compensation” clause).
- ✗ The first sentence also cannot be enforced equitably because in many cases, the date of installation cannot be determined.
- ✗ The second sentence requires removal of “any existing, non-approved physical tree ... protection barrier that doesn’t meet the above rules.” But the definition of “physical tree protection barrier” has a very narrow definition. Consequently, other “existing physical barriers” are not within the scope of what has to be removed.

If, on the other hand, the intended interpretation of this broad, ill-formed prohibition is essentially “physical protection barrier” that is a “structural barrier,” than *all* “fences” would have to be removed under the

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terms. Even if that were narrowed to: “fences that protect plants, grass (native or lawns), ground cover, and/or shrubs,” the rule would still require widespread removal of fences throughout Sunriver, including the extensive fences around condominiums, the Nature Center, Mary McCallum park, golf course greens, etc.

“The courses at the [Sunriver] resort use a very simple ‘fencing’ around the greens to keep the elk from treading over the delicate putting surfaces, the *Bulletin* reported.

‘The fencing is metal stakes all around the green with twine between them about chest high,’ [Josh] Willis, [Director of Golf at Sunriver Resort] explained.”

In case, the implications of Director Willis’s statement aren’t clear – The Sunriver Resort is using “fencing” to protect “grass” from wildlife damage.

Again, this rule is another glaring example of how incredibly flawed this whole mish-mash of poorly written rules are.

✗ Similarly, there is no definition at all of “physical plant protection barrier.” Ditto for grass, ground cover, and shrubs.

✓ The *necessary* solutions are:

* Delete the first sentence, and

* Use the correct language for the second sentence.

(See comments under “Definition of a Physical Tree Protection Barrier” and Rule #1, above.

11.) Each continuous welded wire physical tree protection barrier shall be installed and maintained as per Items 2-10 noted above and Section 4.02 of the Sunriver Rules & Regulations.

✗ Section 4.02.B requires “written approval of the Design Committee ... for all ... changes to ... landscaping.” Requiring owners to submit applications for all new barriers would be onerous and a huge burden on SROA staff and the Design Committee. (In general, Section 4.02.B is problematic in that the requirement conflicts with numerous instances of “by right” provisions in the “Rules & Regulations” and **Design Manual**.)

✓ The alternative solutions for this are either a) drop Rule #11, which doesn’t actually need to be stated, since the plant protection rules are already within the scope of Section 4.02; or b) reference only the first subsection of 4.02, i.e., “... and Section 4.02.A of ...”

12.) No electrified barriers of any kind allowed.

✗ This isn’t onerous, but it’s not at all necessary.

13.) Design Committee approval is required for continuous welded wire physical protection barrier (per the rules defined in this section) of any trees not listed in Appendix F of the Manual.

- ✘ Sunriver owners shouldn't have to apply for a variance to protect native Quaking Aspen, Lodgepole Pines, and Oregon Vine Maples. (See comments under "Definition of a Physical Tree Protection Barrier," above.
- ✘ While the SROA can adopt *discretionary* standards, these still require specific criteria. A rule such as this needs to state the criteria for granting this variance and then allow any other owner to protect the same species.

Tree Protection – Beavers & Porcupines (new 3.18d):

- ✘ This appears to restrict the following to just two mammals. Notably, it appears to omit protection against male deer rubbing the velvet off their antlers. As with the whole misguided approach to limiting fencing, the rules shouldn't be split out based on plant types or species.

1.) No physical protection barriers allowed for perennials, grasses, ground cover, shrubs, or other vegetation. Property owners are encouraged to utilize non-barrier options such as liquids or sprays and motion sensor sprinklers that may work to warn off wildlife from grazing and chewing.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #1, above.
- ✘ This repetitive expression of same rule should be factored out in an encompassing section.

2.) Continuous welded wire physical tree protection barriers are the only form of physical protection barrier that is allowed for individual or grouping of trees. Each protection barrier shall be between a minimum 4" and maximum 12" away from the trunk of the tree. Staking is recommended but not required.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #2, above.
- ✘ This is an unclear and unworkable standard for protecting clusters of Quaking Aspen.
- ✘ "Grouping of trees" is undefined.
- ✘ The rule prohibits effective, reasonable, and less visible alternatives, including tree wraps and protective sheaths.

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- ✗ The requirement to maintain a 4-inch distance from the trunk is unworkable when trunks are closer than 8 inches, and yet the rules do not cover what is allowed and required for “groupings of trees.”
- ✗ The requirement for a 4-inch distance from the trunk substantially increases the visibility of the fencing material, which is the purported “aesthetic” basis for these rules. It is both unnecessary and inappropriate for mature Quaking Aspen.

The 4” minimum cannot be maintained without staking. “Staking” is not defined, nor any maximum height of the “stakes.” In addition, as a young tree with a barrier that is 4” away from the trunk grows, the separation will reduce below 4 inches and be non-conforming to the rule. Will the owner be required to re-install a larger barrier?

The rules shouldn’t get into horticultural practices, such as allowing space for the trunk to grow. Such considerations are best left to the owner who can consider the specific situation and discuss strategies with a qualified arborist, not the Design Committee.

- ✗ This rule will require scores of Sunriver owners to remove or replace the almost universal use of galvanized “chicken wire” wrapped around the base of their Quaking Aspens, even though most of these cases are barely visible because the color and thinness of the mesh melds with the variegated white bark of the Aspen.
- ✓ The appropriate solution would greatly simplify and improve the standards: Eliminate type and arrangement of plants entirely and simply limit the amount, nature, and placement of fencing and potentially other forms of “structural barriers.” See: **SunriverNeighbors.org/draft**

3.) The continuous welded wire physical tree protection barrier material must be either galvanized (non-reflective), dark green, or black in color, and a minimum 14-gauge wire.

- ✗ See comments under **Tree Protection – Deer Browsing** Rule #3, above. The requirement for 14-gauge is overkill. “Chicken wire” should be allowed, or at least “grandfathered” in.

4.) The continuous welded wire physical tree protection pattern opening shall be either 2”x 3” or 2”x 4” openings only.

- ✗ See comments under **Tree Protection – Deer Browsing** Rule #4, above. “Chicken wire” should be allowed with its smaller opening.

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5.) Each continuous welded wire physical tree protection barrier is required to extend from the ground to 4' in height, and not to exceed 4' in height.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #5, above. If “Chicken wire” wrap were allowed, this would be fine. With the required offset off welded-wire, this rule is onerous.

6.) Continuous welded wire physical tree protection barrier support posts shall not exceed four support posts per barrier, shall be no higher than the barrier itself, and shall be either natural wood (2" x 2" maximum or 2" diameter maximum) wooden stakes or T-Posts in either dark green or black metal.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #7, above. T-posts are overkill for this application. “Chicken wire” (and other wrappings) should be allowed, which don’t require *any* posts and are this much less visible.

7.) Any existing non-approved physical tree, plant, grass, ground cover, or shrub protection barrier that doesn’t meet the above rules (regardless of maximum timeline), must be removed as of July 1, 2024.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #10, above.

8.) Each continuous welded wire physical tree protection barrier shall be installed and maintained as per Items 2-7 noted above and Section 4.02 of the Sunriver Rules & Regulations.

- ✘ See comments under #11 above.

9.) No electrified barriers of any kind allowed.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #12, above.

10.) Design Committee approval is required for physical protection (per the rules defined in this section) of any trees not listed in Appendix F of the Manual.

- ✘ See comments under **Tree Protection – Deer Browsing** Rule #13, above.